



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

JACK EWING, Administrative Code Editor  
Publications Editing Office (Administrative Code)

Telephone: 515.281.6048  
Telephone: 515.281.3355

Email: [Jack.Ewing@legis.iowa.gov](mailto:Jack.Ewing@legis.iowa.gov)  
Email: [AdminCode@legis.iowa.gov](mailto:AdminCode@legis.iowa.gov)

### CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, paragraph, subparagraph, or numbered paragraph).

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

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NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rulemaking 2023

NOTICE† SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE		ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
			ADOPTION DATE	35 DAYS				
<b>**Dec. 20 '23**</b>	Jan. 10 '24	Jan. 30 '24	Feb. 14 '24	Feb. 16 '24	Mar. 6 '24	Apr. 10 '24	July 8 '24	
<b>**Jan. 3 '24**</b>	Jan. 24 '24	Feb. 13 '24	Feb. 28 '24	Mar. 1 '24	Mar. 20 '24	Apr. 24 '24	July 22 '24	
Jan. 19 '24	Feb. 7 '24	Feb. 27 '24	Mar. 13 '24	Mar. 15 '24	Apr. 3 '24	May 8 '24	Aug. 5 '24	
Feb. 2 '24	Feb. 21 '24	Mar. 12 '24	Mar. 27 '24	Mar. 29 '24	Apr. 17 '24	May 22 '24	Aug. 19 '24	
Feb. 16 '24	Mar. 6 '24	Mar. 26 '24	Apr. 10 '24	Apr. 12 '24	May 1 '24	June 5 '24	Sep. 2 '24	
Mar. 1 '24	Mar. 20 '24	Apr. 9 '24	Apr. 24 '24	Apr. 26 '24	May 15 '24	June 19 '24	Sep. 16 '24	
Mar. 15 '24	Apr. 3 '24	Apr. 23 '24	May 8 '24	<b>**May 8 '24**</b>	May 29 '24	July 3 '24	Sep. 30 '24	
Mar. 29 '24	Apr. 17 '24	May 7 '24	May 22 '24	May 24 '24	June 12 '24	July 17 '24	Oct. 14 '24	
Apr. 12 '24	May 1 '24	May 21 '24	June 5 '24	June 7 '24	June 26 '24	July 31 '24	Oct. 28 '24	
Apr. 26 '24	May 15 '24	June 4 '24	June 19 '24	<b>**June 19 '24**</b>	July 10 '24	Aug. 14 '24	Nov. 11 '24	
<b>**May 8 '24**</b>	May 29 '24	June 18 '24	July 3 '24	July 5 '24	July 24 '24	Aug. 28 '24	Nov. 25 '24	
May 24 '24	June 12 '24	July 2 '24	July 17 '24	July 19 '24	Aug. 7 '24	Sep. 11 '24	Dec. 9 '24	
June 7 '24	June 26 '24	July 16 '24	July 31 '24	Aug. 2 '24	Aug. 21 '24	Sep. 25 '24	Dec. 23 '24	
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July 5 '24	July 24 '24	Aug. 13 '24	Aug. 28 '24	Aug. 30 '24	Sep. 18 '24	Oct. 23 '24	Jan. 20 '25	
July 19 '24	Aug. 7 '24	Aug. 27 '24	Sep. 11 '24	Sep. 13 '24	Oct. 2 '24	Nov. 6 '24	Feb. 3 '25	
Aug. 2 '24	Aug. 21 '24	Sep. 10 '24	Sep. 25 '24	Sep. 27 '24	Oct. 16 '24	Nov. 20 '24	Feb. 17 '25	
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Sep. 13 '24	Oct. 2 '24	Oct. 22 '24	Nov. 6 '24	<b>**Nov. 6 '24**</b>	Nov. 27 '24	Jan. 1 '25	Mar. 31 '25	
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Oct. 11 '24	Oct. 30 '24	Nov. 19 '24	Dec. 4 '24	<b>**Dec. 4 '24**</b>	Dec. 25 '24	Jan. 29 '25	Apr. 28 '25	
<b>**Oct. 23 '24**</b>	Nov. 13 '24	Dec. 3 '24	Dec. 18 '24	<b>**Dec. 18 '24**</b>	Jan. 8 '25	Feb. 12 '25	May 12 '25	
<b>**Nov. 6 '24**</b>	Nov. 27 '24	Dec. 17 '24	Jan. 1 '25	<b>**Jan. 2 '25**</b>	Jan. 22 '25	Feb. 26 '25	May 26 '25	
<b>**Nov. 20 '24**</b>	Dec. 11 '24	Dec. 31 '24	Jan. 15 '25	Jan. 17 '25	Feb. 5 '25	Mar. 12 '25	June 9 '25	
<b>**Dec. 4 '24**</b>	Dec. 25 '24	Jan. 14 '25	Jan. 29 '25	Jan. 31 '25	Feb. 19 '25	Mar. 26 '25	June 23 '25	
<b>**Dec. 18 '24**</b>	Jan. 8 '25	Jan. 28 '25	Feb. 12 '25	Feb. 14 '25	Mar. 5 '25	Apr. 9 '25	July 7 '25	

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
17	Friday, February 2, 2024	February 21, 2024
18	Friday, February 16, 2024	March 6, 2024
19	Friday, March 1, 2024	March 20, 2024

**PLEASE NOTE:**

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

**\*\*Note change of filing deadline\*\***



The Administrative Rules Review Committee will hold its regular, statutory meeting on February 5, 2024, in Room 116, State Capitol, Des Moines, Iowa, at the conclusion of standing committee meetings in the afternoon. For more information, contact Jack Ewing at [jack.ewing@legis.iowa.gov](mailto:jack.ewing@legis.iowa.gov). The following rules will be reviewed:

**ACCOUNTANCY EXAMINING BOARD[193A]**

Professional Licensing and Regulation Bureau[193]  
COMMERCE DEPARTMENT[181]"umbrella"

Definitions, ch 1	Notice	ARC 7384C	1/10/24
Organization and administration, ch 2	Notice	ARC 7385C	1/10/24
Certification of CPAs, ch 3	Notice	ARC 7386C	1/10/24
Licensure of LPAs, ch 4	Notice	ARC 7387C	1/10/24
Licensure status and renewal of certificates and licenses, ch 5	Notice	ARC 7388C	1/10/24
Attest and compilation services, ch 6	Notice	ARC 7389C	1/10/24
Certified public accounting firms, ch 7	Notice	ARC 7390C	1/10/24
Licensed public accounting firms, ch 8	Notice	ARC 7391C	1/10/24
Reciprocity and substantial equivalency, ch 9	Notice	ARC 7392C	1/10/24
Continuing education, ch 10	Notice	ARC 7393C	1/10/24
Peer review, ch 11	Notice	ARC 7394C	1/10/24
Fees, ch 12	Notice	ARC 7395C	1/10/24
Rules of professional ethics and conduct, ch 13	Notice	ARC 7396C	1/10/24
Disciplinary authority and grounds for discipline, ch 14	Notice	ARC 7397C	1/10/24
Disciplinary investigations, ch 15	Notice	ARC 7398C	1/10/24
Disciplinary proceedings, ch 16	Notice	ARC 7399C	1/10/24
Enforcement proceedings against nonlicensees, ch 17	Notice	ARC 7400C	1/10/24
Licensees' duty to report, ch 18	Notice	ARC 7401C	1/10/24
Practice privilege for out-of-state certified public accountants, ch 20	Notice	ARC 7402C	1/10/24
Practice privilege for out-of-state certified public accounting firms, ch 21	Notice	ARC 7403C	1/10/24

**AGING, DEPARTMENT ON[17]**

Waivers from administrative rules; rules and practices in contested cases; petition for rule making; declaratory orders, rescind chs 11, 13, 17, 18	Notice	ARC 7314C	1/24/24
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**ARCHITECTURAL EXAMINING BOARD[193B]**

Professional Licensing and Regulation Bureau[193]  
COMMERCE DEPARTMENT[181]"umbrella"

Description of organization, ch 1	Notice	ARC 7435C	1/10/24
Licensure, ch 2	Notice	ARC 7436C	1/10/24
Continuing education, ch 3	Notice	ARC 7437C	1/10/24
Rules of conduct, ch 4	Notice	ARC 7438C	1/10/24
Exceptions, ch 5	Notice	ARC 7439C	1/10/24
Disciplinary action against licensees, ch 6	Notice	ARC 7440C	1/10/24
Disciplinary action—unlicensed practice, ch 7	Notice	ARC 7441C	1/10/24

**COLLEGE STUDENT AID COMMISSION[283]**

EDUCATION DEPARTMENT[281]"umbrella"

All Iowa opportunity scholarship program, ch 8	Filed Without Notice	ARC 1439Z	1/10/24
Iowa tuition grant program—for-profit institutions, ch 11	Filed Without Notice	ARC 1440Z	1/10/24
Iowa vocational-technical tuition grant program, ch 13	Filed Without Notice	ARC 1441Z	1/10/24
Skilled workforce shortage tuition grant program, ch 23	Filed Without Notice	ARC 1442Z	1/10/24

**COMMERCE DEPARTMENT[181]**

Organization and operation, ch 1	Notice	ARC 7343C	1/24/24
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**ECONOMIC DEVELOPMENT AUTHORITY[261]**

Tax credit programs, 43.3, 47.3(3), 48.4(1), 116.3(6), 116.6	Filed	ARC 7492C	1/10/24
Renewable chemical production tax credit program, ch 81	Filed	ARC 7493C	1/10/24

**ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]**

Professional Licensing and Regulation Bureau[193]  
COMMERCE DEPARTMENT[181]"umbrella"

Administration, ch 1	Notice	ARC 7404C	1/10/24
Fees and charges, ch 2	Notice	ARC 7405C	1/10/24
Application and renewal process, ch 3	Notice	ARC 7406C	1/10/24
Engineering licensure, ch 4	Notice	ARC 7407C	1/10/24
Land surveying licensure, ch 5	Notice	ARC 7408C	1/10/24

Seal and certificate of responsibility, ch 6	Notice	ARC 7409C	1/10/24
Professional development, ch 7	Notice	ARC 7410C	1/10/24
Professional conduct of licensees, ch 8	Notice	ARC 7411C	1/10/24
Complaints, investigations, and disciplinary action, ch 9	Notice	ARC 7412C	1/10/24
Peer review, ch 10	Notice	ARC 7413C	1/10/24
Minimum standards for property surveys, ch 11	Notice	ARC 7414C	1/10/24
Minimum standards for U.S. public land survey corner certificates, ch 12	Notice	ARC 7415C	1/10/24
Civil penalties for unlicensed practice, ch 13	Notice	ARC 7416C	1/10/24

#### **HUMAN SERVICES DEPARTMENT[441]**

Department organization and general definitions; department procedure for rulemaking; petitions for rulemaking; declaratory orders; appeals and hearings; public records and fair information practices; notices, chs 1, 3 to 5, 7, 9, 16	Notice	ARC 7358C	1/24/24
Payment of small claims, ch 8	Notice	ARC 7369C	1/24/24
Collection of delinquent debts; collection of debt, rescind ch 10; adopt ch 11	Notice	ARC 7365C	1/24/24
Program evaluation, ch 13	Notice	ARC 7364C	1/24/24
Disability services management, ch 25	Filed Without Notice	ARC 1443Z	1/10/24
Fiscal oversight of the early childhood Iowa initiative, ch 122	Notice	ARC 7362C	1/24/24
Adoption services, ch 200	Notice	ARC 7378C	1/24/24
Subsidized adoptions, ch 201	Notice	ARC 7363C	1/24/24
Foster care placement and services, ch 202	Filed Without Notice	ARC 1444Z	1/10/24
Iowa adoption exchange, ch 203	Notice	ARC 7368C	1/24/24
Subsidized guardianship program, ch 204	Notice	ARC 7359C	1/24/24

#### **INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Administration, ch 1	Notice	ARC 7344C	1/24/24
Public records and fair information practices, ch 2	Notice	ARC 7345C	1/24/24
Contested cases, ch 3	Notice	ARC 7346C	1/24/24
Waiver of rules and declaratory orders, ch 4	Notice	ARC 7347C	1/24/24
Life insurance illustrations model regulation, ch 14	Notice	ARC 7348C	1/24/24
Unfair trade practices, ch 15	Notice	ARC 7349C	1/24/24
Replacement of life insurance and annuities, ch 16	Notice	ARC 7350C	1/24/24
Property and casualty insurance, ch 20	Notice	ARC 7351C	1/24/24
Requirements for surplus lines, risk retention groups and purchasing groups, ch 21	Notice	ARC 7352C	1/24/24
Military sales practices, ch 25	Notice	ARC 7353C	1/24/24
Workers' compensation insurance rate filing procedures, ch 60	Notice	ARC 7355C	1/24/24
Financial and health information regulation, ch 90	Notice	ARC 7356C	1/24/24

#### **INTERIOR DESIGN EXAMINING BOARD[193G]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Professional conduct, ch 4	Notice	ARC 7510C	1/24/24
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#### **MANAGEMENT DEPARTMENT[541]**

Organization and operation, ch 1	Filed	ARC 7494C	1/10/24
Petitions for rulemaking, ch 5	Filed	ARC 7495C	1/10/24
Declaratory orders, ch 6	Filed	ARC 7496C	1/10/24
Agency procedure for rulemaking, ch 7	Filed	ARC 7497C	1/10/24
Public records and fair information practices, ch 8	Filed	ARC 7498C	1/10/24
Grants enterprise management system, ch 11	Filed	ARC 7499C	1/10/24
DAS customer council, ch 12	Filed	ARC 7500C	1/10/24
Suspension and reinstatement of state funds, adopt ch 13; rescind ch 16	Filed	ARC 7501C	1/10/24

#### **NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

State parks, recreation areas, and state forest camping, ch 61	Notice	ARC 7509C	1/24/24
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#### **PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

COMMERCE DEPARTMENT[181]"umbrella"

Organization and operation, ch 1	Notice	ARC 7511C	1/24/24
Allocation of disciplinary fees and costs, ch 2	Notice	ARC 7512C	1/24/24
Vendor appeals, ch 3	Notice	ARC 7513C	1/24/24
Social security numbers and proof of legal presence, ch 4	Notice	ARC 7514C	1/24/24
Waivers, rescind ch 5	Notice	ARC 7515C	1/24/24

Investigatory subpoenas, ch 6	Notice	ARC 7516C	1/24/24
Contested cases, ch 7	Notice	ARC 7517C	1/24/24
Denial of issuance or renewal, suspension, or revocation of license for nonpayment of child support or state debt, rescind ch 8	Notice	ARC 7518C	1/24/24
Petition for rule making, rescind ch 9	Notice	ARC 7519C	1/24/24
Declaratory orders, rescind ch 10	Notice	ARC 7520C	1/24/24
Sales and leases of goods and services, ch 11	Notice	ARC 7521C	1/24/24
Impaired licensee review committee, ch 12	Notice	ARC 7522C	1/24/24
Public records and fair information practices, rescind ch 13	Notice	ARC 7523C	1/24/24
Licensure by verification or work experience, ch 14	Notice	ARC 7524C	1/24/24
Use of criminal convictions in eligibility determinations and initial licensing decisions, ch 15	Notice	ARC 7525C	1/24/24

## PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Board administrative processes, ch 4	Notice	ARC 7297C	1/24/24
Fees, ch 5	Notice	ARC 7306C	1/24/24
Petitions for rule making, rescind ch 6	Notice	ARC 7308C	1/24/24
Agency procedure for rule making, rescind ch 7	Notice	ARC 7300C	1/24/24
Declaratory orders, rescind ch 8	Notice	ARC 7304C	1/24/24
Complaints and investigations, ch 9	Notice	ARC 7303C	1/24/24
Public records and fair information practices, rescind ch 10	Notice	ARC 7301C	1/24/24
Contested cases and informal settlement, ch 11	Notice	ARC 7299C	1/24/24
Informal settlement, rescind ch 12	Notice	ARC 7302C	1/24/24
Discipline, ch 13	Notice	ARC 7305C	1/24/24
Use of criminal convictions in eligibility determinations and initial licensing decisions, ch 14	Notice	ARC 7311C	1/24/24
Iowa professional review committee, ch 16	Notice	ARC 7296C	1/24/24
Materials for board review, rescind ch 17	Notice	ARC 7298C	1/24/24
Waivers or variances from administrative rules, rescind ch 18	Notice	ARC 7307C	1/24/24
Licensure by verification and of applicants with work experience, ch 19	Notice	ARC 7310C	1/24/24
Military service and veteran reciprocity, rescind ch 20	Notice	ARC 7309C	1/24/24
Behavioral scientists—licensure of marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts, ch 31	Notice	ARC 7293C	1/24/24
Behavioral scientists—continuing education for marital and family therapists and mental health counselors, ch 32	Notice	ARC 7294C	1/24/24
Behavioral scientists—discipline for marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts, ch 33	Notice	ARC 7295C	1/24/24
Licensure of chiropractic physicians, ch 41	Notice	ARC 7463C	1/10/24
Colleges for chiropractic physicians, ch 42	Notice	ARC 7464C	1/10/24
Practice of chiropractic physicians, ch 43	Notice	ARC 7465C	1/10/24
Continuing education for chiropractic physicians, ch 44	Notice	ARC 7466C	1/10/24
Discipline for chiropractic physicians, ch 45	Notice	ARC 7467C	1/10/24
Barbers and cosmetologists—licensure of barbers, cosmetologists, electrologists, estheticians, nail technologists, and instructors of barbering cosmetology arts and sciences, ch 60	Notice	ARC 7537C	1/24/24
Barbers and cosmetologists—licensure of establishments and schools of barbering and cosmetology arts and sciences, ch 61	Notice	ARC 7538C	1/24/24
Barbers and cosmetologists—infection control for establishments and schools of barbering and cosmetology arts and sciences, ch 63	Notice	ARC 7539C	1/24/24
Barbers and cosmetologists—continuing education for barbering and cosmetology arts and sciences, ch 64	Notice	ARC 7540C	1/24/24
Barbers and cosmetologists—discipline for barbering and cosmetology arts and sciences licensees, instructors, establishments, and schools, ch 65	Notice	ARC 7541C	1/24/24
Dietitians—licensure of dietitians, ch 81	Notice	ARC 7542C	1/24/24
Dietitians—continuing education for dietitians, ch 82	Notice	ARC 7543C	1/24/24
Dietitians—discipline for dietitians, ch 83	Notice	ARC 7544C	1/24/24
Funeral directors—practice of funeral directors, funeral establishments, and cremation establishments, ch 100	Notice	ARC 7531C	1/24/24
Funeral directors—licensure of funeral directors, funeral establishments, and cremation establishments, ch 101	Notice	ARC 7532C	1/24/24
Funeral directors—continuing education for funeral directors, ch 102	Notice	ARC 7533C	1/24/24
Funeral directors—disciplinary proceedings; enforcement proceedings against nonlicensees, rescind ch 103; adopt ch 104	Notice	ARC 7526C	1/24/24
Funeral directors—enforcement proceedings against nonlicensees, adopt ch 105	Notice	ARC 7534C	1/24/24

Licensure of hearing aid specialists, ch 121	Notice	ARC 7483C	1/10/24
Continuing education for hearing aid specialists, ch 122	Notice	ARC 7484C	1/10/24
Practice of hearing aid dispensing, ch 123	Notice	ARC 7485C	1/10/24
Discipline for hearing aid specialists, ch 124	Notice	ARC 7486C	1/10/24
Licensure of massage therapists, ch 131	Notice	ARC 7479C	1/10/24
Massage therapy education curriculum, ch 132	Notice	ARC 7480C	1/10/24
Continuing education for massage therapists, ch 133	Notice	ARC 7481C	1/10/24
Discipline for massage therapists, ch 134	Notice	ARC 7482C	1/10/24
Licensure of nursing home administrators, ch 141	Notice	ARC 7476C	1/10/24
Continuing education for nursing home administration, ch 143	Notice	ARC 7477C	1/10/24
Discipline for nursing home administrators, ch 144	Notice	ARC 7478C	1/10/24
Licensure of optometrists, ch 180	Notice	ARC 7472C	1/10/24
Continuing education for optometrists, ch 181	Notice	ARC 7473C	1/10/24
Practice of optometrists, ch 182	Notice	ARC 7474C	1/10/24
Discipline for optometrists, ch 183	Notice	ARC 7475C	1/10/24
Physical and occupational therapists—licensure of physical therapists and physical therapist assistants, ch 200	Notice	ARC 7545C	1/24/24
Physical and occupational therapists—practice of physical therapists and physical therapist assistants, ch 201	Notice	ARC 7546C	1/24/24
Physical and occupational therapists—discipline for physical therapists and physical therapist assistants, ch 202	Notice	ARC 7547C	1/24/24
Physical and occupational therapists—continuing education for physical therapists and physical therapist assistants, ch 203	Notice	ARC 7548C	1/24/24
Physical and occupational therapists—licensure of occupational therapists and occupational therapy assistants, ch 206	Notice	ARC 7549C	1/24/24
Physical and occupational therapists—continuing education for occupational therapists and occupational therapy assistants, ch 207	Notice	ARC 7550C	1/24/24
Physical and occupational therapists—practice of occupational therapists and occupational therapy assistants, ch 208	Notice	ARC 7551C	1/24/24
Physical and occupational therapists—discipline for occupational therapists and occupational therapy assistants, ch 209	Notice	ARC 7552C	1/24/24
Psychologists—licensure of psychologists, ch 240	Notice	ARC 7288C	1/24/24
Psychologists—continuing education for psychologists, ch 241	Notice	ARC 7289C	1/24/24
Psychologists—discipline for psychologists, ch 242	Notice	ARC 7290C	1/24/24
Psychologists—practice of psychology, ch 243	Notice	ARC 7291C	1/24/24
Psychologists—prescribing psychologists, ch 244	Notice	ARC 7292C	1/24/24
Respiratory care practitioners and polysomnographic technologists—licensure of respiratory care practitioners, polysomnographic technologists, and respiratory care and polysomnography practitioners, ch 261	Notice	ARC 7503C	1/24/24
Respiratory care practitioners and polysomnographic technologists—continuing education for respiratory care practitioners and polysomnographic technologists, ch 262	Notice	ARC 7504C	1/24/24
Respiratory care practitioners and polysomnographic technologists—discipline for respiratory care practitioners and polysomnographic technologists, rescind ch 263	Notice	ARC 7505C	1/24/24
Respiratory care practitioners and polysomnographic technologists—practice of respiratory care practitioners and polysomnographic technologists, ch 265	Notice	ARC 7506C	1/24/24
Licensure of speech pathologists and audiologists, ch 300	Notice	ARC 7468C	1/10/24
Practice of speech pathologists and audiologists, ch 301	Notice	ARC 7469C	1/10/24
Continuing education for speech pathologists and audiologists, ch 303	Notice	ARC 7470C	1/10/24
Discipline for speech pathologists and audiologists, ch 304	Notice	ARC 7471C	1/10/24
Physician assistants—practice of physician assistants, ch 327	Notice	ARC 7528C	1/24/24
Physician assistants—continuing education for physician assistants, ch 328	Notice	ARC 7529C	1/24/24
Physician assistants—discipline for physician assistants, ch 329	Notice	ARC 7530C	1/24/24
Athletic trainers—licensure of athletic trainers, ch 351	Notice	ARC 7553C	1/24/24
Athletic trainers—continuing education for athletic trainers, ch 352	Notice	ARC 7554C	1/24/24
Athletic trainers—discipline for athletic trainers, ch 353	Notice	ARC 7555C	1/24/24
Licensure of sign language interpreters and transliterators, ch 361	Notice	ARC 7487C	1/10/24
Continuing education for sign language interpreters and transliterators, ch 362	Notice	ARC 7488C	1/10/24
Discipline for sign language interpreters and transliterators, ch 363	Notice	ARC 7489C	1/10/24

#### **PUBLIC HEALTH DEPARTMENT[641]**

Reportable diseases, poisonings and conditions, and quarantine and isolation, ch 1	Notice	ARC 7374C	1/24/24
Hepatitis programs, ch 2	Notice	ARC 7373C	1/24/24

Immunization and immunization education: persons attending elementary or secondary schools, licensed child care centers or institutions of higher education, ch 7 Notice ARC 7372C..... 1/24/24

Human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS), ch 11 Notice ARC 7371C..... 1/24/24

Practice of tattooing, ch 22 Notice ARC 7283C..... 1/10/24

Plumbing and mechanical systems board—licensee practice, ch 23 Notice ARC 7316C..... 1/10/24

Private well testing, reconstruction, and plugging—grants to counties, ch 24 Notice ARC 7367C ..... 1/24/24

Backflow prevention assembly tester registration, ch 26 Notice ARC 7284C..... 1/10/24

Plumbing and mechanical systems board—administrative and regulatory authority, ch 27 Notice ARC 7317C ..... 1/10/24

Plumbing and mechanical systems board—licensure fees, ch 28 Notice ARC 7318C..... 1/10/24

Plumbing and mechanical systems board—application, licensure, and examination, ch 29 Notice ARC 7329C ..... 1/10/24

Continuing education for plumbing and mechanical systems professionals, ch 30 Notice ARC 7286C ..... 1/10/24

Plumbing and mechanical systems board—waivers from administrative rules, rescind ch 31 Notice ARC 7321C ..... 1/10/24

Plumbing and mechanical systems board—licensee discipline, ch 32 Notice ARC 7285C ..... 1/10/24

Plumbing and mechanical systems board—contested cases, ch 33 Notice ARC 7319C ..... 1/10/24

Plumbing and mechanical systems board—complaints and investigations, ch 34 Notice ARC 7320C..... 1/10/24

Plumbing and mechanical systems board—alternative licensure pathways, ch 35 Notice ARC 7322C..... 1/10/24

Plumbing and mechanical systems board—petitions for rule making, rescind ch 36 Notice ARC 7325C ..... 1/10/24

Minimum requirements for tanning facilities, ch 46 Notice ARC 7282C..... 1/10/24

Plumbing and mechanical systems board—declaratory orders, rescind ch 57 Notice ARC 7323C ..... 1/10/24

Plumbing and mechanical systems board—agency procedure for rule making, rescind ch 58 Notice ARC 7324C ..... 1/10/24

Plumbing and mechanical systems board—fair information practices and public records, rescind ch 59 Notice ARC 7326C ..... 1/10/24

Plumbing and mechanical systems board—noncompliance regarding child support, nonpayment of state debt, and noncompliance regarding student loan repayment, rescind ch 60 Notice ARC 7327C ..... 1/10/24

Plumbing and mechanical systems board—military service, veteran reciprocity, and spouses of active duty service members, rescind ch 62 Notice ARC 7328C..... 1/10/24

Establishment of new certificate of live birth following adoption, 95.6(1)“b,” 99.14 Notice ARC 7507C ..... 1/24/24

State-funded family medicine obstetrics fellowship program, ch 106 Notice ARC 7508C..... 1/24/24

Smokefree air, ch 153 Notice ARC 7366C ..... 1/24/24

Medical cannabidiol program, ch 154 Notice ARC 7360C ..... 1/24/24

Health data, ch 177 Notice ARC 7370C ..... 1/24/24

Impaired practitioner review committee, ch 193 Notice ARC 7287C ..... 1/10/24

Nonpayment of state debt, ch 194 Notice ARC 7361C..... 1/24/24

Emergency medical services—military service, veteran reciprocity, and spouses of active duty service members, ch 196 Notice ARC 7337C ..... 1/24/24

Certificate of need program, ch 202 Notice ARC 7379C..... 1/10/24

Standards for certificate of need review, ch 203 Notice ARC 7380C ..... 1/10/24

**PUBLIC SAFETY DEPARTMENT[661]**

Fire safe cigarette certification program, ch 61 Notice ARC 7330C ..... 1/24/24

Licensing for commercial explosive contractors and blasters, ch 235 Notice ARC 7332C ..... 1/24/24

Consumer fireworks retail seller licensing and wholesaler registration, ch 265 Notice ARC 7331C ..... 1/24/24

Licensing of fire protection system contractors, ch 275 Notice ARC 7334C..... 1/24/24

Licensing of fire protection system technicians, ch 276 Notice ARC 7335C..... 1/24/24

Licensing of alarm system contractors and technicians, ch 277 Notice ARC 7333C..... 1/24/24

Military service, veteran reciprocity, and spouses of active duty service members for fire extinguishing and alarm systems contractors and installers, rescind ch 278 Notice ARC 7336C..... 1/24/24

Electrician and electrical contractor licensing program—organization and administration, ch 500 Notice ARC 7281C ..... 1/24/24

Electrician and electrical contractor licensing program—administrative procedures, rescind ch 501 Notice ARC 7279C ..... 1/24/24

Electrician and electrical contractor licensing program—licensing requirements, procedures, and fees, ch 502 Notice ARC 7276C..... 1/24/24

Electrician and electrical contractor licensing program—complaints and discipline, ch 503 Notice ARC 7277C ..... 1/24/24

Electrician and electrical contractor licensing program—education, ch 505 Notice ARC 7280C..... 1/24/24

Military service and veteran reciprocity for electricians and electrical contractors, rescind ch  
506 Notice **ARC 7278C** ..... 1/24/24

### **REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Professional Licensing and Regulation Bureau[193]  
COMMERCE DEPARTMENT[181]"umbrella"

Organization and administration, ch 1 Notice **ARC 7257C** ..... 1/24/24  
 Definitions, ch 2 Notice **ARC 7258C** ..... 1/24/24  
 General provisions for examinations, ch 3 Notice **ARC 7259C** ..... 1/24/24  
 Associate real estate appraiser, ch 4 Notice **ARC 7260C** ..... 1/24/24  
 Certified residential real property appraiser, rescind ch 5 Notice **ARC 7261C** ..... 1/24/24  
 Certified real estate appraiser; certified general real property appraiser, adopt ch 5; rescind ch  
 6 Notice **ARC 7262C** ..... 1/24/24  
 Disciplinary actions against certified and associate appraisers, adopt ch 6; rescind ch 7  
Notice **ARC 7263C** ..... 1/24/24  
 Investigations and disciplinary procedures, adopt ch 7; rescind ch 8 Notice **ARC 7264C** ..... 1/24/24  
 Renewal, expiration and reinstatement of certificates and registrations, retired status, and  
 inactive status, adopt ch 8; rescind ch 9 Notice **ARC 7265C** ..... 1/24/24  
 Reciprocity, adopt ch 9; rescind ch 10 Notice **ARC 7266C** ..... 1/24/24  
 Continuing education, adopt ch 10; rescind ch 11 Notice **ARC 7267C** ..... 1/24/24  
 Fees, adopt ch 11; rescind ch 12 Notice **ARC 7268C** ..... 1/24/24  
 Enforcement proceedings against nonlicensees, adopt ch 12; rescind ch 16 Notice **ARC 7272C** ..... 1/24/24  
 Use of criminal convictions in eligibility determinations and initial licensing decisions,  
 rescind ch 13 Notice **ARC 7269C** ..... 1/24/24  
 Licensure of persons licensed in other jurisdictions; military service, veteran reciprocity, and  
 licensure of persons licensed in other jurisdictions, adopt ch 13; rescind ch 26 Notice **ARC 7275C** ..... 1/24/24  
 Supervisor responsibilities, rescind ch 15 Notice **ARC 7271C** ..... 1/24/24  
 Superintendent supervision standards and procedures, rescind ch 17 Notice **ARC 7273C** ..... 1/24/24  
 Waivers, rescind ch 18 Notice **ARC 7274C** ..... 1/24/24  
 Investigatory subpoenas, rescind ch 19 Notice **ARC 7338C** ..... 1/24/24  
 Contested cases, rescind ch 20 Notice **ARC 7339C** ..... 1/24/24  
 Denial of issuance or renewal, suspension, or revocation of license for nonpayment of child  
 support or state debt, rescind ch 21 Notice **ARC 7340C** ..... 1/24/24  
 Petition for rule making, rescind ch 22 Notice **ARC 7341C** ..... 1/24/24  
 Declaratory orders, rescind ch 23 Notice **ARC 7357C** ..... 1/24/24  
 Sales and leases of goods and services, rescind ch 24 Notice **ARC 7381C** ..... 1/24/24  
 Public records and fair information practices, rescind ch 25 Notice **ARC 7382C** ..... 1/24/24  
 Impaired licensee review committee and impaired licensee recovery program, rescind ch 27  
Notice **ARC 7383C** ..... 1/24/24  
 Social security numbers and proof of legal presence, rescind ch 28 Notice **ARC 7342C** ..... 1/24/24  
 Vendor appeals, rescind ch 29 Notice **ARC 7376C** ..... 1/24/24

### **REAL ESTATE COMMISSION[193E]**

Professional Licensing and Regulation Bureau[193]  
COMMERCE DEPARTMENT[181]"umbrella"

Administration, ch 1 Notice **ARC 7442C** ..... 1/10/24  
 Definitions, ch 2 Notice **ARC 7443C** ..... 1/10/24  
 Broker license, ch 3 Notice **ARC 7444C** ..... 1/10/24  
 Salesperson license, ch 4 Notice **ARC 7445C** ..... 1/10/24  
 Licensees of other jurisdictions and reciprocity, ch 5 Notice **ARC 7446C** ..... 1/10/24  
 Termination and transfer, ch 6 Notice **ARC 7447C** ..... 1/10/24  
 Offices and management, ch 7 Notice **ARC 7448C** ..... 1/10/24  
 Closing a real estate business, ch 8 Notice **ARC 7449C** ..... 1/10/24  
 Fees, ch 9 Notice **ARC 7450C** ..... 1/10/24  
 Advertising, ch 10 Notice **ARC 7451C** ..... 1/10/24  
 Brokerage agreements and listings, ch 11 Notice **ARC 7452C** ..... 1/10/24  
 Disclosure of relationships, ch 12 Notice **ARC 7453C** ..... 1/10/24  
 Trust accounts and closings, ch 13 Notice **ARC 7454C** ..... 1/10/24  
 Seller property condition disclosure, ch 14 Notice **ARC 7455C** ..... 1/10/24  
 Property management, ch 15 Notice **ARC 7456C** ..... 1/10/24  
 Prelicense education and continuing education, ch 16 Notice **ARC 7457C** ..... 1/10/24  
 Approval of schools, courses and instructors, ch 17 Notice **ARC 7458C** ..... 1/10/24  
 Investigations and disciplinary procedures, ch 18 Notice **ARC 7459C** ..... 1/10/24  
 Requirements for mandatory errors and omissions insurance, ch 19 Notice **ARC 7460C** ..... 1/10/24  
 Time-share filing, ch 20 Notice **ARC 7461C** ..... 1/10/24

Enforcement proceedings against unlicensed persons, ch 21 Notice **ARC 7462C** ..... 1/10/24

#### **REVENUE DEPARTMENT[701]**

Property assessment appeal board, ch 115 Notice **ARC 7490C** ..... 1/10/24

Retirement income exclusion, 301.1, 301.5, 302.47, 302.80, 307.1, 307.3(5) Filed **ARC 7502C** ..... 1/10/24

#### **STATE PUBLIC DEFENDER[493]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Claims for indigent defense services—rate of compensation, travel time, 12.4(1), 12.5(4)

Filed **ARC 7571C**..... 1/24/24

#### **TRANSPORTATION DEPARTMENT[761]**

Special permits; commercial driver's licenses; commercial learner's permits, amendments to

chs 511, 607 Notice **ARC 7491C** ..... 1/10/24

#### **UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Forms, rescind ch 2 Notice **ARC 7535C** ..... 1/24/24

Civil penalties, rescind ch 8 Notice **ARC 7536C** ..... 1/24/24

#### **VETERINARY MEDICINE BOARD[811]**

Description of organization and definitions, ch 1 Notice **ARC 7556C** ..... 1/24/24

Petitions for rulemaking, ch 2 Notice **ARC 7557C** ..... 1/24/24

Declaratory orders, ch 3 Notice **ARC 7558C** ..... 1/24/24

Agency procedure for rulemaking, ch 4 Notice **ARC 7559C** ..... 1/24/24

Public records and fair information practices, ch 5 Notice **ARC 7560C** ..... 1/24/24

Application for veterinary licensure, ch 6 Notice **ARC 7561C** ..... 1/24/24

Veterinary examinations, ch 7 Notice **ARC 7562C** ..... 1/24/24

Auxiliary personnel, ch 8 Notice **ARC 7563C** ..... 1/24/24

Temporary veterinary permits, ch 9 Notice **ARC 7564C** ..... 1/24/24

Discipline, ch 10 Notice **ARC 7565C** ..... 1/24/24

Continuing education, ch 11 Notice **ARC 7566C** ..... 1/24/24

Standards of practice, ch 12 Notice **ARC 7567C** ..... 1/24/24

Collection procedures, ch 13 Notice **ARC 7568C** ..... 1/24/24

Waiver of rules, ch 14 Notice **ARC 7569C** ..... 1/24/24

Contested cases, adopt ch 16 Notice **ARC 7570C** ..... 1/24/24

## ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Mike Klimesh  
Vice Chair  
Senate District 32

Senator Nate Boulton  
Senate District 20

Senator Mike Bousset  
Senate District 21

Senator Waylon Brown  
Senate District 30

Senator Cindy Winckler  
Senate District 49

Jack Ewing  
**Administrative Code Editor**  
Capitol  
Des Moines, Iowa 50319  
Telephone: 515.281.6048  
Fax: 515.281.8451  
Email: [jack.ewing@legis.iowa.gov](mailto:jack.ewing@legis.iowa.gov)

Representative Megan Jones  
Chair  
House District 6

Representative Amy Nielsen  
House District 85

Representative Rick Olson  
House District 39

Representative Mike Sexton  
House District 7

Representative David Young  
House District 28

Nate Ristow  
**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 18  
Des Moines, Iowa 50319  
Telephone: 515.281.5211



**ACCOUNTANCY EXAMINING BOARD[193A]**

Definitions, ch 1; organization and administration, ch 2; certification of CPAs, ch 3; licensure of LPAs, ch 4; licensure status and renewal of certificates and licenses, ch 5; attest and compilation services, ch 6; certified public accounting firms, ch 7; licensed public accounting firms, ch 8; reciprocity and substantial equivalency, ch 9; continuing education, ch 10; peer review, ch 11; fees, ch 12; rules of professional ethics and conduct, ch 13; disciplinary authority and grounds for discipline, ch 14; disciplinary investigations, ch 15; disciplinary proceedings, ch 16; enforcement proceedings against nonlicensees, ch 17; licensees' duty to report, ch 18; practice privilege for out-of-state certified public accountants, ch 20; practice privilege for out-of-state certified public accounting firms, ch 21

IAB 1/10/24 ARCs 7384C to 7403C

6200 Park Ave.  
Des Moines, Iowa  
Video call link:

[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

Phone numbers:

[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

January 30, 2024  
12:30 to 12:50 p.m.

January 31, 2024  
12:30 to 12:50 p.m.

**ARCHITECTURAL EXAMINING BOARD[193B]**

Description of organization, ch 1; licensure, ch 2; continuing education, ch 3; rules of conduct, ch 4; exceptions, ch 5; disciplinary action against licensees, ch 6; disciplinary action—unlicensed practice, ch 7

IAB 1/10/24 ARCs 7435C to 7441C

6200 Park Ave., Suite 100  
Des Moines, Iowa  
Video call link:

[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

January 30, 2024  
11:50 a.m.

January 31, 2024  
11:50 a.m.

**COLLEGE STUDENT AID COMMISSION[283]**

All Iowa opportunity scholarship program, ch 8; Iowa tuition grant program—for-profit institutions, ch 11; Iowa vocational-technical tuition grant program, ch 13; skilled workforce shortage tuition grant program, ch 23

IAB 1/10/24

**Regulatory Analyses**

State Board Room  
Grimes State Office Building  
Des Moines, Iowa

January 31, 2024  
4 p.m.

**COMMERCE DEPARTMENT[181]**

Organization and operation, ch 1  
IAB 1/24/24 **ARC 7343C**

1963 Bell Ave., Suite 100  
Des Moines, Iowa

February 15, 2024  
10 to 11 a.m.

February 15, 2024  
3 to 4 p.m.

**EDUCATIONAL EXAMINERS BOARD[282]**

Complaints, investigations,  
contested case  
hearings—confidentiality,  
11.4(9), 11.5; renewal or  
extension fees—licenses,  
certificates, statements of  
professional recognition,  
authorizations, 12.2  
IAB 12/13/23 **ARCs 7194C**  
and **7193C**

Board Room  
701 E. Court Ave., Suite A  
Des Moines, Iowa

January 31, 2024  
1 to 2 p.m.

**ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]**

Administration, ch 1  
IAB 1/10/24 **ARCs 7404C to**  
**7416C**

6200 Park Ave.  
Des Moines, Iowa  
Video call link:  
[meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)  
6200 Park Ave.  
Des Moines, Iowa

January 30, 2024  
12:50 to 1:10 p.m.

January 31, 2024  
12:50 to 1:10 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Submission of information and  
complaints; environmental  
self-audits; compliance and  
enforcement procedures,  
rescind chs 3, 12, 17; adopt  
ch 10  
IAB 12/27/23 **ARC 7206C**

Via video/conference call  
Contact Kelli Book  
Email: [kelli.book@dnr.iowa.gov](mailto:kelli.book@dnr.iowa.gov)

January 25, 2024  
10 to 11:30 a.m.

Cross-media electronic reporting,  
ch 15; certificate of acceptance,  
ch 27  
IAB 12/27/23 **ARCs 7225C,**  
**7226C**

Via video/conference call  
Contact Jim McGraw  
Email: [jim.mcgraw@dnr.iowa.gov](mailto:jim.mcgraw@dnr.iowa.gov)

January 29, 2024  
1 p.m.

January 30, 2024  
1 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)**

<p>Rescissions: Scope of title—definitions, ch 20; measurement of emissions, ch 25; prevention of air pollution emergency episodes, ch 26; ambient air quality standards, ch 28; qualification in visual determination of the opacity of emissions, ch 29; animal feeding operations field study, ch 32; provisions for air quality emissions trading programs, ch 34; air emissions reduction assistance program, ch 35 IAB 12/27/23 <b>ARCs 7210C, 7212C, 7216C to 7218C, 7220C, 7224C, 7227C</b></p>	<p>Via video/conference call Contact Christine Paulson Email: <a href="mailto:christine.paulson@dnr.iowa.gov">christine.paulson@dnr.iowa.gov</a></p>	<p>January 29, 2024 1 p.m.</p>
<p>Compliance, excess emissions, and measurement of emissions, ch 21; controlling air pollution, ch 22; air emission standards, ch 23; operating permits, ch 24; nonattainment new source review, ch 31 IAB 12/27/23 <b>ARCs 7209C, 7211C, 7213C, 7215C, 7228C</b></p>	<p>Via video/conference call Contact Christine Paulson Email: <a href="mailto:christine.paulson@dnr.iowa.gov">christine.paulson@dnr.iowa.gov</a></p>	<p>January 29, 2024 1 p.m.  January 30, 2024 1 p.m.</p>
<p>Fees, ch 30; construction permit requirements for major stationary sources—prevention of significant deterioration (PSD), ch 33; IAB 12/27/23 <b>ARCs 7219C, 7223C</b></p>	<p>Via video/conference call Contact Wendy Walker Email: <a href="mailto:wendy.walker@dnr.iowa.gov">wendy.walker@dnr.iowa.gov</a></p>	<p>January 29, 2024 1 p.m.  January 30, 2024 1 p.m.</p>
<p>Animal feeding operations, ch 65 IAB 12/27/23 <b>ARC 7214C</b></p>	<p>Auditorium Wallace State Office Bldg. Des Moines, Iowa  Via video/conference call Contact the Department Email: <a href="mailto:afo@dnr.iowa.gov">afo@dnr.iowa.gov</a></p>	<p>February 14, 2024 1:30 to 3:30 p.m.  February 19, 2024 1:30 to 3:30 p.m.</p>

**HUMAN SERVICES DEPARTMENT[441]**

<p>Department organization and general definitions, department procedure for rulemaking, petitions for rulemaking, declaratory orders, appeals and hearings, public records and fair information practices, notices, chs 1, 3 to 5, 7, 9, 16; payment of small claims, ch 8; collection of delinquent debts, collection of debt, rescind ch 10, adopt ch 11; program evaluation, ch 13; fiscal oversight of the early childhood Iowa initiative, ch 122; adoption services, ch 200; subsidized adoptions, ch 201; Iowa adoption exchange, ch 203; subsidized guardianship program, ch 204 IAB 1/24/24 <b>ARCs 7358C, 7359C, 7362C to 7365C, 7389C, 7369C, 7378C</b></p>	<p>Microsoft Teams ID: 212 588 466 197 Passcode: SThXzX</p> <p>Microsoft Teams ID: 249 196 980 071 Passcode: 9dQkSC</p>	<p>February 14, 2024 11 to 11:30 a.m.</p> <p>February 26, 2024 1 to 2 p.m.</p>
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<p>Disability services management, ch 25; foster care placement and services, ch 202 IAB 1/10/24 <b>Regulatory Analyses</b></p>	<p>Meeting ID: 212 588 466 197 Passcode: SThXzX</p>	<p>February 14, 2024 11 to 11:30 a.m.</p>
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**INSURANCE DIVISION[191]**

<p>Administration, ch 1; public records and fair information practices, ch 2; contested cases, ch 3; waiver of rules and declaratory orders, ch 4; life insurance illustrations model regulation, ch 14; unfair trade practices, ch 15; replacement of life insurance and annuities, ch 16; property and casualty insurance, ch 20; requirements for surplus lines, risk retention groups and purchasing groups, ch 21; military sales practices, ch 25; workers' compensation insurance rate filing procedures, ch 60; financial and health information regulation, ch 90 IAB 1/24/24 <b>ARCs 7344C to 7353C, 7355C, 7356C</b></p>	<p>1963 Bell Ave., Suite 100 Des Moines, Iowa</p>	<p>February 15, 2024 10 to 11 a.m.</p> <p>February 15, 2024 3 to 4 p.m.</p>
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**INTERIOR DESIGN EXAMINING BOARD[193G]**

<p>Professional conduct, ch 4 IAB 1/24/24 <b>ARC 7510C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a></p>	<p>February 13, 2024 12:10 p.m.</p> <p>February 14, 2024 12:10 p.m.</p>
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**NATURAL RESOURCE COMMISSION[571]**

Permits and easements for construction and other activities on public lands and waters, ch 13 IAB 12/27/23 <b>ARC 7248C</b>	Via video/conference call Contact Casey Laskowski Email: <a href="mailto:casey.laskowski@dnr.iowa.gov">casey.laskowski@dnr.iowa.gov</a>	January 30, 2024 12 noon to 1 p.m.  January 23, 2024 12 noon to 1 p.m.
Concessions, ch 14; docks and other structures on public waters, ch 16; land and water conservation fund program, ch 27; all-terrain vehicle registration revenue grant program, ch 28 IAB 12/27/23 <b>ARCs 7232C, 7244C, 7246C, 7255C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	January 30, 2024 12 noon to 1 p.m.  January 31, 2024 4 to 5 p.m.
Leases and permits, ch 17 IAB 12/27/23 <b>ARC 7242C</b>	Via video/conference call Contact Nathan Schmitz Email: <a href="mailto:nathan.schmitz@dnr.iowa.gov">nathan.schmitz@dnr.iowa.gov</a>	January 30, 2024 12 noon to 1 p.m.
Habitat lease program, ch 21 IAB 12/27/23 <b>ARC 7247C</b>	Via video/conference call Contact Nathan Schmitz Email: <a href="mailto:nathan.schmitz@dnr.iowa.gov">nathan.schmitz@dnr.iowa.gov</a>	January 30, 2024 12 noon to 1 p.m.
Waters cost-share and grant programs, ch 30 IAB 12/27/23 <b>ARC 7237C</b>	Via video/conference call Contact Nate Hoogeveen Email: <a href="mailto:nate.hoogeveen@dnr.iowa.gov">nate.hoogeveen@dnr.iowa.gov</a>	January 30, 2024 12 noon to 1 p.m.
Publicly owned lakes watershed program, ch 31 IAB 12/27/23 <b>ARC 7229C</b>	Via video/conference call Contact George Antoniou Email: <a href="mailto:george.antoniou@dnr.iowa.gov">george.antoniou@dnr.iowa.gov</a>	January 30, 2024 12 noon to 1 p.m.
Resources enhancement and protection program: county, city, private open spaces and conservation education grant programs, ch 33 IAB 12/27/23 <b>ARC 7236C</b>	Via video/conference call Contact Michelle Wilson Email: <a href="mailto:michelle.wilson@dnr.iowa.gov">michelle.wilson@dnr.iowa.gov</a>	January 25, 2024 1:30 to 3:30 p.m.
Fish habitat promotion for county conservation boards, ch 35 IAB 12/27/23 <b>ARC 7240C</b>	Via video/conference call Contact Randall Schultz Email: <a href="mailto:randy.schultz@dnr.iowa.gov">randy.schultz@dnr.iowa.gov</a>	January 23, 2024 12 noon to 1 p.m.
State parks, recreation areas, and state forest camping, ch 61 IAB 1/24/24 <b>ARC 7509C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	February 13, 2024 12 noon to 1 p.m.  February 15, 2024 4 to 5 p.m.

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

Organization and operation, ch 1; allocation of disciplinary fees and costs, ch 2; vendor appeals, ch 3; social security numbers and proof of legal presence, ch 4; waivers, rescind ch 5; investigatory subpoenas, ch 6; contested cases, ch 7; denial of issuance or renewal, suspension, or revocation of license for nonpayment of child support or state debt, rescind ch 8; petition for rule making, rescind ch 9; declaratory orders, rescind ch 10; sales and leases of goods and services, ch 11; impaired licensee review committee, ch 12; public records and fair information practices, rescind ch 13; licensure by verification or work experience, ch 14; use of criminal convictions in eligibility determinations and initial licensing decisions, ch 15  
IAB 1/24/24 ARCs 7511C to 7525C

6200 Park Ave., Suite 100  
Des Moines, Iowa  
Video call link:  
[meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

February 13, 2024  
11:30 a.m.

February 14, 2024  
11:30 a.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Board administrative processes, ch 4; fees, ch 5; petitions for rule making, rescind ch 6; agency procedure for rule making, rescind ch 7; declaratory orders, rescind ch 8; complaints and investigations, ch 9; public records and fair information practices, rescind ch 10; contested cases and informal settlement, ch 11; informal settlement, rescind ch 12; discipline, ch 13; use of criminal convictions in eligibility determinations and initial licensing decisions, ch 14; Iowa professional review committee, ch 16; materials for board review, rescind ch 17; waivers or variances from administrative rules, rescind ch 18; licensure by verification and of applicants with work experience, ch 19; military service and veteran reciprocity, rescind ch 20  
IAB 1/24/24 ARCs 7296C to 7311C

6200 Park Ave.  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

February 13, 2024  
9 to 9:20 a.m.

February 14, 2024  
9 to 9:20 a.m.

**PROFESSIONAL LICENSURE DIVISION[645](cont'd)**

<p>Behavioral scientists—licensure of marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts, ch 31; continuing education for marital and family therapists and mental health counselors, ch 32; discipline for marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts, ch 33 IAB 1/24/24 <b>ARCs 7293C to 7295C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/isb-pmab-qob">meet.google.com/isb-pmab-qob</a> Phone numbers: <a href="tel:meet/isb-pmab-qob?pin=8352415222450">tel.meet/isb-pmab-qob?pin=8352415222450</a></p>	<p>February 13, 2024 9:40 to 10 a.m.  February 14, 2024 9:40 to 10 a.m.</p>
<p>Licensure of chiropractic physicians, ch 41; colleges for chiropractic physicians, ch 42; practice of chiropractic physicians, ch 43; continuing education for chiropractic physicians, ch 44; discipline for chiropractic physicians, ch 45 IAB 1/10/24 <b>ARCs 7463C to 7467C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427# More phone numbers: <a href="tel:meet/jji-jaoj-uqy?pin=4753713549740">tel.meet/jji-jaoj-uqy?pin=4753713549740</a></p>	<p>January 30, 2024 12:30 p.m.  January 31, 2024 12:30 p.m.</p>
<p>Licensure of barbers, cosmetologists, electrologists, estheticians, nail technologists, and instructors of barbering cosmetology arts and sciences, ch 60; licensure of establishments and schools of barbering and cosmetology arts and sciences, ch 61; infection control for establishments and schools of barbering and cosmetology arts and sciences, ch 63; continuing education for barbering and cosmetology arts and sciences, ch 64; discipline for barbering and cosmetology arts and sciences licensees, instructors, establishments, and schools, ch 65 IAB 1/24/24 <b>ARCs 7537C to 7541C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427# More phone numbers: <a href="tel:meet/jji-jaoj-uqy?pin=4753713549740">ttel.meet/jji-jaoj-uqy?pin=4753713549740</a></p>	<p>February 13, 2024 1:50 to 2 p.m.  February 14, 2024 1:50 to 2 p.m.</p>
<p>Dietitians—licensure, ch 81; continuing education, ch 82; discipline, ch 83 IAB 1/24/24 <b>ARCs 7542C to 7544C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone numbers: <a href="tel:meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a></p>	<p>February 14, 2024 2:10 to 2:30 p.m.  February 13, 2024 2:10 to 2:30 p.m.</p>

**PROFESSIONAL LICENSURE DIVISION[645](cont'd)**

<p>Practice of funeral directors, funeral establishments, and cremation establishments, ch 100; licensure of funeral directors, funeral establishments, and cremation establishments, ch 101; continuing education for funeral directors, ch 102; disciplinary proceedings; enforcement proceedings against nonlicensees, rescind ch 103, adopt ch 104; enforcement proceedings against nonlicensees, adopt ch 105 IAB 1/24/24 <b>ARCs 7526C, 7531C to 7534C</b></p>	<p>6200 Park Ave. Des Moines, Iowa</p>	<p>February 13, 2024 1:30 p.m.</p> <p>February 14, 2024 1:30 p.m.</p>
<p>Licensure of hearing aid specialists, ch 121; continuing education for hearing aid specialists, ch 122; practice of hearing aid dispensing, ch 123; discipline for hearing aid specialists, ch 124 IAB 1/10/24 <b>ARC 7483C to ARC 7486C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 10:50 to 11:10 a.m.</p> <p>January 31, 2024 10:50 to 11:10 a.m.</p>
<p>Licensure of massage therapists, ch 131; massage therapy education curriculum, ch 132; continuing education for massage therapists, ch 133; discipline for massage therapists, ch 134 IAB 1/10/24 <b>ARC 7479C to ARC 7482C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 10:30 a.m.</p> <p>January 31, 2024 10:30 a.m.</p>
<p>Licensure of nursing home administrators, ch 141; continuing education for nursing home administration, ch 143; discipline for nursing home administrators, ch 144 IAB 1/10/24 <b>ARC 7476C to ARC 7478C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 11:30 to 11:50 a.m.</p> <p>January 31, 2024 11:30 to 11:50 a.m.</p>



**PROFESSIONAL LICENSURE DIVISION[645](cont'd)**

Licensure of optometrists, ch 180; continuing education for optometrists, ch 181; practice of optometrists, ch 182; discipline for optometrists, ch 183  
IAB 1/10/24 **ARC 7472C** to **ARC 7475C**

6200 Park Ave.  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

January 30, 2024  
11:50 a.m.

January 31, 2024  
11:50 a.m.

Physical and occupational therapists—licensure of physical therapists and physical therapist assistants, ch 200; practice of physical therapists and physical therapist assistants, ch 201; discipline for physical therapists and physical therapist assistants, ch 202; continuing education for physical therapists and physical therapist assistants, ch 203; licensure of occupational therapists and occupational therapy assistants, ch 206; continuing education for occupational therapists and occupational therapy assistants, ch 207; practice of occupational therapists and occupational therapy assistants, ch 208; discipline for occupational therapists and occupational therapy assistants, ch 209  
IAB 1/24/24 **ARCs 7545C** to **7552C**

6200 Park Ave.  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

February 13, 2024  
2:30 to 2:50 p.m.

February 14, 2024  
2:30 to 2:50 p.m.

Psychologists—licensure of psychologists, ch 240; continuing education for psychologists, ch 241; discipline for psychologists, ch 242; practice of psychology, ch 243; prescribing psychologists, ch 244  
IAB 1/24/24 **ARCs 7288C** to **7292C**

6200 Park Ave.  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 13, 2024  
9:20 to 9:40 a.m.

February 14, 2024  
9:20 to 9:40 a.m.

**PROFESSIONAL LICENSURE DIVISION[645](cont'd)**

<p>Licensure of respiratory care practitioners, polysomnographic technologists, and respiratory care and polysomnography practitioners, ch 261; continuing education for respiratory care practitioners and polysomnographic technologists, ch 262; discipline for respiratory care practitioners and polysomnographic technologists, rescind ch 263; practice of respiratory care practitioners and polysomnographic technologists, ch 265 IAB 1/24/24 <b>ARCs 7503C to 7506C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 1.904.330.1060 PIN: 744 558 427# More phone numbers: <a href="https://tel.meet/jji-jaoj-uqy?pin=4753713549740">tel.meet/jji-jaoj-uqy?pin=4753713549740</a></p>	<p>February 13, 2024 12:50 p.m.</p> <p>February 14, 2024 12:50 p.m.</p>
<p>Speech pathologists and audiologists—licensure, ch 300; practice, ch 301; continuing education, ch 303; discipline, ch 304 IAB 1/10/24 <b>ARCs 7468C to ARC 7471C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone number: 1.904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 11:10 to 11:30 a.m.</p> <p>January 31, 2024 11:10 to 11:30 a.m.</p>
<p>Physician assistants—practice, ch 327; continuing education, ch 328; discipline, ch 329 IAB 1/24/24 <b>ARCs 7528C to 7530C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/isb-pmab-qob">meet.google.com/isb-pmab-qob</a> Or dial: 1.813.252.1868 PIN: 724 486 884# Phone numbers: <a href="https://tel.meet/isb-pmab-qob?pin=8352415222450">tel.meet/isb-pmab-qob?pin=8352415222450</a></p>	<p>February 13, 2024 1:10 to 1:30 p.m.</p> <p>February 14, 2024 1:10 to 1:30 p.m.</p>
<p>Athletic trainers—licensure, ch 351; continuing education, ch 352; discipline, ch 353 IAB 1/24/24 <b>ARCs 7553C to 7555C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone numbers: <a href="https://tel.meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a></p>	<p>February 13, 2024 2:50 to 3:10 p.m.</p> <p>February 14, 2024 2:50 to 3:10 p.m.</p>
<p>Sign language interpreters and transliterators—licensure, ch 361; continuing education, ch 362; discipline, ch 363 IAB 1/10/24 <b>ARC 7487C to ARC 7489C</b></p>	<p>6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Phone: 1.904.330.1060 PIN: 744 558 427#</p>	<p>January 30, 2024 12:10 to 12:30 p.m.</p> <p>January 31, 2024 12:10 to 12:30 p.m.</p>

**PUBLIC HEALTH DEPARTMENT[641]**

Reportable diseases, poisonings and conditions, and quarantine and isolation, ch 1; hepatitis programs, ch 2; Immunization and immunization education: persons attending elementary or secondary schools, licensed child care centers or institutions of higher education, ch 7; human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS), ch 11; private well testing, reconstruction, and plugging—grants to counties, ch 24; establishment of new certificate of live birth following adoption, 95.6(1)“b,” 99.14; state-funded family medicine obstetrics fellowship program, ch 106; smokefree air, ch 153; medical cannabidiol program, ch 154; health data, ch 177; nonpayment of state debt, ch 194; emergency medical services—military service, veteran reciprocity, and spouses of active duty service members, ch 196	Microsoft Teams ID: 212 588 466 197 Passcode: SThXzX	February 14, 2024 11 to 11:30 a.m.
<b>IAB 1/24/24 ARCs 7374C, 7360C, 7361C, 7366C, 7367C, 7370C to 7374C, 7507C, 7508C</b>	Microsoft Teams ID: 249 196 980 071 Passcode: 9dQkSC	February 26, 2024 1 to 2 p.m.
Practice of tattooing, ch 22; backflow prevention assembly tester registration, ch 26; minimum requirements for tanning facilities, ch 46 <b>IAB 1/10/24 ARC 7282C to ARC 7284C</b>	6200 Park Ave. Des Moines, Iowa	January 30, 2024 9:40 a.m.  January 31, 2024 9:40 a.m.
Plumbing and mechanical systems board—repromulgation of chs 23, 27 to 30, 32 to 35; rescission of chs 31, 36, 57 to 60, 62 <b>IAB 1/10/24 ARC 7285C, ARC 7286C, ARC 7316C to ARC 7329C</b>	6200 Park Ave. Des Moines, Iowa	January 30, 2024 9:20 a.m.  January 31, 2024 9:20 a.m.
Impaired practitioner review committee, ch 193 <b>IAB 1/10/24 ARC 7287C</b>	6200 Park Ave. Des Moines, Iowa	January 30, 2024 9:20 a.m.  January 31, 2024 9:20 a.m.

**PUBLIC HEALTH DEPARTMENT[641](cont'd)**

Certificate of need program, ch 202; standards for certificate of need review, ch 203 IAB 1/10/24 <b>ARC 7379C</b>	6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a> Phone numbers: <a href="https://tel.meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>	January 30, 2024 9 to 9:20 a.m.  January 31, 2024 9 to 9:20 a.m.
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**PUBLIC SAFETY DEPARTMENT[661]**

Fire safe cigarette certification program, ch 61; licensing for commercial explosive contractors and blasters, ch 235; consumer fireworks retail seller licensing and wholesaler registration, ch 265; licensing of fire protection system contractors, ch 275; licensing of fire protection system technicians, ch 276; licensing of alarm system contractors and technicians, ch 277; military service, veteran reciprocity, and spouses of active duty service members for fire extinguishing and alarm systems contractors and installers, rescind ch 278; Electrician and electrical contractor licensing program—organization and administration, ch 500; electrician and electrical contractor licensing program—administrative procedures, rescind ch 501; electrician and electrical contractor licensing program—licensing requirements, procedures, and fees, ch 502; electrician and electrical contractor licensing program—complaints and discipline, ch 503; electrician and electrical contractor licensing program—education, ch 505; military service and veteran reciprocity for electricians and electrical contractors, rescind ch 506 IAB 1/24/24 <b>ARCs 7276C to 7281C, 7330C to 7336C</b>	6200 Park Ave. Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a> Or dial: +1 774.338.0928 PIN: 195 434 437# More phone numbers: <a href="https://tel.meet/zuu-vunu-dcc?pin=9691567757424">tel.meet/zuu-vunu-dcc?pin=9691567757424</a>	February 13, 2024 10 to 10:20 a.m.  February 14, 2024 10 to 10:20 a.m.
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Carriers—adoption by reference of federal safety and hazardous materials regulations, 22.1(1) IAB 1/24/24 <b>Regulatory Analysis</b>	First Floor Public Conference Room Oran Pape State Office Bldg. Des Moines, Iowa	February 13, 2024 8 to 8:30 a.m.
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**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Organization and administration, ch 1; definitions, ch 2; general provisions for examinations, ch 3; associate real estate appraiser, ch 4; certified residential real property appraiser, rescind ch 5; certified general real property appraiser, adopt ch 5, rescind ch 6; disciplinary actions, adopt ch 6, rescind ch 7; investigations and disciplinary procedures, adopt ch 7, rescind ch 8; renewal, expiration and reinstatement of certificates and registrations, retired status, and inactive status, adopt ch 8, rescind ch 9; reciprocity, adopt ch 9, rescind ch 10; continuing education, adopt ch 10, rescind ch 11; fees, adopt ch 11, rescind ch 12; enforcement proceedings against nonlicensees, adopt ch 12; rescind ch 16; use of criminal convictions in eligibility determinations and initial licensing decisions, rescind ch 13; persons licensed in other jurisdictions; military service, veteran reciprocity, and licensure of persons licensed in other jurisdictions; adopt ch 13, rescind ch 26; supervisor responsibilities, rescind ch 15; superintendent supervision standards and procedures, rescind ch 17; waivers, rescind ch 18; investigatory subpoenas, rescind ch 19; contested cases, rescind ch 20; denial of issuance or renewal, suspension, or revocation of license for nonpayment of child support or state debt, rescind ch 21; petition for rule making, rescind ch 22; declaratory orders, rescind ch 23; sales and leases of goods and services, rescind ch 24; public records and fair information practices, rescind ch 25; impaired licensee review committee and impaired licensee recovery program, rescind ch 27; social security numbers and proof of legal presence, rescind ch 28; vendor appeals, rescind ch 29

IAB 1/24/24 **ARCs 7257C to 7269C, 7271C to 7275C**

6200 Park Ave.  
Des Moines, Iowa  
Video call link:  
[meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

February 13, 2024  
10:40 to 11 a.m.

February 14, 2024  
10:40 to 11 a.m.

**REAL ESTATE COMMISSION[193E]**

Administration, ch 1; definitions, ch 2; broker license, ch 3; salesperson license, ch 4; licensees of other jurisdictions and reciprocity, ch 5; termination and transfer, ch 6; offices and management, ch 7; closing a real estate business, ch 8; fees, ch 9; advertising, ch 10; brokerage agreements and listings, ch 11; disclosure of relationships, ch 12; trust accounts and closings, ch 13; seller property condition disclosure, ch 14; property management, ch 15; prelicense education and continuing education, ch 16; approval of schools, courses and instructors, ch 17; investigations and disciplinary procedures, ch 18; requirements for mandatory errors and omissions insurance, ch 19; time-share filing, ch 20; enforcement proceedings against unlicensed persons, ch 21 IAB 1/10/24 <b>ARCs 7442C to 7462C</b>	6200 Park Ave. Des Moines, Iowa	January 30, 2024 11 to 11:20 a.m.  January 31, 2024 11 to 11:20 a.m.
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**REVENUE DEPARTMENT[701]**

Property assessment appeal board, ch 115 IAB 1/10/24 <b>ARC 7490C</b>	Via video/conference call Contact Jessica Braunschweig-Norris Email: <a href="mailto:jessica.braunschweig-norris@iowa.gov">jessica.braunschweig-norris@iowa.gov</a>	February 5, 2024 11 a.m. to 12 noon  February 5, 2024 4 to 4:30 p.m.
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**TRANSPORTATION DEPARTMENT[761]**

Special permits; commercial driver's licenses; commercial learner's permits, amendments to chs 511, 607 IAB 1/10/24 <b>ARC 7491C</b>	Iowa Department of Transportation Motor Vehicle Division, First Floor Training Room 6320 SE Convenience Blvd. Ankeny, Iowa	February 2, 2024 10 a.m. (If requested)
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**UTILITIES DIVISION[199]**

Forms, rescind ch 2 IAB 1/24/24 <b>ARC 7535C</b>	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	February 20, 2024 9 to 11 a.m.  February 29, 2024 9 to 11 a.m.
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**UTILITIES DIVISION[199](cont'd)**

Civil penalties, rescind ch 8  
IAB 1/24/24 **ARC 7536C**

Board Hearing Room  
1375 E. Court Ave.  
Des Moines, Iowa

February 20, 2024  
9 to 11 a.m.

February 29, 2024  
9 to 11 a.m.

Reorganization, ch 32  
IAB 1/24/24  
**Regulatory Analysis**

Board Hearing Room  
1375 E. Court Ave.  
Des Moines, Iowa

February 14, 2024  
10 a.m.  
(If requested)

**VETERINARY MEDICINE BOARD[811]**

Description of organization and definitions, ch 1; petitions for rulemaking, ch 2; declaratory orders, ch 3; agency procedure for rulemaking, ch 4; public records and fair information practices, ch 5; application for veterinary licensure, ch 6; veterinary examinations, ch 7; auxiliary personnel, ch 8; Temporary veterinary permits, ch 9; discipline, ch 10; continuing education, ch 11; standards of practice, ch 12; collection procedures, ch 13; waiver of rules, ch 14; contested cases, adopt ch 16  
IAB 1/24/24 **ARCs 7556C to 7570C**

Second Floor Boardroom  
Wallace State Office Bldg.  
Des Moines, Iowa

February 29, 2024  
10 a.m.

March 8, 2024  
10 a.m.

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Soil Conservation and Water Quality Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]  
OMBUDSMAN[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
ECONOMIC DEVELOPMENT AUTHORITY[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
HUMAN RIGHTS DEPARTMENT[421]  
HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Child Advocacy Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
IOWA PUBLIC INFORMATION BOARD[497]  
LAW ENFORCEMENT ACADEMY[501]



LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Professional Licensure Division[645]  
    Dental Board[650]  
    Medicine Board[653]  
    Nursing Board[655]  
    Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and Workforce Development Center Administration Division[877]

### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code rule 661—22.1(321)  
“Safety and Hazardous Materials Regulations”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.449 and 321.450  
State or federal law(s) implemented by the rulemaking: Iowa Code sections 321.1, 321.449 and 321.450

### Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
8 to 8:30 a.m.

First Floor Public Conference Room  
Oran Pape State Office Building  
Des Moines, Iowa

### Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Public Safety no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Josie Wagler  
215 East 7th Street  
Des Moines, Iowa 50319  
Phone: 515.725.6185  
Email: [wagler@dps.state.ia.us](mailto:wagler@dps.state.ia.us)

### Purpose and Summary

This is an annual update in which the Department proposes to adopt the most recent updates to federal regulations. A summary of changes to the CFR is as follows:

Part 385 (FR Vol. 87, No. 245, pages 78579-78582, 12-22-22)

Summary: The Federal Motor Carrier Safety Administration (FMCSA) amends its Hazardous Materials Safety Permits regulations to incorporate by reference the April 1, 2022, edition of the Commercial Vehicle Safety Alliance’s (CVSA’s) handbook (the handbook) containing inspection procedures and out-of-service criteria (OOSC) for the inspection of commercial motor vehicles (CMVs) used in the transportation of transuranic waste and highway route-controlled quantities of radioactive material. The OOSC provides enforcement personnel nationwide, including FMCSA’s state partners, with uniform enforcement tolerances for these inspections. Through this rule, FMCSA incorporates by reference the April 1, 2022, edition of the handbook. Effective Date: January 23, 2023.

Parts 107 110 171 172 173 174 176 177 178 180 (FR Vol. 87, No. 247, pages 79752-79785, 12-27-22)

Summary: This final rule corrects editorial errors and improves the clarity of certain provisions in the Pipeline and Hazardous Materials Safety Administration’s (PHMSA’s) program and procedural regulations and in the Hazardous Materials Regulations. The intended effect of this rulemaking is to enhance accuracy and reduce misunderstandings of the regulations. The amendments contained in this final rule are nonsubstantive changes and do not impose new requirements. Effective Date: January 26, 2023.

Parts 107 171 172 173 175 177 178 (FR Vol. 88, No. 16, pages 4756-4761, 01-25-23)

Summary: The PHMSA is correcting the final rule that appeared in the Federal Register on December 27, 2022. The final rule made editorial revisions and clarifications to the Hazardous Materials

Regulations, including the hazardous materials table. The corrections address several errors to the hazardous material entries in the hazardous materials table. Effective Date: January 26, 2023.

Additionally, Iowa needs to adopt CFR 49 Part 386 to ensure safe commercial motor vehicle operations on its roadways. Doing so would ensure FMCSA carrier review auditors have the proper documentation when performing carrier audits to remove unsafe/unfit carriers from Iowa roadways and allow troopers to cite the correct federal code and place these unsafe/unfit carriers out of service roadside when they are found operating on Iowa roadways.

Failure to cite the proper code section on Motor Carrier Safety Assistance Program (MCSAP) inspections affects Iowa's DATA quality rating, which could have a negative impact on obtaining future grant funding.

#### *Analysis of Impact*

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:  
CMV operators transporting loads in Iowa will bear the costs.
  - Classes of persons that will benefit from the proposed rulemaking:  
CMV operators transporting loads in Iowa and the motoring public traveling on Iowa's roadways will benefit.
  
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
  - Quantitative description of impact:  
The federal regulations subject to be adopted by this proposed rulemaking were subject to fiscal impact review by either the FMCSA or the PHMSA when the regulations were enacted and were determined not to be cost-prohibitive.
  - Qualitative description of impact:  
See above.
  
3. Costs to the State:
  - Implementation and enforcement costs borne by the agency or any other agency:  
None.
  - Anticipated effect on state revenues:  
None.
  
4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:  
Failure to adhere to federal regulation could have a negative impact on obtaining future grant funding.
  
5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:  
None.
  
6. Alternative methods considered by the agency:
  - Description of any alternative methods that were seriously considered by the agency:  
None; the Iowa Code requires adherence to federal safety and Hazardous Materials Regulations.
  - Reasons why alternative methods were rejected in favor of the proposed rulemaking:  
See above.

#### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This rulemaking will not have a substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Amend subrule 22.1(1) as follows:

**22.1(1) Regulations.**

*a. Motor carrier safety regulations.* The Iowa department of public safety adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385, 386 and 390-399 (October 1, ~~2022~~ 2023).

*b. Hazardous materials regulations.* The Iowa department of public safety adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2022~~ 2023).

*c. Copies of regulations.* Copies of the federal regulations may be reviewed at the state law library or through the Internet at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).

### Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 199—Chapter 32  
“Reorganization”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 476.76 and 476.77  
State or federal law(s) implemented by the rulemaking: Iowa Code sections 388.2A(2)“a”(1),  
476.76, and 476.77

### Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

February 14, 2024  
10 a.m.

Board Hearing Room  
1375 East Court Avenue  
Des Moines, Iowa

### Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Utilities Board no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support  
Iowa Utilities Board  
Phone: 515.725.7300  
Email: [ITSupport@iub.iowa.gov](mailto:ITSupport@iub.iowa.gov)

### Purpose and Summary

The purpose of this chapter is to ensure there is a methodology to the reorganization of a public utility.

### Analysis of Impact

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:  
Chapter 32 imposes no direct costs on the public. Persons wanting to partake in the reorganization may incur costs associated with the Board’s oversight and any attorney fees, but these costs are not impacted by Chapter 32.
  - Classes of persons that will benefit from the proposed rulemaking:  
Those wishing to participate in public utility reorganization will benefit.
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
  - Quantitative description of impact:  
There may be some costs to persons wanting to partake in public utility reorganization.
  - Qualitative description of impact:  
This chapter ensures that the public has accurate and detailed information needed by the Board to be able to review public utility reorganizations.
3. Costs to the State:
  - Implementation and enforcement costs borne by the agency or any other agency:

There are no additional costs to any agency other than the normal everyday costs of operation of the Board.

- Anticipated effect on state revenues:  
There is no anticipated effect on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The agency believes that the benefits of providing information on the reorganization process of a public utility outweigh any costs that Chapter 32 may indirectly impose. Inaction is not advised because it would result in inadequacy in application and petitions for reorganization.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Because Chapter 32 imposes no direct costs, the agency does not believe there is a less costly or less intrusive method.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:  
Inaction was considered.
- Reasons why alternative methods were rejected in favor of the proposed rulemaking:  
Inaction is not advisable since there is value in informing the public about the Board's process in regulating the reorganization of public utilities.

#### *Small Business Impact*

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The agency does not believe Chapter 32 will have an adverse impact on small business.

#### *Text of Proposed Rulemaking*

ITEM 1. Rescind 199—Chapter 32 and adopt the following **new** chapter in lieu thereof:

#### CHAPTER 32 REORGANIZATION

#### **199—32.1(476) Applicability and definition of terms.**

**32.1(1)** This chapter applies to any person who intends to acquire, sell, lease, or otherwise dispose directly or indirectly of the whole or any substantial part of a public utility's assets; or purchase, acquire, sell, or otherwise dispose of the controlling capital stock of any public utility, either directly or indirectly.

For utilities with more than one regulated line of business, the utility revenue limit shall be calculated using the revenue of the specific line of utility business involved in the transaction, not the combined utility revenues.

**32.1(2)** This chapter does not apply to transfers or removals of a public utility's assets that are made specifically pursuant to a board deregulation order, as long as those transfers or removals occur within 12 months of the board's approval of an accounting separation plan, or to transactions where board approval is otherwise required in a contested case proceeding.

**199—32.2(476) Substantial part of a public utility's assets.**

**32.2(1)** No public utility shall acquire or lease assets, directly or indirectly, with a value in excess of 3 percent of the utility's Iowa jurisdictional utility revenue during the immediately preceding calendar year or \$5 million, whichever is greater, without prior approval from the board pursuant to Iowa Code section 476.77. For purposes of this subrule and subrule 32.2(2), "value" means the greater of market value or book value.

**32.2(2)** No public utility shall sell or otherwise dispose of assets, directly or indirectly, with a value in excess of 3 percent of the utility's Iowa jurisdictional utility revenue during the immediately preceding calendar year or \$5 million, whichever is greater, without prior approval from the board pursuant to Iowa Code section 476.77. However, for utilities for which the 3 percent limit is greater than \$5 million, if the assets being sold or otherwise disposed of are used in the generation or delivery of utility services to Iowa consumers, an application or a waiver is required if the assets have a value in excess of \$10 million.

**32.2(3)** Board approval of the following types of transactions is not necessary: fuel purchases, energy and capacity purchases and sales, gas purchases, sale of accounts receivables, sale of bonds, claim and litigation payments, tax payments, regulatory fees and assessments, insurance premiums, payroll, stock dividends, financings, routine financial transactions, operation and maintenance expense, construction expense, or similar transactions that occur in the ordinary course of business. Any transaction involving more than 10 percent of a public utility's gross utility assets less depreciation, or any transaction outside the ordinary course of business, is not exempt under this subrule.

**199—32.3(476) Proposal for reorganization—filing requirements.** Any person who intends to accomplish a reorganization shall file supporting testimony and evidence with its proposal for reorganization, including but not be limited to the following information:

**32.3(1) General information.**

*a.* A statement of the purposes of the reorganization and a description of the events that led to the reorganization.

*b.* An analysis of the alternatives to the proposed reorganization that were considered and their impact on rates and services, if any.

**32.3(2) Reorganization details.**

*a.* Written accounting policies and procedures for the subsequent operation, including the type of system of accounts to be used.

*b.* The situs of the books and records of the public utility after reorganization and their availability to the board.

*c.* A description of the proposed accounting to be utilized in any transfer of assets necessary to accomplish reorganization.

*d.* The proposed method for:

(1) Accounting for and allocating officers' time between the public utility and any affiliates, and

(2) Compliance with the board's rules on affiliate transactions and relationships.

*e.* Copies of all contracts that directly relate to the reorganization and a summary of any unwritten contracts or arrangements verified by an officer of the operating company.

*f.* Before and after organizational charts for the affected public utility and affiliates, including staffing changes.

*g.* A statement of any proposed physical removal of assets from the board's jurisdiction to another jurisdiction or removal or transfer of assets from a regulated to a nonregulated environment.

**32.3(3) Financial details.**

- a.* An analysis of whether the affected public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure and corporate financial integrity, is impaired.
- b.* A description of the financing components of the proposed reorganization.
- c.* Information concerning the funding provided to any new entity.
- d.* Current and proposed reorganization balance sheets and capital structures.
- e.* Stockholder annual reports for two years preceding the year of filing for all affected companies.
- f.* Stockholder quarterly reports for the two quarters just prior to the date of the filing and any subsequent reports as they become available during the proceeding, for all affected companies.
- g.* The major credit rating agencies' reports for two years preceding the filing date of the merger and updates as they become available during the proceeding, for all affected companies.
- h.* Any proxy statement to the stockholders regarding the proposed reorganization. If such is not available at time of filing, a preliminary statement, followed by the final statement when available.

**32.3(4) Impact of reorganization.**

- a.* A cost-benefit analysis that describes the projected benefits and costs of reorganizing, including identification of source data.
- b.* An analysis of the projected financial impact of the proposed reorganization on the ratepayers of the affected public utilities for the first five years after reorganization.
- c.* An analysis of the effect on the public interest. "Public interest" means the interest of the public at large, separate and distinct from the interest of the public utility's ratepayers. The analysis should include a discussion of the reorganization's impact on the economy of the state and the communities where the utility is located.

If more than one public utility is involved in a reorganization, an analysis will be submitted for all public utilities involved.

**32.3(5) Effect on service and reliability.**

- a.* Report on quality of service and reliability levels of utility services for each of the five years prior to the year of filing, for all affected companies.
- b.* Detailed statement on how the proposed reorganized entity will maintain or enhance service and reliability, including any investment or operational plans that are available.

**32.3(6)** If any information required by these subrules is not applicable to the type of reorganization being proposed, the applicant shall state the reason(s) why the particular information is not applicable to the proposal.

**199—32.4(476) Insufficient filing.** The board may reject within 30 days any proposal for reorganization that does not contain sufficient information for the board to evaluate the proposal for reorganization. The board shall fully describe any deficiencies in a reorganization plan that is rejected.

**199—32.5(476) Procedural matters.** Because of statutory time limitations, an expedited procedural schedule shall be utilized for proposals for reorganization. The board may order additional specific procedures as needed for the expedited hearing process.

**32.5(1)** Within 40 days after a proposal for reorganization and supporting testimony is filed, the consumer advocate and any intervenors may file any written testimony and exhibits. This will allow the board an opportunity to consider the testimony and exhibits prior to the 50-day deadline for issuing a notice of hearing.

**32.5(2)** Responses to data requests shall be made within five days from the date of service.

**32.5(3)** When a hearing on the proposed reorganization is scheduled, the applicant, consumer advocate, and any intervenors file a joint statement of the issues at least ten days prior to the date of hearing.

**199—32.6(388) Approval of appraiser for municipal utilities.** The procedures for requesting board approval of an appraiser are as follows:



**32.6(1) *Making a request.*** To request board approval of an appraiser to appraise a city utility, the governing body of the city utility is to file a request in the board's electronic filing system. The request shall contain the following information:

- a.* The name of the city and of the utility;
- b.* The type of utility service provided by the utility;
- c.* The total number of customers served by the utility and the number of customers served by class, if applicable;
- d.* A general description of the assets owned by the utility; and
- e.* The name and contact information for the city or utility.

**32.6(2) *Consideration of request.*** When a request for approval of an appraiser is received by the board, board staff reviews the request and provides the board with a recommendation or a list of appraisers for the board to consider approving. The board may delegate approval authority to the board chair.

**32.6(3) *Notice of approved appraiser.*** Within 30 calendar days following the city's or city utility's filing to request board approval of an appraiser, the board shall notify the city and governing body of the city utility of an approved appraiser. If the city and governing body of the city utility are unable to agree to terms with an approved appraiser, the city and governing body of the city utility may file a letter with the board requesting approval of another appraiser and identifying the reasons they are requesting the board to approve another appraiser.

These rules are intended to implement Iowa Code sections 388.2A(2) "a"(1), 476.76, and 476.77.

**ARC 7314C****AGING, DEPARTMENT ON[17]****Notice of Intended Action****Proposing rulemaking related to realignment  
and providing an opportunity for public comment**

The Department on Aging hereby proposes to rescind Chapter 11, “Waivers from Administrative Rules,” Chapter 13, “Rules and Practices in Contested Cases,” Chapter 17, “Petition for Rule Making,” and Chapter 18, “Declaratory Orders,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in 2023 Iowa Acts, Senate File 514.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, 2023 Iowa Acts, Senate File 514.

*Purpose and Summary*

The purpose of this proposed rulemaking is to implement the state government realignment provisions of 2023 Iowa Acts, Senate File 514. This rulemaking eliminates uniform rules of agency practice and procedure that are redundant or duplicative of existing rules adopted by the Iowa Department of Health and Human Services (Department) to reduce confusion and establish a single set of uniform rules for the newly reorganized Department.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rulemaking may be demanded by 25 interested persons, a governmental

AGING, DEPARTMENT ON[17](cont'd)

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

- ITEM 1. Rescind and reserve **17—Chapter 11**.
- ITEM 2. Rescind and reserve **17—Chapter 13**.
- ITEM 3. Rescind and reserve **17—Chapter 17**.
- ITEM 4. Rescind and reserve **17—Chapter 18**.

**ARC 7343C**

**COMMERCE DEPARTMENT[181]**

**Notice of Intended Action**

**Proposing rulemaking related to organization and operation  
and providing an opportunity for public comment**

The Commerce Department hereby proposes to rescind Chapter 1, "Organization and Operation," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 546.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 546.

*Purpose and Summary*

The proposed chapter provides the organizational structure for the Department of Insurance and Financial Services (Department).

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to Iowa Code chapter 17A.

*Public Comment*

COMMERCE DEPARTMENT[181](cont'd)

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

### *Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024 10 to 11 a.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa
February 15, 2024 3 to 4 p.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 181—Chapter 1 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 1 ORGANIZATION AND OPERATION

**181—1.1(546,17A) Purpose.** This chapter describes the organization and operation of the department of insurance and financial services (department).

**181—1.2(546,17A) Scope of rules.** The rules for the department are promulgated under Iowa Code chapters 17A and 546 and shall apply to all matters before the department. No rule shall, in any way, relieve a person affected by or subject to these rules or any person affected by or subject to the rules promulgated by the various divisions of the department from any duty under the laws of this state.

**181—1.3(546,17A) Duties of the department.** The department administers and coordinates the various regulatory, service, and licensing functions of the state relating to the conducting of business or commerce in the state. The department consists of the following divisions: banking, credit union, and insurance.

**1.3(1) Banking division.** The banking division regulates and supervises state banks, regulated loan companies, industrial loan companies, mortgage bankers, mortgage brokers, real estate closing agents,

## COMMERCE DEPARTMENT[181](cont'd)

debt management companies, money services companies, and delayed deposit service businesses and performs other duties assigned to it by law.

**1.3(2) Credit union division.** The credit union division regulates and supervises the operation of credit unions within the state; the credit union review board performs duties assigned to it by Iowa Code chapter 533.

**1.3(3) Insurance division.** The insurance division regulates and supervises the conduct of the business of insurance within the state and enforces the laws promulgated under Title XIII of the Iowa Code and Iowa Code chapters 502, 502A, 505, 505A through 523A, 523C, 523D, and 523I. The division performs other duties assigned to it by law.

**181—1.4(546,17A) Definitions.**

“*Administrator*” means the commissioner of insurance, the superintendent of banking, or the superintendent of credit unions.

“*Commissioner of insurance*” means the same as defined in Iowa Code section 505.2.

“*Department*” means the department of insurance and financial services.

“*Person*” means an individual, corporation, partnership, association, professional corporation, licensee or permittee.

“*Superintendent of banking*” means the same as defined in Iowa Code section 524.201.

“*Superintendent of credit unions*” means the same as defined in Iowa Code section 533.104.

**181—1.5(546,17A) Central offices and communications.** Correspondence and communications with the department shall be addressed or directed to the department’s director. The department director is the commissioner of insurance. The department’s website is [iowa.gov/difs](http://iowa.gov/difs).

**181—1.6(546,17A) Custodians of records, filings and requests for public information.** Unless otherwise specified by the department or the rules of its various divisions, each division is the principal custodian of its own divisional orders, statements of law or policy issued by the respective divisions, legal documents and other public documents on file with the department or its respective divisions. This is true in particular for the Iowa fair information practices Act. The responsibility for complying with that Act shall be upon the individual divisions. Each division shall promulgate rules pursuant to Iowa Code chapter 17A governing the manner in which documents may be filed with the respective divisions.

**181—1.7(546,17A) Division administrators’ responsibilities.**

**1.7(1) Rulemaking.** Each division administrator has the authority to promulgate rules pursuant to Iowa Code chapter 17A to implement the duties of the division. Such rules are not subject to review by the department director. All applicable rules previously promulgated by the divisions shall remain in effect until amended by the divisions.

**1.7(2) Decision making.** Decisions of the division administrator with respect to duties assigned to the division under the law are final agency actions pursuant to Iowa Code chapter 17A. Decisions by either the commissions or division administrators are not subject to review by the department director.

**1.7(3) Supervision.** Each division administrator has the authority to hire, allocate, develop, and direct employees and other resources assigned to the division by law.

**1.7(4) Establish fees.** Each division administrator has the authority to establish fees assessed to the regulated industry. The fees so established are not reviewable by the department director.

**1.7(5) Expenditure authorization.** Each division administrator may authorize expenditures from accounts for that division or office within the department of commerce revolving fund established in Iowa Code section 546.12, or otherwise use funds as permitted by Iowa Code section 546.12.

**181—1.8(17A) Petitions for rulemaking—uniform rules adopted.** The department hereby adopts the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published on the general assembly’s website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf), as rules 181—1.9(17A) to 181—1.12(17A) below, with amendments and exceptions specified therein.

COMMERCE DEPARTMENT[181](cont'd)

**181—1.9(17A) Petition for rulemaking.** Rule X.1 is adopted by reference with the following amendments: Any person or agency may file a petition for rulemaking with the respective division at the address disclosed on the department’s website. A petition is deemed filed when it is received. The respective division must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the respective division an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

**181—1.10(17A) Briefs.** Rule X.2 is adopted by reference.

**181—1.11(17A) Inquiries.** Rule X.3 is adopted by reference.

**181—1.12(17A) Agency consideration.** Rule X.4 is adopted by reference.

These rules are intended to implement Iowa Code sections 17A.3 and 546.2.

**ARC 7358C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to agency realignment and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 1, “Departmental Organization and Procedures,” and adopt a new Chapter 1, “Department Organization and General Definitions”; rescind Chapter 3, “Department Procedure for Rule Making,” and adopt a new Chapter 3, “Department Procedure for Rulemaking”; rescind Chapter 4, “Petitions for Rule Making,” and adopt a new Chapter 4, “Petitions for Rulemaking”; rescind Chapter 5, “Declaratory Orders,” and adopt a new chapter with the same title; rescind Chapter 7, “Appeals and Hearings,” and adopt a new chapter with the same title; rescind Chapter 9, “Public Records and Fair Information Practices,” and adopt a new chapter with the same title; and rescind Chapter 16, “Notices,” and adopt a new chapter with the same title, Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 217.6.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

#### *Purpose and Summary*

Each legacy department merged into HHS as part of the government realignment in 2023 Iowa Acts, Senate File 514, and maintained its own set of Uniform Rules on Agency Procedure. HHS proposes to keep one set of uniform rules for the combined HHS. Existing uniform rule chapters include the following:

- 17—Chapters 2, 11, 13, 17, 18, and 19
- 421—Chapters 1, 2, 3, 4, 5, 6, and 7
- 441—Chapters 1, 3, 4, 5, 7, 9, and 16
- 489—Chapter 5
- 641—Chapters 170, 171, 172, 173, 174, 175, and 178
- 817—Chapters 1, 2, 3, 5, and 6

These chapters comprise the HHS Uniform Rules on Agency Procedure. HHS proposes to rescind all uniform rules that exist for a department or program merged into the HHS as part of the government realignment and to promulgate one set of uniform rules for HHS under agency number 441.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 1, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Rescind 441—Chapter 1 and adopt the following **new** chapter in lieu thereof:

*GENERAL DEPARTMENTAL PROCEDURES*  
TITLE I

CHAPTER 1  
DEPARTMENT ORGANIZATION AND GENERAL DEFINITIONS

**441—1.1(217) History and mission.** The Iowa department of health and human services was established in 2022 pursuant to 2022 Iowa Acts, House File 2578, and fully codified pursuant to 2023 Iowa Acts, Senate File 514. The authority delegated to the department had previously been delegated to the departments of human services, public health, aging, and human rights; the Iowa commission on volunteer service; the child advocacy board and the department of inspections and appeals. In 2023, the general assembly combined these agencies and programs to create the department of health and human services. The department’s mission is published on the department’s website.

**441—1.2(217) Definitions.** For the purposes of the department’s rules, unless otherwise defined:

“*Council*” means the health and human services council.

“*Department*” means the department of health and human services.

“*Director*” means the director of health and human services.

“*Electronic signature*” means a confidential personalized digital key, code, or number that is used for secure electronic data transmission and that identifies and authenticates the signatory.

**441—1.3(217) Department structure.**

**1.3(1) General.** The department’s organizational structure consists of the council, the director and such divisions as the director may from time to time create.

**1.3(2) Director.** The department director is appointed pursuant to the requirements in Iowa Code section 217.5.

**1.3(3) Delegation of director authority.** The director may designate employee(s) to administer the department in the director’s absence. The director may also delegate the director’s authority to administer the department to other employees as determined necessary for efficient and effective department operations. Delegations of the director’s authority will be documented by the department.

**1.3(4) Divisions.** The director may from time to time reorganize the department into administrative divisions to most efficiently and effectively carry out the department’s responsibilities. Reorganization may include creating new division, eliminating existing divisions, or combining divisions as the director deems necessary.

**441—1.4(217) Information.** The general public may obtain information about the department by contacting the department at its offices located at 321 E. 12th Street, Des Moines, Iowa 50319, telephone 515.281.5452, or through the department’s website.

**441—1.5(217) Health and human services council.** The council is established in Iowa Code section 217.2 and its duties are in Iowa Code section 217.3. Meetings of the council and any ad hoc committee it may establish are conducted in accordance with the provisions of Iowa Code chapter 21.

**441—1.6(217) State council on developmental disabilities.** The state developmental disabilities council and its duties are established in 42 U.S.C. §15025.

**1.6(1) Designated state agency.** The department serves as the designated state agency.

**1.6(2) Membership.** The council consists of up to 26 members appointed by the governor. Members serve three-year terms. Appointments are staggered so at least one-third of the members are appointed each year. The nonattendance provisions of Iowa Code section 69.15 apply to the council’s members.

**1.6(3) Meetings.** Meetings of the council are conducted in accordance with the provisions of Iowa Code chapter 21.



## HUMAN SERVICES DEPARTMENT[441](cont'd)

**1.6(4) Council information.** The general public may obtain information about the council at its offices located at 700 2nd Avenue, Suite 101, Des Moines, Iowa, 50309; telephone 800. 452.1936; or the website [iowaddcouncil.org](http://iowaddcouncil.org).

ITEM 2. Rescind 441—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3  
DEPARTMENT PROCEDURE FOR RULEMAKING

The department adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rulemaking, which are published at [www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf) on the general assembly's website.

**441—3.3(17A) Public rulemaking docket.**

**3.3(2) Anticipated rulemaking.** In lieu of the words “(commission, board, council, director)” insert “director”.

**441—3.4(17A) Notice of proposed rulemaking.**

**3.4(3) Notices mailed.** In lieu of the words “(specify time period)” insert “one calendar year”.

**441—3.5(17A) Public participation.**

**3.5(1) Written comments.** In lieu of the words “(identify office and address)” insert “Compliance Division, Iowa Department of Health and Human Services, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319”.

**3.5(5) Accessibility.** In lieu of the words “(designate office and telephone number)” insert “Compliance Division of the Department, 515.281.7689”.

**441—3.6(17A) Regulatory flexibility analysis.**

**3.6(3) Mailing list.** In lieu of the words “(designate office)” insert “Compliance Division, Iowa Department of Health and Human Services, Lucas State Office Building, Des Moines, Iowa 50319”.

**441—3.11(17A) Concise statement of reasons.**

**3.11(1) General.** In lieu of the words “(specify the office and address)” insert “Compliance Division, Iowa Department of Health and Human Services, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319”.

**441—3.13(17A) Agency rulemaking record.**

**3.13(2) Contents.** Amend paragraph “c” by inserting “director” in lieu of “(agency head)”.

ITEM 3. Rescind 441—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
PETITIONS FOR RULEMAKING

The department adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published at [www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf) on the general assembly's website.

**441—4.1(17A) Petition for rulemaking.** In lieu of the words “designate office” insert “Compliance Division, Iowa Department of Health and Human Services, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319” and in lieu of the words “AGENCY NAME,” the heading on the petition should read “THE DEPARTMENT OF HEALTH AND HUMAN SERVICES”.

HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—4.3(17A) Inquiries.** Inquiries concerning the status of a petition may be made to the compliance division at the department's address or at [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov).

ITEM 4. Rescind 441—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5  
DECLARATORY ORDERS

The department adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published at [www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf) on the general assembly's website. Every instance that lists "designate agency" shall be read as the department of health and human services.

**441—5.1(17A) Petition for declaratory order.** In lieu of the words "designate office" insert "compliance division, at the department's address".

**441—5.2(17A) Notice of petition.** The department shall have 15 days after receipt to give notice.

**441—5.3(17A) Intervention.**

**5.3(1) Nondiscretionary intervention.** Fifteen days shall be the time frame for a person to file for an intervention.

**5.3(3) Filing and form of petition for intervention.** In lieu of the words "designate office" insert "compliance division, at the department's address".

**441—5.5(17A) Inquiries.** Inquiries concerning the status of a declaratory order proceeding may be made to the compliance division at the department's address or at [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov).

**441—5.6(17A) Service and filing of petitions and other papers.**

**5.6(2) Filing—when required.** In lieu of the words "specific office and address" insert "compliance division, at the department's address or [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov)" and in lieu of "agency name" insert "department".

**5.6(3) Method of service, time of filing, and proof of mailing.** Method of service, time of filing, and proof of mailing shall be as provided by X.12(17A) of the contested cases segment of the uniform rules on agency procedure published on the Iowa general assembly's website at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf).

**441—5.8(17A) Action on petition.**

**5.8(1) Time frames for action.** Within 30 days after receipt of a petition for a declaratory order, the department shall take action on the petition as required by Iowa Code section 17A.9(5).

**5.8(2) Date of issuance of order.** The date of issuance of an order or of a refusal to issue an order is the date of mailing of the order or refusal or date of delivery if service is by other means unless another date is specified in the order.

ITEM 5. Rescind 441—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7  
APPEALS AND HEARINGS

PREAMBLE

The provisions of this chapter shall apply to contested case proceedings conducted by or on behalf of the department pursuant to Iowa Code chapter 17A. The definitions in rule 441—7.1(17A) apply to the rules in both Division I and Division II.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—7.1(17A) Definitions.**

*“Adverse benefit determination”* means any adverse action taken as to any individual’s benefits pursuant to an assistance program administered by the department or on the department’s behalf, excluding determinations related to requests for exceptions to policy.

*“Appeals section”* means the section of the department charged with administering the department’s appeals.

*“Appellant”* means a person, including an authorized representative acting on the person’s behalf, seeking to appeal some action pursuant to this chapter.

*“Assistance program”* means a program administered by the department or on the department’s behalf through which qualifying individuals receive benefits or services. Assistance programs include, but are not necessarily limited to, the Supplemental Nutrition Assistance Program (SNAP), Medicaid, the family investment program, refugee cash assistance, child care assistance, emergency assistance, the family planning program, the family self-sufficiency grant, PROMISE JOBS, state supplementary assistance, the healthy and well kids in Iowa (hawki) program, foster care, adoption, and aftercare services.

*“Authorized representative”* means a person lawfully designated by an individual to act on the individual’s behalf or who has legal authority to act on behalf of the individual.

*“Contested case”* refers to an evidentiary hearing mandated by state or federal constitutional or statutory authority whereupon a presiding officer makes a determination pertaining to the relative rights and obligations of parties to an appeal under this chapter.

*“DIAL”* means the department of inspections, appeals, and licensing.

*“Enrollee”* means any applicant to or recipient of benefits or services pursuant to an assistance program.

*“Good cause,”* for purposes of this rule, shall have the same meaning as “good cause” for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

*“In-person hearing”* means an appeal hearing where the administrative law judge and appellant are physically present in the same location but witnesses are not required to be physically present.

*“Intentional program violation”* means deliberately making a false or misleading statement; or misrepresenting, concealing, or withholding facts; or committing any act that is a violation of the Supplemental Nutrition Assistance Program (SNAP), SNAP regulations, or any state law relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of SNAP benefits or an electronic benefit transfer (EBT) card. An intentional program violation is determined through a SNAP administrative disqualification hearing, a court conviction, or when an individual signs and returns Form 470-5530, Waiver of Right to an Administrative Disqualification Hearing, which may result in a period of ineligibility for the program, a claim for overpayment of benefits, or both.

*“Issuance”* means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

*“Managed care organization”* or *“MCO”* has the meaning assigned to it in rule 441—73.1(249A) and includes prepaid ambulatory health plans.

*“Medicaid”* means Iowa’s medical assistance program administered under Iowa Code chapter 249A.

*“Party-in-interest”* refers to the party, including enrollees, whose rights or obligations are the subject of a contested case hearing under this chapter. Parties-in-interest may or may not be the appellant.

*“Presiding officer”* means an administrative law judge from DIAL or the director of the department or the members of a multimember board or commission.

*“Self-represented”* means representing oneself without an attorney.

**441—7.2(17A) Governing law and regulations.** In the absence of an applicable rule in this chapter, the DIAL rules found at 481—Chapter 10 govern department appeals. Notwithstanding the foregoing and the rules contained in this chapter, to the extent that federal or state law (including regulations and rules) related to a specific program is more specific than or contradicts these rules or the applicable DIAL rules, the program-specific federal or state law shall control.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

DIVISION I  
GENERAL APPEALS PROCESS**441—7.3(17A) When a contested case hearing will be granted.**

**7.3(1) Requirements.** A person shall be granted a contested case hearing if the party-in-interest fulfills all of the following requirements:

- a. The party-in-interest is entitled to a contested case hearing;
- b. The party-in-interest has an ongoing, specific and personal interest in the outcome of the contested case hearing; and
- c. The party-in-interest meets all of the other requirements contained in these rules.

**7.3(2) Refusal to process an application.** Unless otherwise provided by law, when an appellant seeks a contested case hearing after the department refuses to process an application for benefits or services, a hearing shall be granted.

**7.3(3) When a hearing is not granted.** A hearing shall not be granted when one of the following issues is appealed:

- a. Patient treatment interventions outlined in the patient handbook of the civil commitment unit for sexual offenders.
- b. Children have been removed from or placed in a specific foster care setting or preadoptive placement.
- c. A final decision from a previous hearing with a presiding officer has been implemented.

**7.3(4) Contractual rights not subject to contested case hearing.** Unless otherwise provided by law, when an appellant seeks a contested case hearing of an issue predicated upon or governed by the terms of a contract between appellant and another party, including the department, a contested case hearing shall not be provided.

**7.3(5) Change in law.** A contested case hearing shall not be granted when the sole issue raised is a federal or state law requiring an automatic change adversely affecting some or all beneficiaries to an assistance program.

**7.3(6) Competitive procurement bid appeals.** Competitive procurement bid appeals shall be adjudicated pursuant to Division II of this chapter.

**441—7.4(17A) Initiating an appeal.**

**7.4(1) Exhaustion of remedies.** An appellant shall only be granted a contested case hearing if the appellant has exhausted all other appeal remedies available to the party-in-interest. An appellant should refer to program-specific provisions for the appropriate procedures applicable to specific programs.

**7.4(2) Medicaid managed care enrollees exhaustion of remedies.**

a. A Medicaid managed care enrollee shall be granted a contested case hearing only if the enrollee has either received a decision from a managed care organization in the time and manner required by rule 441—73.12(249A) or has been deemed to have exhausted the managed care organization appeals under paragraph 7.4(2)“b.”

b. If a Medicaid enrollee’s managed care organization fails to provide a decision in the time and manner required by rule 441—73.12(249A), the enrollee shall be deemed to have exhausted the managed care organization’s appeals process and may initiate a contested case hearing.

**7.4(3) Time to appeal.** For a contested case hearing to be granted, the following appeal timelines must be met:

a. *Supplemental Nutrition Assistance Program (SNAP), Medicaid eligibility, healthy and well kids in Iowa (hawki), fee-for-service Medicaid coverage, family planning program and autism support program.* On or before the ninetieth day following the date of notice of an adverse benefit determination.

b. *Managed care organization medical services coverage.* On or before the one hundred twentieth day following the date of exhaustion, actual or deemed, of the managed care organization appeal process outlined in rule 441—73.12(249A).

c. *Tax offsets.* Except for counties appealing an offset under 441—Chapter 14, for appeals of state or federal tax offsets, on or before the fifteenth day following the date of notice of the action. For counties

## HUMAN SERVICES DEPARTMENT[441](cont'd)

appealing a debtor offset under 441—Chapter 14, on or before the thirtieth day following the date of notice of the offset.

*d. Iowa individual disaster assistance program.* On or before the ninetieth day following the date of the department's reconsideration decision, pursuant to 441—subrule 58.7(1).

*e. Iowa disaster case management program.* On or before the ninetieth day following the date of the department's reconsideration decision, pursuant to 441—subrule 58.7(1).

*f. Dependent adult abuse.* Within six months of the date of notice of the action as provided in Iowa Code section 235B.10.

*g. Child abuse.* For appeals regarding child abuse, the person alleged responsible for the abuse must appeal on or before the ninetieth day following the date of notice of the action as provided in Iowa Code section 235A.19. A subject of a child abuse report, other than the alleged person responsible for the abuse, may file a motion to intervene in the appeal on or before the tenth day following the date of notice of the right to intervene.

*h. Assistance program overpayments.* For appeals pertaining to the family investment program, refugee cash assistance, PROMISE JOBS, child care assistance, medical assistance, healthy and well kids in Iowa (hawki), family planning program or Supplemental Nutrition Assistance Program (SNAP) overpayments, the party-in-interest's right to appeal the existence, computation and amount of the overissuance or overpayment begins when the department sends the first notice informing the party-in-interest of the overissuance or overpayment.

*i. All other appeals.* For all other appeals, and unless federal or state law provides otherwise elsewhere, the appellant must appeal on or before the thirtieth day following the date of notice of the action being appealed. If such an appeal is made more than 30 days, but less than 90 days, of the date of notice, the director or director's designee may, at the director's or designee's sole discretion, allow a contested case hearing if the delay was for good cause, substantiated by the appellant.

**7.4(4) Written and oral notification.** The department shall advise each applicant and recipient of the right to appeal any adverse decision affecting the person's status.

*a.* Written notification of the following shall be given at the time of application and at the time of any agency action affecting the claim for assistance.

(1) The right to request a hearing.

(2) The procedure for requesting a hearing.

(3) The right to be represented by others at the hearing unless otherwise specified by statute or federal regulation.

*b.* Written notification shall be given on the application form and all notices of decision.

**441—7.5(17A) How to request an appeal.**

**7.5(1) Ways to request a hearing.** An appellant may request a contested case hearing:

*a.* Via the department's website,

*b.* By telephone, except as specified in subrule 7.5(4),

*c.* By mail,

*d.* In person, except as specified in subrule 7.5(4), or

*e.* Through other commonly available electronic means (such as email or facsimile).

**7.5(2) Hearing request.** The request for a contested case hearing must be sufficiently detailed so that the department can reasonably understand the action being appealed. The department may request additional information to determine the scope of the appeal. The department may deny if there is not sufficient information to determine the action being appealed.

**7.5(3) Filing date.** The date of filing for appeal requests sent by regular mail shall be the date postmarked on the envelope sent to the department or, when a postmarked envelope is not available, on the date the appeal is stamped received by the agency. The date of filing for appeal requests sent electronically shall be determined by the date on which the electronic submission was completed.

**7.5(4) Appeals that must be filed in writing.** Appeal requests pertaining to foster care, adoption, state supplementary assistance, the autism support program, the Iowa individual disaster assistance program, the Iowa disaster case management program, sex offender risk assessment, record check evaluation,

## HUMAN SERVICES DEPARTMENT[441](cont'd)

child care registered or nonregistered homes, child abuse, dependent adult abuse or child support must be made in writing.

**7.5(5) *Department's responsibilities.*** Unless the appeal is voluntarily withdrawn, the department shall:

*a.* Within one working day of receipt of an appeal request, forward the request for appeal and envelope (if any) and a copy of the notice to the appeals section.

*b.* Within ten days of the receipt of the appeal, forward a summary and supporting documentation of the worker's or agent's factual basis for the proposed action to the appeals section.

*c.* Copies of all materials sent to the appeals section or the presiding officer to be considered in reaching a decision on the appeal are to be provided to the appellant at the same time as the materials are sent to the appeals section or the presiding officer.

**441—7.6(17A) Prehearing procedures.**

**7.6(1) *Acknowledgment of appeal.*** When the appeals section receives a request for appeal, it shall send acknowledgment of the receipt of the appeal to the parties to the appeal. For appeals regarding child abuse, all subjects other than the person alleged responsible (party-in-interest) will be notified of the opportunity to file a motion to intervene as provided in Iowa Code section 235A.19.

**7.6(2) *Acceptance or denial of appeal.*** The appeals section will determine with reasonable promptness whether the party-in-interest is entitled to a contested case hearing. If a request is accepted, the appeals section will certify the appeal to DIAL and designate the issues on appeal. If a request for a contested case hearing is denied, the appeals section will provide written notice of and the reasons for the denial. On or before the thirtieth day following the denial, the individual requesting the appeal may provide additional information related to the individual's asserted right to a contested case hearing and request reconsideration of the denial.

**7.6(3) *Designation of issues for appeal.***

*a. Initial designation.* After determining that the party-in-interest is entitled to a contested case hearing, the appeals section will designate the issues to be decided at the contested case hearing. The issues designated shall be certified to DIAL and be identified in the notice of hearing issued pursuant to subrule 7.6(5).

*b. Additional designation of issues.* If any party believes additional issues should be designated, the party shall identify the additional issues within the following timelines. The presiding officer shall determine whether all issues have properly been preserved.

(1) Child abuse and dependent adult abuse registry appeals. For child abuse and dependent adult abuse registry appeals, the party shall identify additional issues at least 30 days before the date of hearing.

(2) Appeals set on or before the tenth day following the notice of hearing. If the hearing is on or before the tenth day following the date of the notice of hearing, the party shall identify any additional issues at the hearing.

(3) All other appeals. For all other appeals not identified in this paragraph, the party shall identify the additional issues on or before the tenth day following the date of the notice of hearing.

**7.6(4) *Group hearings regarding medical assistance.*** The appeals section may respond to a series of related, individual requests for hearings regarding medical assistance by consolidating individual hearings into a single group hearing where the sole issue is based on state or federal law or policy. An appellant scheduled for a group hearing may withdraw and request an individual hearing.

**7.6(5) *Notice of hearing.***

*a. Issuance of hearing notice.* Except as provided in paragraph 7.6(5) "b," DIAL shall send notice to the parties of the appeal at least ten calendar days in advance of the hearing setting forth the date, time, method, and place of the hearing; that evidence may be presented orally or documented to establish pertinent facts; that the parties may bring and question witnesses and refute testimony; and that the parties may be represented by others, including an attorney, at the parties' own cost and as subject to state and federal law. Notice shall be mailed by first-class mail, postage prepaid, and addressed to the appellant at the appellant's last-known address.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*b. Intentional program violation hearing notices.* DIAL shall send notices of hearing regarding alleged intentional program violations at least 30 days in advance of the hearing date. The notices under this paragraph shall otherwise comply with the requirements of paragraph 7.6(5) "a."

**7.6(6) Appellant's right to department's case file.** Prior to and during the contested case hearing, the department must provide enrollees or their authorized representative with the opportunity to examine the content of the appellant's case file, if any, and all documents and records to be used by the department at the hearing.

**7.6(7) Informal conference.** The purpose of an informal conference is to provide information as to the reasons for the intended adverse action, to answer questions, to explain the basis for the adverse action or position, and to provide an opportunity for the appellant to examine the contents of the case record.

*a.* When requested by the appellant, an informal conference with a representative of the department or one of its contracted partners, including a managed care organization, shall be held as soon as possible after the appeal has been filed. An appellant's representative shall be allowed to attend and participate in the informal conference, unless precluded by federal rule or state statute.

*b.* An informal conference need not be requested for the appellant to examine the contents of the case record.

**441—7.7(17A) Timelines for contested case hearings.**

**7.7(1) Medical assistance.** In cases involving the determination of medical assistance, the contested case hearing shall be held within a time frame such that the final administrative action is timely pursuant to 42 CFR 431.244(f) as amended to December 8, 2021.

**7.7(2) Community spouse resource allowance.** In cases involving the determination of the community spouse resource allowance, the hearing shall be held within 30 days of the date of the appeal request.

**7.7(3) Sex offender risk assessment.** In cases involving an appeal of a sex offender risk assessment, the hearing or administrative review shall be held within 30 days of the date of the appeal request.

**441—7.8(17A) Contested case hearing procedures.**

**7.8(1) Method.** Contested case hearings may be conducted via telephone or videoconference. Upon request of a party to the appeal or order of the presiding officer, the contested case hearing shall be conducted in person.

**7.8(2) Evidence.**

*a.* The parties to a contested case hearing may:

- (1) Bring witnesses,
- (2) Submit competent evidence to establish all pertinent facts and circumstances,
- (3) Present arguments without undue interference,
- (4) Question or refute any testimony or evidence, including through cross-examination, and
- (5) Respond to evidence and arguments on all issues.

*b.* Evidence shall be received or excluded as provided in Iowa Code section 17A.14.

**7.8(3) Right to counsel.** Parties to an appeal shall be permitted to be represented by counsel at the parties' own expense.

**7.8(4) Self-represented appellants.** The presiding officer shall, at the officer's discretion, provide reasonable assistance to self-represented appellants. The presiding officer must, however, ensure that such assistance does not impact the independence and fairness of the contested case hearing process.

**7.8(5) Closed to public.** Contested case hearings are closed to the public, and unless otherwise provided by state or federal law, only the parties, their representatives, permissible intervenors, and witnesses may be present for a contested case hearing in the absence of mutual agreement of the parties.

**7.8(6) Administration of appeals.** Except as otherwise provided in this chapter or other applicable federal or state law, discretion in the conduct and administration of appeals is vested in the contested case hearing presiding officer.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**7.8(7) *Contested cases with no factual dispute.*** If the parties in a contested case agree that there is no dispute of material fact, the parties may present all admissible evidence either by stipulation, or as otherwise agreed, in lieu of an evidentiary hearing. If an agreement is reached, the parties shall jointly submit a schedule for submission of the record, briefs and oral arguments to the presiding officer for approval. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

**441—7.9(17A) Miscellaneous rules governing contested case hearings.**

**7.9(1) *Ex parte communication.*** Ex parte communications between the presiding officer and person or party in connection with any issue of fact or law in the contested case proceeding is prohibited except as permitted by Iowa Code section 17A.17. All of the provisions of Iowa Code section 17A.17 apply.

**7.9(2) *Default.*** If a party fails to appear at a scheduled hearing or prehearing conference without good cause as determined by the presiding officer, the party's appeals may be denied and dismissed or may be heard and ruled upon, consistent with Iowa Code section 17A.12(3). Defaulting parties may file a timely motion to vacate, which shall be granted if the presiding officer determines good cause has been shown.

**7.9(3) *Withdrawal.*** An appellant may submit a withdrawal of a fair hearing request at any time prior to hearing through any of the methods identified in subrule 7.5(1), except for programs listed in subrule 7.5(4). For programs listed in subrule 7.5(4), a written request may be submitted via the department's website, by mail, in person, or through other commonly available electronic means (such as email or facsimile). Unless otherwise provided, a withdrawal shall be with prejudice.

**7.9(4) *Medical assessment.*** For Medicaid enrollees engaged in an appeal involving medical issues, the department may request, at the department's own expense, that the appellant submit to an appropriate medical assessment. The presiding officer shall order such assessment upon sufficient showing of necessity.

**7.9(5) *Standard of review.*** In child abuse appeals, the criteria and level of deference by which the presiding officer shall render a decision is based on a preponderance of evidence.

**7.9(6) *Interpreters.*** The department shall provide translation and interpretation services to appellants, if requested. In all cases when an appellant is illiterate or semiliterate, the presiding officer shall advise the appellant of the appellant's rights to the satisfaction of the appellant's understanding.

**7.9(7) *Persons living with disabilities.*** Persons living with disabilities shall be provided assistance through the use of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act (as amended to December 31, 2023) and Section 504 of the Rehabilitation Act (as amended, effective October 1, 2016).

**441—7.10(17A) Proposed decision.**

**7.10(1) *Contents.*** The presiding officer shall issue a written proposed decision to all parties clearly identifying the issues on appeal, holding, findings of fact, conclusions of law, and order. The findings of fact shall cite and be based exclusively on the record as defined by Iowa Code section 17A.12(6). The conclusions of law shall be limited to the contested issues of fact, policy or law and shall identify the specific provisions of law that support the ultimate conclusion.

**7.10(2) *Access to record.*** After receiving the proposed decision, appellants shall be given reasonable access to the record at a convenient place and time.

**441—7.11(17A) Director's review.**

**7.11(1) *Time.*** Parties, including the department, may appeal the proposed decision to the director.

*a.* A request for director's review shall be in writing and postmarked or received within 14 calendar days of the date on which the proposed decision was issued, except as provided for under paragraph 7.11(1)"*b.*" A request for director's review may be accompanied by a brief written summary of the arguments in favor of director's review.



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*b.* A managed care organization appealing a proposed decision reversing an adverse benefit determination shall request director's review within 72 hours from the date it received notice of the proposed decision.

**7.11(2) *Grant or denial of review.*** The department has full discretion to grant or deny a request for review. In addition, the director may initiate review of a proposed decision on the director's own motion at any time on or before the thirtieth day following the issuance of the proposed decision.

When the department grants a request for director's review, the appeals section shall notify the parties and enclose a copy of the request. All other parties shall have 14 calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

**7.11(3) *Cross-appeal.*** When a party requests director's review in accordance with subrule 7.11(1), the remaining parties shall have 14 calendar days from that date to submit cross-requests for director's review. The party originally seeking director's review shall have 14 calendar days from the date of the cross-request for director's review to submit further written arguments or objections for consideration upon review.

**7.11(4) *Limited record.*** Director's review shall be limited to the issues and record before the contested case hearing presiding officer.

**7.11(5) *Oral arguments.*** Upon specific request, the director may, at the director's discretion, permit parties to present oral arguments with the parties' requests for director's review.

**441—7.12(17A) Final decisions.**

**7.12(1) *No appeal or denial of director review.*** If there is no timely appeal from or review of the proposed decision, the presiding officer's proposed decision becomes the final decision of the agency.

**7.12(2) *Timelines.***

*a.* The department or director will issue a final decision within the timelines prescribed by federal or state law. For all appeals for which there is no federal or state timeliness standard, the department or director will issue a final decision on or before the ninetieth day from the date the department receives an appeal request.

*b.* Except as otherwise provided by state or federal law, the time frames for a final decision provided under this rule may be tolled when:

- (1) The appellant requests a delay;
- (2) The appellant fails to take a required action; or
- (3) There is an administrative or other emergency beyond the department's control.

*c.* DIAL shall document in the record the reasons for any delay and the requesting party.

**7.12(3) *Written notice of final decision.*** The parties to the appeal shall be provided written notice of the department's final decision. The department shall also notify the appellant of the appellant's right to seek judicial review, where applicable.

**441—7.13(17A) Expedited review.**

**7.13(1) *Expedited review criteria.*** Appellants to a medical assistance appeal may, at any time, file with the department a request for expedited review of the appeal. Expedited review shall be granted when the department determines, or a provider acting on behalf or in support of an appellant indicates, that taking the time for a standard resolution could seriously jeopardize the party-in-interest's life, physical or mental health, or ability to attain, maintain, or regain maximum function.

**7.13(2) *Managed care expedited proceedings.***

*a.* If the appellant is granted an expedited review pursuant to subrule 7.13(2), all subsequent proceedings shall also be expedited without an additional request if the appeal request indicates that the managed care organization appeal was expedited and provides the basis for expedited relief.

*b.* When review is expedited pursuant to paragraph 7.13(2) "a," the presiding officer shall issue a proposed decision as expeditiously as the enrollee's health condition requires, but no later than three working days after the department receives from the managed care organization the case file and information for any appeal of a denial of a service that, as indicated by the managed care organization:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) Meets the criteria for expedited resolution but was not resolved within the time frame for expedited resolution; or

(2) Was resolved within the time frame for expedited resolution but reached a decision wholly or partially adverse to the enrollee.

**7.13(3)** *Medicaid eligibility, nursing facility transfers or discharges, or preadmission and annual resident review expedited proceedings.* For expedited appeals related to Medicaid eligibility, nursing facility transfers or discharges, or preadmission and annual resident review requirements, the presiding officer shall issue a proposed decision as expeditiously as possible, but no later than seven working days after the department receives a request for expedited fair hearing.

**7.13(4)** *Medicaid-covered benefits or services expedited proceedings.* For expedited appeals related to Medicaid-covered benefits or services, the presiding officer shall issue a proposed decision as expeditiously as possible, but no later than provided in paragraph 7.13(2) "b."

**7.13(5)** *Final decision for expedited proceeding.* The department shall issue its final decision in accordance with this rule, except as provided by subrule 7.12(2).

**7.13(6)** *Notification if expedited relief is granted or denied.* The department shall notify the appellant as expeditiously as possible whether the request for expedited relief is granted or denied. Such notice must be provided orally or through electronic means to the extent consistent with federal and state law. If oral notice is provided, the department shall follow up with written notice, which may be through electronic means to the extent consistent with federal and state law.

**441—7.14(17A) Effect.**

**7.14(1)** If the contested case hearing presiding officer's proposed decision is favorable to an enrollee in a Medicaid appeal, the department must promptly make corrective payments retroactive to the date an incorrect action was taken, and, if appropriate, provide for admission or readmission of an individual to a facility. If the presiding officer reverses a decision of a managed care organization to deny, limit, or delay services that were not furnished while the appeal was pending, the managed care organization must authorize or provide the disputed services promptly and as expeditiously as the enrollee's health condition requires, but no later than 72 hours from the date the managed care organization receives notice reversing the determination.

**7.14(2)** Unless there is contravening federal or state law, all final decisions shall be put into effect within seven days of the issuance of the final decision.

**441—7.15(17A) Calculating time.** In computing any time period specified in this chapter, the period:

1. Excludes the day of the event that triggers the period;
2. Includes every day of the time period (including Saturdays, Sundays, and holidays on which the department is closed); and
3. Includes the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

**441—7.16(17A) Authorized representatives.**

**7.16(1)** *Regulations.* The provisions of this rule only apply to the extent the standards expressed in this rule are not in conflict with other state or federal law.

**7.16(2)** *Designation of authority.* Legally recognized delegations of authority, such as guardianships, applicable designations of power of attorney, or similar designations, shall be sufficient for a delegate to serve as authorized representative under this chapter. A person who is not designated a legally recognized delegation of authority but who otherwise seeks to act as an authorized representative for an individual in an appeal under this chapter shall provide a written, signed designation of authority to the department with the request for appeal. The designation must provide the scope of the representation, applicable waivers for the release of confidential information, and any temporal or other limitations on the scope of representation. An authorized representative of a party-in-interest only represents the party-in-interest and has no independent right to appeal by virtue of the authorized representative's representation.

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**7.16(3) *Written designation.*** For persons other than attorneys seeking to act as authorized representative of a party-in-interest in a Medicaid managed care appeal, the authorized representative's written designation of authority pursuant to subrule 7.16(2) shall be Form 470-5526, Authorized Representative for Managed Care Appeals. This form is required for all managed care appeals, including those handled through the expedited appeals process. Failure to provide the form or legal documentation may result in denial of the appeal request.

**7.16(4) *Appearance by attorney.*** Legal counsel appearing on behalf of any person in a proceeding under this chapter shall enter an appropriate written appearance.

**441—7.17(17A) Continuation and reinstatement of benefits.**

**7.17(1) *Programs for which no federal or state law applies.*** For all assistance programs for which there is no contravening federal or state law, benefits or services shall not be suspended, reduced, restricted, or discontinued, nor shall a license, registration, certification, approval, or accreditation be revoked or other adverse action taken pending a final decision when:

- a. An appeal is filed before the effective date of the intended action; or
- b. The appellant requests a hearing within ten days of receipt of a notice to suspend, reduce, restrict, or discontinue benefits or services. The date on which the notice is received is considered to be five days after the date on the notice, unless the appellant shows the notice was not received within the five-day period.

**7.17(2) *Sole issue is state or federal law or policy.*** Benefits or services continued pursuant to subrule 7.17(1) may be suspended, reduced, restricted, or discontinued if the presiding officer determines at the contested case hearing that the sole issue is one of state or federal law or policy and the department has notified the enrollee in writing that services are to be suspended, reduced, restricted, or discontinued pending the proposed decision.

**7.17(3) *Recoup cost of services or benefits.*** The department or managed care organization may recoup the cost of benefits or services provided pursuant to this chapter if the adverse action appealed from is affirmed, consistent with state and federal law.

**441—7.18(17A) Emergency adjudicative proceedings.**

**7.18(1) *Necessary emergency action.*** When and to the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with state and federal law, a contested case hearing presiding officer may issue a written order to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the department by emergency adjudicative order. In determining the necessity of such an action, the presiding officer shall consider factors including, but not limited to, the following:

- a. Whether there has been sufficient investigation and evidentiary support to ensure the order is proceeding based on reliable information;
- b. Whether the specific circumstances giving rise to the potential order have been specifically identified and determined to be continuing;
- c. Whether the person who is required to comply with the emergency adjudicative order may continue to engage in other activities without risk of immediate danger to the public health, safety, or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and
- e. Whether the specific action contemplated is necessary to avoid the immediate danger.

**7.18(2) *Issuance of order.*** An emergency adjudicative order shall contain, or shall be expeditiously followed by, a written analysis, including findings of fact, conclusions of law, and policy reasons to justify the order. The agency shall provide written notice that best ensures prompt, reliable delivery. Such order shall be immediately delivered to the persons required to comply with the order.

**7.18(3) *Completion of proceedings.*** Upon issuance of an order under this rule, the department shall proceed as quickly as reasonably practicable to complete any proceedings that would be required if the matter did not involve an immediate danger. An order issued under this rule shall include notice

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of the date on which proceedings under this chapter are to be completed. After issuance of an order under this rule, continuance of further proceedings under this chapter shall only be granted in compelling circumstances upon application in writing. Before issuing an emergency adjudicative order, the presiding officer shall consider factors including, but not limited to, the following:

- a. Whether there has been sufficient investigation and evidentiary support to ensure the order is proceeding based on reliable information;
- b. Whether the specific circumstances giving rise to the potential order have been specifically identified and determined to be continuing;
- c. Whether the person who is required to comply with the emergency adjudicative order may continue to engage in other activities without risk of immediate danger to the public health, safety, or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and
- e. Whether the specific action contemplated is necessary to avoid the immediate danger.

**441—7.19(17A) Supplemental Nutrition Assistance Program (SNAP) administrative disqualification hearings.** The department acts on alleged intentional program violations either through an administrative disqualification hearing or referral to a court of appropriate jurisdiction. An individual accused of an intentional program violation may waive the individual's right to an administrative disqualification hearing in accordance with the procedures outlined in this rule and in 7 CFR 273.16(e) and (f) as amended to December 8, 2021.

**7.19(1)** When a case is referred for an administrative disqualification hearing, the appeals section shall mail written notification to the individual that the individual can waive the right to an administrative disqualification hearing by signing and returning Waiver of Right to an Administrative Disqualification Hearing.

**7.19(2)** By signing Waiver of Right to an Administrative Disqualification Hearing, the individual:

- a. Waives the right to an administrative disqualification hearing;
- b. Consents to the SNAP disqualification period designated Waiver of Right to an Administrative Disqualification Hearing, and a reduction of benefits for the period of disqualification; and
- c. Acknowledges that remaining household members, if any, may be held responsible for repayment of the resulting claim.

**7.19(3)** An administrative disqualification hearing shall be scheduled if the individual does not sign and mail or fax Waiver of Right to an Administrative Disqualification Hearing, to the appeals section within ten days of receipt of the written notification stating the individual can waive the right to an administrative disqualification hearing. The date on which the written notification is received is considered to be five days after the date on the notification, unless the individual shows the notification was not received within the five-day period.

**7.19(4)** An individual who waives the right to an administrative disqualification hearing will be subject to the same penalties as an individual found to have committed an intentional program violation in an administrative disqualification hearing.

**7.19(5)** No further administrative appeal procedure exists after an individual waives the individual's right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty shall not be changed by a subsequent fair hearing decision.

**441—7.20 to 7.40** Reserved.

DIVISION II  
APPEALS BASED ON THE COMPETITIVE PROCUREMENT BID PROCESS

**441—7.41(17A) Scope, bidder and applicability.** The rules in Division II apply to appeals based on the department's competitive procurement bid process. A bidder is an entity that submits a proposal in response to a solicitation issued through the department's competitive procurement process.

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**441—7.42(17A) Requests for timely filing of an appeal.** Any bidder that receives either a notice of disqualification or a notice of award, and has first exhausted the reconsideration process, is considered an aggrieved party and may file a written appeal with the department.

**7.42(1)** An aggrieved party in a competitive procurement must seek reconsideration of a disqualification or a notice of award prior to filing any appeal. The request for reconsideration must be received by the department within five calendar days of the date of either a disqualification notice or notice of award, exclusive of Saturdays, Sundays and legal state holidays. The department will expeditiously address the request for reconsideration and issue a decision on the reconsideration. If the party seeking reconsideration continues to be an aggrieved party following receipt of the decision on reconsideration, the aggrieved party may file an appeal within five calendar days of the date of the department's decision on reconsideration, exclusive of Saturdays, Sundays and legal state holidays.

**7.42(2)** The written appeal shall state the grounds upon which the appellant challenges the department's decision.

**7.42(3)** The day after the department's decision on reconsideration is issued is the first day of the period in which the appeal may be filed. The mailing address is: Department of Health and Human Services, Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Appeals may also be sent by email or in-person delivery.

When an appeal is submitted through an electronic delivery method, such as electronic mail or facsimile, the appeal is filed on the date it is submitted. The electronic delivery method shall record the date and time the appeal request was submitted. If there is no date recorded by the electronic delivery method or the appeal was filed via in-person delivery, the date of filing is the date the appeal is stamped received by the agency. Receipt date of all appeals shall be documented by the office where the appeal is received.

When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

**441—7.43(17A) Bidder appeals.** The bidder appeal shall be a contested case proceeding and shall be conducted in accordance with the provisions of Division II. Division I of this chapter does not apply to competitive procurement bid appeals, unless otherwise noted.

**7.43(1) Hearing time frame.** The presiding officer shall hold a hearing on the bidder appeal within 60 days of the date the notice of appeal was received by the department.

**7.43(2) Registration.** Upon receipt of the notice of appeal, the department shall register the appeal.

**7.43(3) Acknowledgment.** Upon receipt of the notice of appeal, the department shall send a written acknowledgment of receipt of the appeal to the appellant, representative, or both.

**7.43(4) Granting a hearing.** The department shall determine whether an appellant may be granted a hearing and the issues to be discussed at the hearing in accordance with the applicable rules, statutes or federal regulations or request for proposal.

*a.* The appeals of those appellants who are granted a hearing shall be certified to the department of inspections, appeals, and licensing for the hearing to be conducted. The department shall indicate at the time of certification the issues to be discussed at the hearing.

*b.* Appeals of those appellants that are denied a hearing shall not be closed until a letter is sent to the appellant and the appellant's representative advising of the denial of the hearing and the basis upon which that denial is made. Any appellant that disagrees with a denial may present additional information relative to the reason for denial and request reconsideration by the department over the denial.

**7.43(5) Hearing scheduled.** For those records certified for hearing, the department of inspections, appeals, and licensing shall establish the date, time, method and place of the hearing, with due regard for the convenience of the appellant as set forth in the department of inspections, appeals, and licensing rules in 481—Chapter 10 unless otherwise designated by federal or state statute or regulation.

**7.43(6) Method of hearing.** The department of inspections, appeals, and licensing shall determine whether the appeal hearing is to be conducted in person, by videoconference or by teleconference call. The parties to the appeal may participate from multiple sites for videoconference or teleconference

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hearings. Any appellant is entitled to an in-person hearing if the appellant requests one. All parties shall be granted the same rights during a teleconference hearing as specified in rule 441—7.8(17A).

**7.43(7) Reschedule requests.** Requests made by the appellant or the department to set another date, time, method or place of hearing shall be made to the department of inspections, appeals, and licensing, except as otherwise noted. The granting of the requests will be at the discretion of the department of inspections, appeals, and licensing. All requests concerning the scheduling of a hearing shall be made to the department of inspections, appeals, and licensing directly.

**7.43(8) Notification.** For those appeals certified for hearing, the department of inspections, appeals, and licensing shall send a notice to the appellant at least ten calendar days in advance of the hearing date.

*a.* The notice shall comply with Iowa Code section 17A.12(2), and include a statement that opportunity shall be afforded to all parties to respond and present evidence on all issues involved and to be represented by counsel at their own expense.

*b.* A copy of this notice shall be made available to the department employee who took the action and to any other parties to the appeal.

**441—7.44(17A) Procedures for bidder appeal.**

**7.44(1) Discovery.** The parties shall serve any discovery requests upon other parties at least 30 days prior to the date set for the hearing. The parties must serve responses to discovery at least 15 days prior to the date set for the hearing.

**7.44(2) Witnesses and exhibits.** The parties shall contact each other regarding witnesses and exhibits at least ten days prior to the date set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

**7.44(3) Amendments to notice of appeal.** The aggrieved bidder may amend the grounds upon which the bidder challenges the department's award no later than 15 days prior to the date set for the hearing.

**7.44(4)** If the hearing is not conducted in person, the parties must deliver all exhibits to the office of the presiding officer at least three days prior to the time the hearing is conducted.

**7.44(5)** The presiding officer shall issue a proposed decision in writing that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case and shall conform to Iowa Code chapter 17A. The presiding officer shall send the proposed decision to the appellant and representative by mail.

**7.44(6)** The record of the contested case shall include all materials specified in Iowa Code section 17A.12(6).

**441—7.45(17A) Stay of agency action for bidder appeal.**

**7.45(1) When a stay may be requested.**

*a.* Any party appealing the issuance of a notice of disqualification or notice of award may petition for stay of the decision pending its review. The petition for stay shall be filed with the notice of appeal, shall state the reasons justifying a stay, and shall be accompanied by an appeal bond equal to 120 percent of the contract value.

*b.* Any party adversely affected by a final decision and order may petition the department for a stay of that decision and order pending judicial review. The petition for stay shall be filed with the director within five days of receipt of the final decision and order and shall state the reasons justifying a stay.

**7.45(2) When a stay is granted.** In determining whether to grant a stay, the director shall consider the factors listed in Iowa Code section 17A.19(5)“c.”

**7.45(3) Vacation.** A stay may be vacated by the issuing authority upon application of the department or any other party.

**441—7.46(17A) Request for review of the proposed decision.** A request for review of the proposed decision shall follow the provisions outlined in rule 441—7.11(17A).

**441—7.47(17A) Other procedural considerations.**

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**7.47(1) Consolidation—severance.** The provisions regarding consolidation and severance in rule 481—10.10(10A,17A) apply.

**7.47(2) Rights of appellants during hearings.** All rights afforded appellants at rule 441—7.8(17A) shall apply.

**441—7.48(17A) Appeal record.**

**7.48(1)** The appeal record shall consist of all items specified in Iowa Code section 17A.16.

**7.48(2)** The party that requests a transcription of the proceedings shall bear the cost.

**441—7.49(17A) Pleadings.** The provisions regarding pleadings in rule 481—10.11(10A,17A) apply.

**441—7.50(17A) Ex parte communications.** The rules regarding ex parte communications specified in subrule 7.9(1) and Iowa Code section 17A.17 apply.

**441—7.51(17A) Right of judicial review.** The rules regarding right of judicial review specified in subrule 7.12(3) and Iowa Code section 17A.19 apply.

These rules are intended to implement Iowa Code chapter 17A.

ITEM 6. Rescind 441—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

**441—9.1(17A,22) Statement of policy, purpose and scope of chapter.**

**9.1(1)** The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate department determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. The department is committed to the policies set forth in Iowa Code chapter 22; department staff shall cooperate with members of the public in implementing the provisions of that chapter.

These rules also implement the federal Health Insurance Portability and Accountability Act (HIPAA) regulations at 45 CFR Parts 160 and 164 as amended to March 26, 2013. These rules set forth the standards the department must meet to protect the privacy of protected health information. The department is a hybrid entity for purposes of HIPAA. The rules on protected health information apply only to those parts of the department that are considered part of the covered entity.

**9.1(2)** This chapter does not:

*a.* Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

*b.* Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

*c.* Govern the maintenance or disclosure of, notification of, or access to records in the possession of the agency which are governed by the rules of another agency.

*d.* Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs.

*e.* Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

*f.* Require the agency to create, compare or procure a record solely for the purpose of making it available.

**441—9.2(17A,22) Definitions.** As used in this chapter:

“*Business associate*” means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

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“*Client*” means a person who has applied for or received services or assistance from the department.

“*Confidential record*” in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“*Covered entity*” means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

“*Custodian*” means the director of the department or the director’s designee.

“*Data aggregation*” is the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“*Designated record set*” is the same as defined in 45 CFR §164.501 as amended to March 26, 2013, including:

1. The medical records about subjects that are maintained for facilities;
2. The enrollment, payment, and eligibility record systems maintained for Medicaid; or
3. The enrollment, payment, and eligibility record systems maintained for the hawki program that are used, in whole or in part, by the hawki program to make decisions about subjects.

For purposes of this definition, the term “record” means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“*Disclosure*” means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

“*Facility*” or “*facilities*” means, with respect to HIPAA rules about health information, one or more of these department institutions: Cherokee Mental Health Institute, Glenwood Resource Center, Independence Mental Health Institute, and Woodward Resource Center.

“*Health care*” means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

“*Health care clearinghouse*” means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

“*Health care operations*” for covered entities in the department has the same definition as that stated in 45 CFR §164.501 as amended to March 26, 2013.

“*Health care provider*” means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

“*Health information*” means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

“*Health oversight agency*” means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“*Health plan*” means an individual or group plan that provides or pays the cost of medical care, as defined at 45 CFR §160.103 as amended to March 26, 2013. In the department, “health plan” means Medicaid or hawki.

“*HIPAA*” means the Health Insurance Portability and Accountability Act of 1996.

“*Law enforcement official*” means an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by law to:

1. Investigate or conduct an official inquiry into a potential violation of law; or
2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

“*Legal representative*” is a person recognized by law as standing in the place or representing the interests of another for one or more purposes.

“*Mental health information*” means oral, written, or otherwise recorded information which indicates the identity of a person receiving professional services (as defined in Iowa Code section 228.1(8)) and which relates to the diagnosis, course, or treatment of the person’s mental or emotional condition.

“*Open record*” means a record other than a confidential record.



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“*Payment*,” with respect protected health information, has the same definition as that stated in 45 CFR §164.501 as amended to March 26, 2013. In the department, “payment” applies to subjects for whom health care coverage is provided under the Medicaid program or the hawki program.

“*Personally identifiable information*” means information about or pertaining to the subject of a record which identifies the subject and which is contained in a record system.

“*Personal representative*” means someone designated by another as standing in the other’s place or representing the other’s interests for one or more purposes. The term “personal representative” includes, but is not limited to, a legal representative. For disclosure of protected health information, the definition of “personal representative” is more restrictive, as described at rule 441—9.15(17A,22).

“*Protected health information*” means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

“*Psychotherapy notes*” means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“*Public health authority*” means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“*Record*” means the whole or a part of a “public record” as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the department.

“*Record system*” means any group of records under the control of the department from which a record may be retrieved by a personal identifier such as the name of a subject, number, symbol, or other unique identifier assigned to a subject.

“*Subject*” means the person who is the subject of the record, whether living or deceased.

“*Substance abuse information*” means information which indicates the identity, diagnosis, prognosis, or treatment of any person in an alcohol or drug abuse program.

“*Transaction*” means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

“*Treatment*” means the same as defined in 45 CFR §164.501 as amended to March 26, 2013.

“*Use*,” with respect to protected health information, means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

“*Workforce*,” with respect to protected health information, means the same as defined in 45 CFR §160.103 as amended to March 26, 2013.

**441—9.3(17A,22) Requests for access to records.**

**9.3(1) Location of record.** A request for access to a record should be directed to the Director’s Office, 321 East 12th Street, Des Moines, Iowa 50319. If a request for access to a record is misdirected, department personnel will promptly forward the request to the department’s records officer.

**9.3(2) Office hours.** Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

**9.3(3) Request for access.** Requests for access to open records may be made in writing, in person, or by telephone. Requests shall identify the particular records sought by name or description. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information.

**9.3(4) Response to requests.** Access to an open record will be provided upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4).

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 441—9.4(17A,22) and other applicable provisions of law.

**9.3(5) Security of record.** No person may, without permission from the custodian, search or remove any record from department files. Examination and copying of department records shall be

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supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

**9.3(6) Copying.** A reasonable number of copies of an open record may be made in the department office. If photocopy equipment is not available in the department office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

**9.3(7) Fees.** The department may charge fees as permitted by Iowa Code chapter 22. The department will publish a fee schedule for open records on its website. The department may charge a fee for the cost of preparing an explanation or summary of health information. The department and the subject requesting the information shall agree to the amount of any fee imposed before the department prepares the explanation or summary.

**441—9.4(17A,22) Access to confidential records.** Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 441—9.3(17A,22).

**9.4(1) Proof of identity.** A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

**9.4(2) Requests.** The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

**9.4(3) Notice to subject of record and opportunity to obtain injunction.** Except as provided in 441—subrule 175.41(2), after the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

**9.4(4) Request denied.** When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a. The name and title or position of the custodian responsible for the denial; and
- b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

**9.4(5) Request granted.** Except as provided in 441—subrule 175.41(2), when the custodian grants a request for access to a confidential record, the custodian shall notify the requester or the person who is to receive the information and include any limits on the examination and copying of the record.

**9.4(6) Records requiring special procedures.** Special procedures are required for access to:

- a. Child abuse information. Access to child abuse information is obtained according to rules 441—175.41(235A) and 441—175.42(235A).
- b. Dependent adult abuse information. Access to adult abuse information is governed by rule 441—176.9(235A).

**441—9.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examinations.** The custodian may treat a record as a confidential record and withhold it from

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examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

**9.5(1) *Persons who may request.*** Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

**9.5(2) *Request.*** A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian.

*a.* The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request.

*b.* A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit stating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts.

*c.* Requests to temporarily treat a record as a confidential record shall specify the precise period of time for which that treatment is requested.

*d.* A person filing such a request shall, if possible, provide a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the department by the person requesting confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

**9.5(3) *Failure to request.*** Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the department does not request that it be withheld from public inspection under Iowa Code section 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

**9.5(4) *Timing of decision.*** A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

**9.5(5) *Request granted or deferred.*** If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

**9.5(6) *Request denied and opportunity to seek injunction.*** If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

**9.5(7) *Requesting privacy protection for protected health information.***

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*a.* Requesting restrictions on protected health information use or disclosure. Subjects may complete a Request to Restrict Use or Disclosure of Health Information form. The department will follow the requirements of 45 CFR §164.522 as amended to March 26, 2013, in responding to these requests.

*b.* Requesting the receipt of communications of protected health information by alternative means or at alternative locations. Subjects may complete a Request to Change How Health Information Is Provided form. The department will follow the requirements of 45 CFR §164.522 as amended to March 26, 2013, in responding to these requests. For Medicaid and hawki, the subject is required to clearly indicate the reason for requesting the confidential communication. Facilities shall not require the subject to explain the basis for the request as a condition of providing confidential communications.

**441—9.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.**

**9.6(1)** *All programs.* Except as otherwise provided by law, a subject may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that subject. However, the subject is not authorized to alter the original copy of the record or to expand the official record of any department proceeding.

*a.* The subject shall send the request to review such a record or the written statement of additions, dissents, or objections to the department.

*b.* The request to review such a record or the written statement of additions, dissents, or objections must be dated and signed by the subject, and shall include the current address and telephone number of the subject or the subject's representative.

**9.6(2)** *Additional procedures for protected health information.* The department will follow the protected health information right to amend standards as outlined in 45 CFR §164.526 as amended to March 26, 2013. A subject shall submit a request for amendment to the department on a Request to Amend Health Information form published on the department's website. The subject shall provide a reason to support the requested amendment.

**441—9.7(17A,22,228) Consent to disclosure by the subject of a confidential record.** To the extent permitted by any applicable provision of law, the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records to be disclosed, the particular person or class of persons to whom the record may be disclosed, and the time period during which the record may be disclosed. The subject of the record and, where applicable, the person to whom the record is to be disclosed may be required to provide proof of identity. Appearance of counsel before the department on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the department to disclose records about that person to the person's attorney. No confidential information about clients of the department shall be released without the client's consent, except as otherwise provided by law. Release of confidential information includes granting access to or allowing the copying of a record, providing information either in writing or orally, or acknowledging information to be true or false.

**9.7(1)** *Release forms.*

*a.* *Releases allowing the department to provide confidential information.* Subjects should complete the Authorization for the Department to Release Information for releases that do not involve protected health information.

*b.* *Releases allowing the department to provide confidential information, including protected health information.* When consent or authorization for use or disclosure of health information is required, the department shall use Form 470-3951, Authorization to Obtain or Release Health Care Information, or a HIPAA authorization form from another source that meets HIPAA requirements. The department shall not require a subject to sign a HIPAA authorization form as a condition of treatment, payment, enrollment in a health plan, or eligibility for benefits. The department as a health care provider

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may require a subject to sign a HIPAA authorization form for the use or disclosure of protected health information for research, as a condition of the subject's receiving research-related treatment. A subject may revoke a HIPAA authorization at any time, provided that the revocation is in writing using the Request to End an Authorization form, except to the extent that the department has taken action in reliance thereon.

(2) Except as provided in subparagraph 9.7(1) "c"(1), department staff shall release mental health or substance abuse information only with authorization on the Consent to Obtain and Release Information form, a form from another source that meets requirements of law, or as otherwise allowed by law.

*c. Releases allowing the department to obtain confidential information from a third party.* The department is required to obtain confidential information from third parties. The department may make these requests only when the client has authorized the release on one of the following forms or when otherwise provided by law:

- (1) Authorization for Release of Information.
- (2) Household Member Questionnaire.
- (3) Bank or Credit Union Information.
- (4) Addendum for Application and Review Forms for Release of Information.
- (5) Request for School Verification.
- (6) Employer's Statement of Earnings.
- (7) Verification of Educational Financial Aid.
- (8) Financial Institution Verification.
- (9) Authorization to Obtain or Release Health Care Information.

*d. Releases for photographs and recordings.* The department uses Authorization to Take and Use Photographs, and Authorization to Take and Use Photographs of Minor or Ward forms, for permission to use photographs in department publications. The department shall obtain authorization from the subject or person responsible (such as a guardian, custodian, or personal representative) for the subject before taking photographs or making any type of recording for any purpose other than those specifically allowed by law or for internal use within an institution.

**9.7(2) Exceptions to use of release forms.**

*a. Public official.* A letter from the subject to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the department shall be treated as an authorization to release information upon receipt of appropriate authorization from the client to do so. The department shall release only the minimum amount of information necessary about the subject to the official to resolve the matter.

*b. Medical emergency.* Department staff may authorize release of confidential information to medical personnel in a medical emergency if the subject is unable to give or withhold consent. As soon as possible after the release of information, the subject shall be advised of the release.

*c. Abuse information.* Consent to release information is not required to gather information for investigations of child abuse or dependent adult abuse.

**9.7(3) Opportunity for subject to agree or object.** This subrule describes when the department may use or disclose protected health information, without a written authorization, to persons involved in the subject's care and for notification purposes. However, the department shall give the subject an opportunity to agree or object, unless this requirement is waived as specified in paragraph 9.7(3) "e."

*a. Involvement in the subject's care.* The department may, in accordance with paragraphs 9.7(3) "c," "e," and "f," disclose protected health information that is directly relevant either to a subject's care or to payment related to the subject's care, provided payment is relevant to the person's involvement in the subject's care. The person involved must be:

- (1) A family member;
- (2) Another relative;
- (3) A close personal friend of the subject; or
- (4) Any other person identified by the subject.

*b. Notification purposes.* The department may use or disclose protected health information to notify, or assist in notifying, identifying or locating a family member, a personal representative of

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the subject, or another person responsible for the care of the subject of the subject's location, general condition or death. For disaster relief purposes, the use or disclosure shall be in accordance with paragraph 9.7(3) "f."

*c. Uses and disclosures with the subject present.* If the subject is present for, or available before, a use or disclosure permitted by this subrule and has the capacity to make health care decisions, the department may use or disclose the protected health information if the department:

- (1) Obtains the subject's agreement;
- (2) Provides the subject with the opportunity to object to the disclosure, and the subject does not express an objection; or
- (3) Reasonably infers from the circumstances, based on the exercise of professional judgment, that the subject does not object to the disclosure.

*d. Informing the subject.* The department may orally inform the subject of and obtain the subject's oral agreement or objection to a use or disclosure permitted by this subrule.

*e. Limited uses and disclosures when the subject is not present.* When the subject is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the subject's incapacity or an emergency circumstance, the department may, in the exercise of professional judgment, determine that disclosure is in the best interest of the subject.

(1) When the department determines that disclosure is in the subject's best interest, the department may disclose only the protected health information that is directly relevant to the person's involvement with the subject's health care.

(2) The department may use professional judgment and its experience with common practice to make reasonable inferences of the subject's best interest in allowing a person to act on behalf of the subject to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of protected health information.

*f. For disaster relief purposes.* The department may use protected health information or disclose protected health information to a public or private organization authorized by law or by its charter to assist in disaster relief efforts for the purpose of coordinating with these organizations the uses or disclosures permitted by paragraph 9.7(3) "b." The requirements in paragraphs 9.7(3) "c" and "d" apply to these uses and disclosures to the extent that the department, in the exercise of professional judgment, determines that the requirements do not interfere with the ability to respond to the emergency circumstances.

**441—9.8(17A,22) Notice to suppliers of information.** When the department requests a person to supply information about that person, the department shall notify the person of how the information will be used, which persons outside the department might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means. The notice shall generally be given at the first contact with the department and need not be repeated. Where appropriate, the notice may be given to a person's legal or personal representative. Notice may be withheld in an emergency or where it would compromise the purpose of a department investigation.

**441—9.9(17A,22) Release to subject.**

**9.9(1) Access by subjects to protected health information.** The department will follow the access of individuals to protected health information standards as outlined in 45 CFR §164.524 as amended to February 6, 2014. Subjects shall submit all requests for access to the department using the Request for Access to Health Information form. If the department does not maintain the protected health information that is the topic of the subject's request for access, and the department knows where the requested information is maintained, the department shall inform the subject where to direct the request for access.

**9.9(2) Reserved.**

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**441—9.10(17A,22) Use and disclosure without consent of the subject.** Open records are routinely disclosed without the consent of the subject. To the extent allowed by law, the department may also use and disclose confidential information without the consent of the subject or the subject's representative.

**9.10(1) Internal use.** Confidential information may be disclosed to employees and agents of the department as needed for the performance of their duties. The custodian of the record shall determine what constitutes legitimate need to use confidential records.

**9.10(2) Audits and health oversight activities.**

*a. Audits.* Information concerning program expenditures and client eligibility is released to staff of the state executive and legislative branches who are responsible for ensuring that public funds have been managed correctly. Information is also released to auditors from federal agencies when those agencies provide program funds.

*b. Health oversight activities.* The department will follow the uses and disclosures standards for health oversight activities as outlined in 45 CFR §164.512 as amended to January 6, 2016.

**9.10(3) Program review.** Information concerning client eligibility and benefits is released to state or federal officials responsible for determining whether the department is operating a program lawfully. These officials include the ombudsman office under Iowa Code section 2C.9, the auditor of state under Iowa Code section 11.2, the Office of Inspector General in the federal Department of Health and Human Services, and the Centers for Medicare and Medicaid Services.

**9.10(4) Contracts and agreements with agencies and persons.**

*a.* The department may enter into contracts or agreements with public or private agencies to carry out the department's official duties or as necessary to administer a program within the other agency. Information necessary to carry out these duties may be shared with these agencies. The department may disclose protected health information to a business associate and may allow a business associate to create or receive protected health information on its behalf if the department obtains satisfactory assurance that the business associate will appropriately safeguard the information.

*b.* The department may enter into agreements to share information with agencies administering federal or federally assisted programs which provide assistance or services directly to persons on the basis of need. Only information collected in the family investment program, the child care assistance program, the food assistance program, the refugee resettlement program, or the child support recovery program may be shared under these agreements.

*c.* To meet federal income and eligibility verification requirements, the department has entered into agreements with the department of workforce development, the United States Internal Revenue Service, and the United States Social Security Administration. The department obtains information regarding persons whose income or resources are considered in determining eligibility and the amount of benefits for the family investment program, refugee cash assistance, child care assistance, food assistance, Medicaid, state supplementary assistance and foster care. Identifying information regarding clients of these programs is released to these agencies. The information received may be used for eligibility and benefit determinations.

*d.* To meet federal requirements under the Immigration Reform and Control Act of 1986 (IRCA) relating to the Systematic Alien Verification for Entitlements (SAVE) program, the department has entered into an agreement with the Bureau of Citizenship and Immigration Service (BCIS). Under the agreement, the department exchanges information necessary to verify alien status for the purpose of determining eligibility and the amount of benefits for the family investment program, refugee cash assistance, food assistance, Medicaid, state supplementary assistance and foster care assistance. Identifying information regarding these subjects is released to the BCIS. The information received may be used for eligibility and benefit determinations.

*e.* The department has entered into an agreement with the department of workforce development to provide services to family investment program clients participating in the PROMISE JOBS program as described at 441—Chapter 93. Information necessary to carry out these duties shall be shared with the department of workforce development, as well as with its subcontractors.

*f.* The department has entered into an agreement with the department of education, vocational rehabilitation, disability determination services, to assist with Medicaid disability determinations.

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g. The department has entered into an agreement with the department of education to share information that assists both schools and department clients in carrying out the annual verification process required by the United States Department of Agriculture, Food and Nutrition Service. That federal agency requires the department of education and local schools to verify eligibility of a percentage of the households approved for free-meal benefits under the school lunch program. When a department office receives a written request from the local school, the department office responds in writing with the current family investment program and food assistance program status of each recipient of free meals listed in the request. Other client-specific information is made available only with written authorization from the client.

**9.10(5) Release for judicial and administrative proceedings.** Information is released to the court as required in Iowa Code sections 125.80, 125.84, 125.86, 229.8, 229.10, 229.13, 229.14, 229.15, 229.22, 232.48, 232.49, 232.52, 232.71B, 232.81, 232.97, 232.98, 232.102, 232.111, 232.117 and 235B.3.

a. The department may disclose protected health information in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal, provided that the department discloses only the protected health information expressly authorized by the order and the court makes the order knowing that the information is confidential.

b. When a court subpoenas information that the department is prohibited from releasing, the department shall advise the court of the statutory and regulatory provisions against disclosure of the information and shall disclose the information only on order of the court.

**9.10(6) Fraud.** Information concerning suspected fraud or misrepresentation to obtain department services or assistance is disclosed to the department of inspections, appeals, and licensing and to law enforcement authorities.

**9.10(7) Service referrals.** Information concerning clients may be shared with purchase of service providers under contract to the department.

a. Information concerning the client's circumstances and need for service is shared with prospective providers to obtain placement for the client. If the client is not accepted for service, all written information released to the provider shall be returned to the department.

b. When the information needed by the provider is mental health information or substance abuse information, the subject's specific consent is required.

**9.10(8) Medicaid billing.** Only the following information shall be released to bona fide providers of medical services in the event that the provider is unable to obtain it from the subject and is unable to complete the Medicaid claim form without it:

- a. Patient identification number.
- b. Health coverage code as reflected on the subject's medical card.
- c. The subject's date of birth.
- d. The subject's eligibility status for the month that the service was provided.
- e. The amount of spenddown.
- f. The bills used to meet spenddown.

**9.10(9) County billing.** Information necessary for billing is released to county governments that pay part of the cost of care for intermediate care facility services under 441—subrule 82.14(2) or Medicaid waiver services under rule 441—83.70(249A) or 441—83.90(249A). This information includes client names, identifying numbers, provider names, number of days of care, amount of client payment, and amount of payment due.

**9.10(10) Child support recovery.** The child support recovery unit has access to information from most department records for the purpose of establishing and enforcing support obligations. Information about absent parents and recipients of child support services is released according to the provisions of Iowa Code chapters 234, 252A, 252B, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, 252K, 598, 600B, and any other support chapter. Information is also released to consumer reporting agencies as specified in rule 441—98.116(252B).

**9.10(11) Refugee resettlement program.** Contacts with both sponsor and resettlement agencies are made as a part of the verification process to determine eligibility or the amount of assistance. When a



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refugee applies for cash or Medicaid, the refugee's name, address, and telephone number are given to the refugee's local resettlement agency.

**9.10(12) Abuse investigation.** The central abuse registry disseminates child abuse information and dependent adult abuse information as provided in Iowa Code sections 235A.15 and 235B.7, respectively. Reports of child abuse and dependent adult abuse investigations are submitted to the county attorney as required in Iowa Code sections 232.71B and 235B.3. Results of the investigation of a report by a mandatory reporter are communicated to the reporter as required in Iowa Code sections 235A.17(2) and 235A.15(2) "b"(5).

**9.10(13) Foster care.** Information concerning a child's need for foster care is shared with foster care review committees or foster care review boards and persons named in the case permanency plan.

**9.10(14) Adoption.** Adoptive home studies completed on families who wish to adopt a child are released to licensed child-placing agencies, to the United States Immigration and Naturalization Service, and to adoption exchanges. Information is released from adoption records as provided in Iowa Code sections 600.16 and 600.24.

**9.10(15) Disclosures to law enforcement.**

*a. Disclosures by workforce members who are crime victims.* The department is not considered to have violated the requirements of this chapter if a member of its workforce who is the victim of a criminal act discloses confidential information to a law enforcement official, provided that:

(1) The confidential information disclosed is about the suspected perpetrator of the criminal act and intended for identification and location purposes; and

(2) The confidential information disclosed is limited to the following information:

1. Name and address.
2. Date and place of birth.
3. Social security number.
4. ABO blood type and Rh factor.
5. Type of injury.
6. Date and time of treatment.
7. Date and time of death, if applicable.
8. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

*b. Crime on premises.* The department may disclose to a law enforcement official protected health information that the department believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the department.

*c. Decedents.* The department may disclose protected health information to a law enforcement official about a subject who has died when the death resulted from child abuse or neglect or the death occurred in a department facility.

*d. Other.* The department may disclose confidential information to a law enforcement official when otherwise required or allowed by this chapter, such as disclosures about victims of child abuse or neglect; disclosures to avert a threat to health or safety, or to report suspected fraud; disclosures required by due process of law, such as disclosures for judicial and administrative proceedings; or other disclosures required by law.

**9.10(16) Response to law enforcement.** The address of a current recipient of family investment program benefits may be released upon request to a federal, state or local law enforcement officer if the officer provides the name of the recipient, and the officer demonstrates that:

*a.* The recipient is a fugitive felon who is fleeing prosecution, custody or confinement after conviction under state or federal law, or who is a probation or parole violator under state or federal law, or

*b.* The recipient has information that is necessary for the officer to conduct the officer's official duties, and

*c.* The location or apprehension of the recipient is within the officer's official duties.

**9.10(17) Research.** Disclosure is made to employees of federal, state and local agencies and other researchers for purposes of bona fide research. The department shall not release data or information

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pursuant to this paragraph unless the department and the researcher have executed an agreement that includes the conditions under which the confidential data or information may be used and restrictions on further disclosure of the data or information.

*a.* Mental health information may be disclosed for purposes of scientific research as provided in Iowa Code sections 228.5 and 229.25. Requests to do research involving records of a department facility shall be approved by the designated authority.

*b.* Abuse registry information may be disclosed for research purposes as provided in rules 441—175.42(235A) and 441—176.12(235B) and authorized by Iowa Code sections 235A.15(2) “e”(1) and 235B.6(2) “e”(1).

*c.* For research relating to protected health information, the researcher shall provide the department with information about the nature of the research, the protocol, the type of information being requested, and any other relevant information that is available concerning the request. If the researcher feels that contact with the subject is needed, the researcher shall demonstrate to the department that the research cannot be conducted without contact with the subject. The researcher shall pay for the costs of obtaining authorizations needed to contact the subjects and for the cost of files and preparation needed for the research.

**9.10(18)** *Threat to health or safety.*

*a.* All programs. A client’s name, identification, location, and details of a client’s threatened or actual harm to department staff or property may be reported to law enforcement officials. Other information regarding the client’s relationship to the department shall not be released. When a department staff person believes a client intends to harm someone, the staff person may warn the intended victim or police or both. Only the name, identification, and location of the client and the details of the client’s plan of harm shall be disclosed.

*b.* Protected health information. The department will follow the disclosure standards in 45 CFR §164.512 as amended to January 6, 2016.

**9.10(19)** *Required by law.*

*a.* Information is shared with other agencies without a contract or written agreement when federal law or regulations require it.

*b.* The department may use or disclose protected health information to the extent that use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of the law.

*c.* State law shall preempt rules in this chapter about protected health information when any one of the following conditions exists:

(1) Exception granted by Secretary of Health and Human Services under 45 CFR §160.204 as amended to March 26, 2013.

(2) State law more stringent. The provision of state law relates to the privacy of protected health information and is more stringent than a requirement of this chapter, within the meaning of “more stringent” found at 45 CFR §160.202 as amended to March 26, 2013.

(3) Reporting requirements. The provision of state law, including state procedures established under the law, as applicable, provides for the reporting of disease or injury, child abuse, birth, or death, or for the conduct of public health surveillance, investigation, or intervention.

(4) Requirements related to audits, monitoring, evaluation, licensing, and certification. The provision of state law requires a health plan to report, or to provide access to, information for the purpose of management audits, financial audits, program monitoring and evaluation, or the licensure or certification of facilities and persons.

**9.10(20)** *Treatment, payment, or health care operations.*

*a.* The department may use or disclose protected health information for treatment, payment, or health care operations, as permitted by 45 CFR §164.506 as amended to January 25, 2013, except for psychotherapy notes, which are subject to the limits described in paragraph 9.10(21) “b.” The use or disclosure shall be consistent with other applicable requirements of this chapter.

*b.* The department may use or disclose psychotherapy notes without an authorization for any one of the following reasons:

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- (1) To carry out the following treatment, payment, or health care operations:
  1. Use by the originator of the psychotherapy notes for treatment.
  2. Use or disclosure by the department for its own training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling.
  3. Use or disclosure by the department to defend itself in a legal action or other proceeding brought by the subject.
- (2) When required by the Secretary of Health and Human Services to investigate or determine the department's compliance with federal HIPAA regulations.
- (3) For health oversight activities with respect to the oversight of the originator of the psychotherapy notes.
- (4) When necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public as described in this chapter.
- (5) When required by law as described in this chapter.
- (6) To disclose protected health information in the designated record set to a coroner or medical examiner as described in this chapter.

**9.10(21)** *Other uses and disclosures for which an authorization or opportunity to agree or object is not required.* The department may use or disclose protected health information for which an authorization or opportunity to agree or object is not required, as permitted by 45 CFR §164.512 as amended to January 25, 2013.

**9.10(22)** *Victims of domestic violence.* The department shall disclose confidential information about an individual whom the department reasonably believes to be a victim of domestic violence when required by state law.

**9.10(23)** *Whistle blowers.* The department is not considered to have violated the requirements of this chapter when a member of its workforce or a business associate discloses protected health information, provided that:

*a.* The workforce member or business associate has a good-faith belief that the department or a business associate has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or has provided care, services, or conditions that potentially endanger one or more patients, workers, or the public; and

*b.* The disclosure is made to one of the following:

(1) A health oversight agency or public health authority authorized by law to investigate or oversee conduct or conditions for the purpose of reporting the allegation of failure to meet professional standards or misconduct.

(2) An appropriate health care accreditation organization.

(3) An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate.

**9.10(24)** *Secondary to a use or disclosure of protected health information.* The department may use or disclose protected health information that is secondary to a use or disclosure otherwise permitted or required by these rules, such as when a visitor in a facility overhears a doctor speaking to a subject about the subject's health.

**9.10(25)** *De-identified data or a limited data set.* The department may use or disclose protected health information to create information that is de-identified or a limited data set under the conditions specified in 45 CFR §164.514 as amended to August 14, 2002.

**441—9.11(22) Availability of records.**

**9.11(1)** *Open records.* Department records are open for public inspection and copying unless otherwise provided by rule or law.

**9.11(2)** *Confidential records.* Iowa Code chapters governing the operations of the department establish the confidential nature of many department records. The department also administers several federally funded programs and is authorized by Iowa Code section 22.9 to enforce confidentiality standards from federal law and regulation as required for receipt of the funds where the department

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has determined that the right to examine and copy public records under Iowa Code section 22.2 would cause the denial of funds, services, or essential information from the United States government that would otherwise be available to the department.

**9.11(3) Authority to release confidential records.** The department may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other provision of law.

**441—9.12(22,252G) Personally identifiable information.** The nature and extent of personally identifiable information collected by the department varies by the type of record. This rule describes personally identifiable information collected, maintained, and retrieved by the department by personal identifiers in record systems and the legal authority for the collection of that information. This rule also identifies the legal authority for keeping some or all of the collected personally identifiable information confidential.

**9.12(1) Department administrative records.**

*a. Personnel records.* These records contain information about employees, families and dependents, and applicants for positions with the department. Some of this information is confidential under Iowa Code section 22.7(11) and 22.7(18).

*b. Fiscal records.* These records contain itemized vouchers collected from individuals pursuant to Iowa Code section 8A.514. Some of this information is confidential under Iowa Code section 22.7(11) and 22.7(18).

*c. Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain them from the clerk of the appropriate court which maintains the official copy. These records are confidential as outlined in Iowa Code sections 217.30, 22.7(4) and 622.10.

**9.12(2) Program records.**

*a. Adoption investigator certification.* These records are collected pursuant to Iowa Code chapter 600.

*b. Adoption program records.* These records are collected pursuant to Iowa Code sections 600.8 and 600.16. These records are confidential as outlined in Iowa Code sections 600.16 and 600.24.

*c. Appeals.* These records are collected pursuant to Iowa Code section 217.1. Some of these records are confidential as outlined in Iowa Code section 217.1.

*d. AIDS drug reimbursement program.* These records are collected for purposes of implementing a federal grant program authorized by HR 1827. Certain patient records are confidential as outlined in Iowa Code section 141A.9.

*e. Brain injury service program recipients.* These records are collected pursuant to Iowa Code section 135.22B. These records are confidential as outlined in Iowa Code section 135.22(2).

*f. Center for congenital and inherited disorders.* These records are collected pursuant to Iowa Code chapter 136A. These records are confidential as outlined in Iowa Code section 136A.7.

*g. Central registry for brain or spinal cord injuries.* These records are collected pursuant to Iowa Code section 135.22. Except for statistical reports, these records are maintained as confidential pursuant to Iowa Code section 135.22.

*h. Child abuse program.* These records are collected pursuant to Iowa Code section 235A.14. These records are confidential as outlined in Iowa Code sections 235A.13, 235A.15, 235A.16, and 235A.17.

*i. Childcare assistance client records.* These records are collected pursuant to Iowa Code section 237A. These records are confidential as outlined in Iowa Code section 237A.13.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*j. Childcare facility licensing.* These records are collected pursuant to Iowa Code chapter 237A. Some of these records are confidential as outlined in Iowa Code section 237A.7.

*k. Childhood lead poisoning prevention program.* These records are collected pursuant to Iowa Code sections 135.100 to 135.105. Certain of these records are confidential as outlined in Iowa Code chapter 139A.

*l. Child support recovery program.* These records are collected pursuant to Iowa Code chapters 252A, 252B, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, 252K, and Iowa Code sections 144.13, 144.26, 232.147, 234.39, 595.4, 598.22B and 600.16A. These records are confidential as outlined in Iowa Code sections 252B.9 and 252G.5, 42 U.S.C. §654(26), 42 U.S.C. §654a(d), 45 CFR §303.21 and 307.13.

*m. Chronic disease prevention and management programs.* These records are collected pursuant to Iowa Code section 135.11(1). Certain medical information in these records is confidential as outlined in Iowa Code section 22.7(2).

*n. Collection service center payment.* These records are collected pursuant to Iowa Code sections 252B.9, 252B.13A and 252B.16. These records are confidential as outlined in Iowa Code section 252B.9(2), 42 U.S.C. §654a(d) and 45 CFR §307.13.

*o. Criminal and juvenile justice information.* These records are collected pursuant to Iowa Code sections 216A.136 and 216A.138 and through interagency agreements.

*p. Dental health program.* These records are collected pursuant to Iowa Code section 135.11(19). Certain medical information in these records is confidential as outlined in Iowa Code section 22.7(2).

*q. Dependent adult abuse program.* These records are collected pursuant to Iowa Code section 235B.1. These records are confidential as outlined in Iowa Code section 235B.1.

*r. Domestic abuse death review team.* These records are collected pursuant to Iowa Code section 135.110. These records are confidential as outlined in Iowa Code section 135.11.

*s. Emergency medical services.* These records are collected pursuant to Iowa Code chapter 147A. Some of these records are confidential as outlined in Iowa Code section 147A.25.

*t. Environmental health program.* These records are collected pursuant to Iowa Code section 135.11(1) and PL 96-510, Section 104(d)(1), 40 CFR 763 effective June 28, 1983, and 40 CFR 761 effective May 31, 1979, dealing with asbestos, PCB and other environmental health factors. Certain medical information in the work-related disease program file may be confidential as outlined in Iowa Code section 22.7(2). Certain asbestos and PCB inspection records are collected under contract with the federal Environmental Protection Agency, and requests for such records will be referred to that agency.

*u. Family investment program client records.* These records are collected pursuant to Iowa Code section 234.6. These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §602(a)(1) and §1306a.

*v. Food assistance client files.* These records are collected pursuant to Iowa Code section 234.6. These records are confidential as outlined in Iowa Code section 217.30, 7 U.S.C. §2020(e)8 and 7 CFR 272.1(c) and (d) as amended to January 1, 1987.

*w. Foster care client/service files.* These records are collected pursuant to Iowa Code sections 237.3 to 237.5. These records are confidential as outlined in Iowa Code section 237.9.

*x. Foster care facility licensing.* These records are collected pursuant to Iowa Code chapter 237. Some of these records are confidential as outlined in Iowa Code section 237.9.

*y. Foster care review board files.* These records are collected pursuant to Iowa Code section 237.17. Some of these records are confidential as outlined in Iowa Code section 237.21.

*z. Hawki client files.* These records are collected pursuant to Iowa Code section 514I.4. These records are confidential as outlined in Iowa Code section 514I.4, and 42 CFR §457.1110 as amended to January 1, 2001.

*aa. Human rights advocacy files.* These records are collected pursuant to Iowa Code chapter 216A; the Omnibus Budget Reconciliation Act, P.L. 97-35; Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; and the Victims Compensation and Assistance Act, P. L. 98-473. These records are confidential as outlined in Iowa Code section 22.7(18).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*bb. Long term and managed care ombudsman complaints.* These records are collected pursuant to Iowa Code sections 135C.37 and 231.42. These records are confidential as outlined in Iowa Code sections 135C.37 and 231.42.

*cc. Maternal and child health program.* These records are collected pursuant to Iowa Code section 135.11(20). Records that contain medical information are confidential pursuant to Iowa Code section 22.7(2).

*dd. Medicaid clients.* These records are collected pursuant to Iowa Code section 249A.4. These records are confidential as outlined in Iowa Code section 217.30, 42 U.S.C. §1396a(7), and 42 CFR §431.300 to 307 as amended to November 13, 1996.

*ee. Medicaid provider information.* These records are collected pursuant to Iowa Code section 249A.4. Some of these records are confidential as outlined in Iowa Code section 217.30, 42 U.S.C. §1396a(7), and 42 CFR §431.300 to 307 as amended to November 13, 1996.

*ff. Newborn and infant hearing screening program.* These records are collected pursuant to Iowa Code section 135.131. Information which identifies an individual patient is confidential as outlined in Iowa Code section 135.131.

*gg. Nutrition and WIC (supplemental food program for women, infants and children) program.* These records are collected pursuant to Iowa Code section 135.11(1) and Chapter 17 of the federal Child Nutrition Act of 1966 as amended. These records are confidential as outlined in 7 CFR 246 and Iowa Code section 22.7(2).

*hh. Radiological health program.* These records are collected pursuant to Iowa Code chapters 136B and 136C. Certain of these records are confidential as outlined in 641—39.4(24).

*ii. Refugee health program.* These records are collected pursuant to Iowa Code section 135.11(1) and Section 412(c)(3) of the federal Immigration and Naturalization Act. Records that contain medical information are confidential pursuant to Iowa Code section 22.7(2).

*jj. Refugee resettlement client records.* These records are collected pursuant to Iowa Code section 217.1. These records are confidential as outlined in Iowa Code section 217.30, and 45 CFR §400.27 as amended to March 22, 2000.

*kk. Reportable diseases and other diseases and health conditions, including lead and other heavy metal poisonings.* These records are collected pursuant to Iowa Code chapter 139A. Except for statistical reports, these records are confidential as required by Iowa Code chapter 139A.

*ll. Reportable sexually transmitted diseases or infections.* These records are collected pursuant to Iowa Code chapter 139A. Except for statistical reports, these records are confidential as required by Iowa Code chapter 139A.

*mm. State institution resident records.* These records are collected pursuant to Iowa Code section 218.1. These records are confidential as outlined in Iowa Code sections 218.22, 229.24 and 229.25.

*nn. State supplementary assistance clients.* These records are collected pursuant to Iowa Code chapter 249. Some of these records are confidential as outlined in Iowa Code section 217.30.

*oo. Substance abuse client records.* These records are collected pursuant to Iowa Code chapters 125, 218, and 219 and sections 234.6 and 249A.4. These records are confidential as outlined in Iowa Code sections 125.37 and 125.93, 42 U.S.C. §29 dd.3 and ee.3, 42 CFR Part 2 as amended to January 1, 2017, and 38 U.S.C. §4132.

*pp. Substance abuse program licensing complaints.* These records are collected pursuant to Iowa Code chapter 125. Certain information in these records may be confidential as outlined in Iowa Code sections 22.7(2), 22.7(18) and 125.37.

*qq. Title IV-E foster care and adoption assistance client files.* These records are collected pursuant to Iowa Code sections 217.1 and 600.17 to 600.22. These records are confidential as outlined in Iowa Code section 217.30, 42 U.S.C. §671(a)(8), and 45 CFR 1355.30(1) as amended to November 23, 2001.

*rr. Veterinary public health.* These records are collected pursuant to Iowa Code chapter 139A. Certain medical information in these records may be confidential as outlined in Iowa Code chapter 139A.

*ss. Vital records.* These records are collected pursuant to Iowa Code chapter 144, including records of births, deaths, fetal deaths, adoptions, marriages, divorces, annulments and related data and correspondence. These records are confidential as outlined in Iowa Code section 144.43.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**9.12(3)** Other restricted data contained in department client records includes:

*a. Department of revenue information.* These records are collected pursuant to Iowa Code sections 252B.5 and 252B.9. These records are confidential as outlined in Iowa Code sections 421.17 and 422.20(1).

*b. Department of workforce development information.* These records are collected pursuant to Iowa Code chapters 239B, 249A, and 249C and section 252B.9. These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §503(d) and (e).

*c. Income and eligibility verification system.* These records are collected pursuant to Iowa Code chapters 239B and 249A and sections 217.1 and 234.6(7). These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §1230b-7.

*d. Department of public safety information.* These records are collected pursuant to Iowa Code sections 237.8, 237A.5 and 252B.9. These records are confidential as outlined in Iowa Code sections 692.2, 692.3, 692.8 and 692.18.

*e. Federal tax return information.* These records are collected pursuant to Iowa Code chapters 239B, 249A and 252B and Iowa Code sections 217.1 and 234.6(7). These records are confidential as outlined in Iowa Code section 422.20(2) and 26 U.S.C. §6103.

*f. Juvenile court information.* These records are collected pursuant to Iowa Code chapter 232 and section 234.6. These records are confidential as outlined in Iowa Code sections 232.48, 232.97 and 232.147 to 232.151.

*g. Peer review organization.* These records are collected pursuant to Iowa Code section 249A.4. These records are confidential as outlined in Iowa Code section 217.30 and 42 U.S.C. §1320c-9.

*h. United States Department of Health and Human Services information.* These records are collected pursuant to Iowa Code chapters 239B, 249, 249A and 252B and sections 217.1 and 234.6(7). These records are confidential as outlined in Iowa Code section 217.30 and 42 CFR Part 401.134(c) as amended to October 1, 2002.

**441—9.13(17A,22) Special policies and procedures for protected health information.** The department will follow all special policies and procedures for using and disclosing protected health information as outlined in 45 CFR Part 164 as amended through December 31, 2023, including the minimum necessary standard, uses and disclosures for premium rating and related purposes, verification and documentation requirements, notice of privacy practices, the right to receive an accounting of disclosures, complaint procedures, appeal rights and record retention.

**441—9.14(17A,22) Person who may exercise rights of the subject.**

**9.14(1) Adults.** When the subject is an adult, including an emancipated minor, the subject's rights under this rule may also be exercised by the subject's legal or personal representative, except as provided in subrule 9.14(3).

**9.14(2) Minors.** Within the limits of subrule 9.14(3), when the subject is an unemancipated minor, the subject's rights under this rule shall be exercised only by the subject's legal representative, except as follows:

*a.* When the department otherwise deals with the minor as an adult, as in the case of minor parents under the family investment program.

*b.* When otherwise specifically provided by law. However, minor subjects shall be granted access to their own records upon request, subject to the limits in rule 441—9.9(17A,22).

**9.14(3) Exceptions.**

*a. Scope of authority.* Legal and personal representatives may act only within the scope of their authority. For protected health information, the designation must reflect the subject's ability to make health care decisions and receive protected health information. For example, court-appointed conservators shall have access to and authority to release only the following information:

- (1) Name and address of subject.
- (2) Amounts of assistance or type of services received.
- (3) Information about the economic circumstances of the subject.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*b. Mental health information.* Only an adult subject or a subject's legal representative may consent to the disclosure of mental health information. Records of involuntary hospitalization shall be released only as provided in Iowa Code section 229.24. Medical records of persons hospitalized under Iowa Code chapter 229 shall be released only as provided in Iowa Code section 229.25.

*c. Substance abuse information.* Only the subject may consent to the disclosure of substance abuse information, regardless of the subject's age or condition.

*d. Failure to act in good faith.* If the department has reason to believe that the legal or personal representative is not acting in good faith in the best interests of the subject, the department may refuse to release information on the authorization of the legal or personal representative.

*e. Abuse, neglect, and endangerment situations.* Notwithstanding a state law or any other requirement of this chapter, the department, in the exercise of professional judgment, may elect not to treat a person as a subject's personal representative if:

(1) The department has reason to believe that the subject has been or may be subjected to domestic violence, abuse, or neglect by the person; or

(2) The department has reason to believe that treating the person as a personal representative could endanger the subject.

*f. Protected health information.* A parent, guardian, or other person acting in place of a parent who does not represent the minor for protected health information may still access protected health information about the minor if required by law.

*g. Deceased subjects.* If, under applicable law, an executor, administrator, or other person has authority to act on behalf of a deceased subject or of the subject's estate, the department shall treat that person as a personal representative.

*h. Other.* If, under applicable law, the subject of a confidential record is precluded from having a copy of a record concerning the subject disclosed to a third party, the department shall not treat the third party as a personal representative.

These rules are intended to implement Iowa Code chapters 17A, 22, 135, 217, 228, and 252G and the Health Insurance Portability and Accountability Act of 1996.

ITEM 7. Rescind 441—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16  
NOTICES

**441—16.1(17A) Definitions.**

“*Adequate notice*” means any notice of decision or notice of action that includes all of the following information:

1. A description of the action taken;
2. The effective date of the action;
3. The specific reasons supporting the action, stated language likely to be understood by the average program applicant or enrollee;
4. References to applicable provisions of law supporting the action;
5. An explanation of the right to appeal; and
6. The circumstances under which assistance is continued when an appeal is filed.

“*Adverse benefit determination*” means any adverse action taken by the department regarding assistance program benefits administered by the department or on the department's behalf, excluding department decisions about requests for exceptions to policy.

“*Assistance program*” means a program administered by the department or on the department's behalf through which qualifying individuals receive benefits or services.

“*Enrollee*” means any applicant for, or recipient of, benefits or services pursuant to an assistance program.



## HUMAN SERVICES DEPARTMENT[441](cont'd)

“*Timely*” means that the notice is sent at least ten calendar days before the date the adverse benefit determination would become effective. The timely notice period shall begin on the day after the notice is sent.

**441—16.2(17A) Notices.**

**16.2(1) *Written timely and adequate notice.*** When required by federal or state law, the department will provide written timely and adequate notice of the right to appeal any adverse benefit determination that affects an individual who is applying for, or receiving benefits from, an assistance program. The department will also provide written timely notice of pending actions for a state or federal tax or debtor offset.

**16.2(2) *Adequate notice.*** The department shall give adequate notice of the approval or denial of assistance or services; the approval or denial of a license, certification, approval, registration, or accreditation.

**16.2(3) *Dispensing with timely notice.*** Timely notice may be dispensed with, but adequate notice shall be sent no later than the date benefits would have been issued, when:

*a.* There is factual information confirming the death of the enrollee or of the family investment program payee and there is no relative available to serve as a new payee.

*b.* The enrollee provides a clear written, signed statement that the enrollee no longer wishes to receive assistance, or gives information which requires termination or reduction of assistance, and the enrollee has indicated, in writing, that the enrollee understands that the consequence of supplying the information is termination or reduction of assistance.

*c.* The enrollee has been admitted or committed to an institution that does not qualify for payment under an assistance program.

*d.* The enrollee has been placed in skilled nursing care, intermediate care, or long-term hospitalization.

*e.* The whereabouts of the enrollee are unknown and mail directed to the enrollee has been returned by the post office indicating no known forwarding address. When the whereabouts of the enrollee become known during the payment period covered by the returned warrant, the warrant shall be made available to the enrollee.

*f.* The department establishes that the enrollee has been accepted for assistance in another state.

*g.* Cash assistance or food assistance is changed because a child is removed from the home as a result of a judicial determination or is voluntarily placed in foster care.

*h.* A change in the level of medical care is prescribed by the enrollee’s physician.

*i.* A special allowance or service granted for a specific period is terminated and the enrollee has been informed in writing at the time of initiation that the allowance or service shall terminate at the end of the specified period.

*j.* The notice involves an adverse determination made with regard to the preadmission screening requirements.

*k.* The department terminates or reduces benefits or makes changes as described at 441—subrule 40.27(3) or rule 441—75.52(249A).

*l.* The department terminates benefits for failure to return a completed report form, as described in paragraph 16.3(3)“*k.*”

*m.* The department approves or denies an application for assistance.

*n.* The department implements a mass change based on law or rule changes that affect a group of enrollees.

These rules are intended to implement Iowa Code chapter 17A.

**ARC 7369C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rulemaking related to payment of small claims  
and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 8, “Payment of Small Claims,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 217.23.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 217.

*Purpose and Summary*

Proposed Chapter 8 defines reimbursement of small claims procedures for HHS employees. It serves to ensure that HHS employees can be reimbursed for damage to personal items incurred through service to HHS clients in a timely and efficient manner.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 1, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

February 14, 2024  
11 to 11:30 a.m.

Microsoft Teams meeting ID: 212 588 466 197  
Passcode: SThXzX

February 26, 2024  
1 to 2 p.m.

Microsoft Teams meeting ID: 249 196 980 071  
Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8  
PAYMENT OF SMALL CLAIMS

**441—8.1(217) Authorization to reimburse.** The department will follow Iowa Code section 217.23(2) when reimbursing employees for personal items damaged or destroyed by clients of the department during the employee's tour of duty. The claimant shall provide the department with a detailed written account of the incident, including an estimated cost of repair or replacement.

This rule is intended to implement Iowa Code section 217.23.

**ARC 7365C**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rulemaking related to collection of debt  
and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 10, "Collection of Delinquent Debts," and to rescind Chapter 11, "Collection of Public Assistance Debts," and adopt a new Chapter 11, "Collection of Debt," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 8A.504.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 217.34, 234.12, 239B.14 and 249A.5.

*Purpose and Summary*

Proposed Chapter 11 defines debt offset procedures for the legacy Department of Public Health (641—Chapter 179, editorially transferred to 441—Chapter 10) and Department of Human Services

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(441—Chapter 11). Debt offset is intended to recoup overpayment or other debt owed to HHS. Impacted HHS programs include but are not limited to Supplemental Nutrition Assistance Program, Family Investment Program, Medicaid, PROMISE JOBS, and Child Care Assistance.

Through the debt offset program, money is collected from individuals or entities having been identified as receiving an overpayment or otherwise owing funds to HHS. Repayment may include withholding part or all of federal or state tax refunds or other state payments owed to the debtor. Money collected is credited back to the program(s) making the claim.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on November 30, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's

## HUMAN SERVICES DEPARTMENT[441](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **441—Chapter 10**.

ITEM 2. Rescind 441—Chapter 11 and adopt the following new chapter in lieu thereof:

CHAPTER 11  
COLLECTION OF DEBT

**441—11.1(217) Definitions.**

“*Current*” means that amount which is due and owing within the previous 12 months from the date of submission to the department of administrative services or that amount which is due and owing from the date the repayment agreement or court order is implemented, if less than 12 months, before the date of submission to the department of administrative services.

“*Current repayment*” means that payment of the cumulative sum due and owing in accordance with a repayment agreement or court order for the preceding 12 months or the date of the order or agreement if the order or agreement is more recent.

“*Debtor*” means a current or former recipient of public assistance that has been determined by the department to be responsible for the repayment of a particular debt. For the Supplemental Nutrition Assistance Program (SNAP), “debtor” shall include all adult members of the SNAP household participating at the time the SNAP overpayment or program violation occurred and shall include nonrecipients found guilty of violating SNAP rules by committing an act such as, but not limited to, trafficking. For child care assistance, “debtor” may include the current or former provider or current or former recipient of child care assistance. For Medicaid, “debtor” shall include any current or former Medicaid member, or the parents of a current or former Medicaid member who was under the age of 21 when the parents completed the application and had responsibility for reporting changes, who received services or benefits as a result of client or agency error or administrative overpayment or who owes a debt of unpaid premium payments for medical assistance.

“*Public assistance*” means family investment program, SNAP, Medicaid, state supplementary assistance, PROMISE JOBS, child care assistance, refugee cash assistance, and hawki program.

“*Repayment agreement*” means an agreement entered into voluntarily between the department and the debtor for the repayment of debts and detailed on a form issued by the department.

“*Written notification*” means the notification sent to a debtor by the department on a form issued by the department.

**441—11.2(217) Establishment of claim.**

**11.2(1) *Accounts.*** The department will maintain an account for each debt that has occurred containing the following information:

- a. A debtor name and account number.
- b. Program in which the debt occurred.
- c. Date the debt was discovered.
- d. Inclusive dates of the debt.
- e. Total dollar amount of each debt.
- f. Primary cause of the debt.
- g. Any transaction applied to this debt.

**11.2(2) *Notice of debt.*** A claim is established when the first written notice of the debt is issued to the household.

**11.2(3) *Change in debt.*** An additional written notification of debt will be issued if a change occurs in the amount or period of the debt.

**11.2(4) *Collection action.*** No collection action will be initiated on:

- a. A debt for which no notice of debt has been issued to the household.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- b. A debt that is in appeal status.
- c. A debt that is in suspended status due to an exception to policy.

**441—11.3(217) Application of payment.** Payment will be applied only to debts subject to collection pursuant to subrule 11.2(4).

**11.3(1) Application of payment to a single program area.**

a. If there is more than one debt in a program, payment will be applied:

- (1) First to all debts that have an agreement in chronological order of discovery, and
- (2) Then to debts that do not have an agreement in chronological order of discovery until all debts have been paid in full or the full payment amount has been exhausted.

b. For SNAP, payment will be applied first to all debts with an agreement and then to debts without an agreement. Within those two groupings, payment will be applied in the following order:

- (1) First to state-only debts in chronological order of discovery,
- (2) Then to intentional program violation (IPV) debts in chronological order of discovery,
- (3) Then to inadvertent household error (IHE) debts in chronological order of discovery, and
- (4) Then to agency error debts in chronological order of discovery.

**11.3(2) Application of payment to multiple program areas.** If there are debts in more than one program area of public assistance, payments received will be applied to those program areas as indicated by the mode of repayment (SNAP benefits, FIP benefits) or as indicated by the client at the time of payment.

**11.3(3) Application of undesignated cash payment.** If an undesignated cash payment is received, it will be applied to each program area proportionally based on the cumulative balance of all debts in all program areas combined.

**441—11.4(217) Setoff against state income tax refund, rebate, or other state payments, including, for example, state employee wages.**

**11.4(1) Criteria for setoff.**

a. A claim against a debtor may be made by the department for public assistance debts when:

(1) A debtor has failed to negotiate a repayment agreement for that program area of public assistance, or

(2) A repayment agreement is not current, and

(3) The cumulative balance of the applicable debts in 11.4(1)“a”(1) and (2) exceeds \$50.

b. A claim against a debtor will not be made by the department for debts when:

(1) The debt is in suspended status due to an exception to policy or is in an appeal status, or

(2) The debt is being recovered through grant or benefit reduction.

**11.4(2) Frequency of submission.** The department will submit to the department of administrative services twice each month a list of those debtors who have a debt meeting the criteria in subrule 11.4(1).

**11.4(3) Pre-setoff notice.** The department will mail written notification to a debtor to inform the debtor of the amount the department intends to claim and apply to debts in each program when:

a. The department is notified by the department of administrative services that the debtor is entitled to a state income tax refund, rebate, or other state payment;

b. The department makes claim against the debtor.

**11.4(4) Method for division of joint payments.** When either spouse wishes to request a division of a jointly or commonly owned right to payment, a written request shall be submitted to the department within 15 days after the written notification is mailed. When the request is received within the 15-day limit, the spouse's proportionate share of a jointly or commonly owned right to payment, as determined by the department of administrative services, shall be released by the department of administrative services unless:

a. Other claims are made on that portion of the jointly or commonly owned right to payment, or

b. That spouse was also a member of the same household and the spouse's income and resources were or should have been considered in the calculation of public assistance.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**11.4(5) Appeal rights.** When a debtor wishes to contest the claim of the department, a written request shall be submitted to the department within 15 days after the written notification is mailed. When the request is received within the 15-day limit, a hearing will be granted pursuant to rules in 441—Chapter 7.

*a.* If the department is upheld in the final decision, the setoff process shall continue and the refund, rebate, or other state payment will be applied to the appropriate delinquent debts.

*b.* If the department is reversed in the final decision, the debtor's refund, rebate, or other state payment will be released to the debtor by the department of administrative services.

**11.4(6) Debt setoff.** If the department has not received a request for an appeal hearing or a request for division of a jointly or commonly owned right to payment within 15 days after the date the written notification is mailed, the department will notify a debtor of the final decision regarding the claim by mail.

**11.4(7) Application of setoff.** The department will apply any setoff received from the department of administrative services as a result of this rule to the debtor's debts as indicated on the written notification mailed to the debtor and in accordance with rule 441—11.3(217).

Any amount remaining after the setoff shall be released back to the individual.

**441—11.5(234) Setoff against federal income tax refund or other federal payments, including, for example, federal employee wages.**

**11.5(1) Criteria for setoff.**

*a.* Debtors not participating in SNAP shall be subject to collection action through the treasury offset program (TOP) which includes, but is not limited to, federal salary offset and federal tax refund offset.

(1) Debtors shall be referred to TOP if they are delinquent in repaying their SNAP debt and there is a claim or combination of claims with an unpaid balance that exceeds \$25.

(2) No claim that is less than three months old or more than ten years old as of January 31 of the offset year shall be referred. EXCEPTION: Claims that have had a final judgment entered are not subject to the ten-year time limit.

(3) Debtors are delinquent in repaying their SNAP debt if:

1. A repayment agreement has not been signed and 120 days have elapsed since the due date of the demand letter as defined in 441—subrule 65.21(4) minus any days the claim was not subject to collection action because of an appeal.

2. A repayment agreement has been signed but the debtor has failed to make the agreed-upon payments and has failed to make up the missed payments. The debtor shall be referred to TOP when 120 days have elapsed since the first of the month following the month that the debtor failed to make the agreed-upon payment and has not subsequently made up the missed payment.

*b.* A claim against an individual will not be referred to TOP by the department of inspections, appeals, and licensing (DIAL) for debts when:

(1) The debt is in suspended status due to an exception to policy or is in an appeal status, or

(2) The debt is being recovered through benefit reduction.

**11.5(2) Setoff under TOP.** DIAL shall, by December 1 of each year, submit a notification of liability for delinquent claims to the Department of the Treasury.

**11.5(3) Pre-setoff notice.** DIAL shall notify a debtor identifying the amount the department intends to refer to TOP for offset.

**11.5(4) Offset fee.** For each offset that the Treasury Department effects against an individual referred to TOP, Treasury will charge the individual a fee.

**11.5(5) Appeal rights.** When an individual wishes to contest the delinquent status of a claim as identified by DIAL, a written request shall be submitted to DIAL within 60 days of the date of the pre-offset notice. When the request is received within the 60-day limit, a review shall be granted.

DIAL shall determine if the claim is past due and legally enforceable and shall notify the individual in writing of the decision.

HUMAN SERVICES DEPARTMENT[441](cont'd)

**11.5(6) Application of setoff.** DIAL shall apply any setoff received as a result of this rule to the individual's SNAP debts.

Any amount remaining after the setoff shall be released back to the individual.

These rules are intended to implement Iowa Code sections 217.34, 234.12, 239B.14, and 249A.5.

**ARC 7364C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to program evaluation and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 13, "Program Evaluation," Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 234.12, 237A.12, 239B.4, 249A.4 and 514.4.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 256I.

#### *Purpose and Summary*

Proposed Chapter 13 defines HHS methods and procedures to review public assistance program eligibility determinations made by HHS staff. These quality control measures are designed to ensure that HHS implements these programs in accordance with the Iowa Code and federal regulations and in an efficient and effective manner. impacted HHS programs include Supplemental Nutrition Assistance Program, Family Investment Program, Medical Assistance, and Child Care Assistance.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 4, 2023.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

#### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:



## HUMAN SERVICES DEPARTMENT[441](cont'd)

Joe Campos  
 Lucas State Office Building  
 321 East 12th Street  
 Des Moines, Iowa 50319  
 Phone: 515.304.0963  
 Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13  
PROGRAM EVALUATION

**441—13.1(234,239B,249A,514I) Definitions.**

“*Active case*” means a case that was receiving assistance for the month of review.

“*Case record*” means the record used to establish a client’s eligibility.

“*Client*” means a current or former applicant or recipient of the family investment program (FIP), Supplemental Nutrition Assistance Program (SNAP), child care assistance program, or medical assistance program.

“*Field investigation*” means a contact involving the public or other agencies to obtain information about the client’s circumstances for the appropriate month of review.

“*Medical assistance programs*” means those programs funded by Medicaid or the Children’s Health Insurance Program (CHIP).

“*Month of review*” means the specific calendar or fiscal month for which the assistance under review is received.

“*Negative case*” means a case that was terminated or denied assistance in the month of review.

“*Public assistance programs*” means those programs involving federal funds, i.e., family investment program (FIP), Supplemental Nutrition Assistance Program (SNAP), child care assistance program, and medical assistance program.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

“*Random sample*” means a systematic (or every nth unit) sample drawn monthly for which each item in the universe has an equal probability of being selected. Sample size is determined by federal guidelines or state corrective action needs.

“*State policies*” means the rules and regulations used by the department to administer the family investment program (FIP), Supplemental Nutrition Assistance Program (SNAP), child care assistance program, and medical assistance program.

This rule is intended to implement Iowa Code sections 234.12, 239B.4, 249A.4 and 514I.4.

**441—13.2(234,239B,249A,514I) Review of public assistance records by the department.**

**13.2(1)** Authorized representatives of the department shall have the right to review case records to determine the following:

- a. If the client has provided complete, correct and accurate information to the department to be used in the determination of the assistance benefits.
- b. If the department has correctly administered the state policies in determination of assistance for the public assistance programs.
- c. Whether overpayments or underpayments have been made correctly to the public assistance client during the month of review.
- d. If there is indication of fraudulent practice or abuse of the public assistance programs by either the client or department.

**13.2(2)** All pertinent case records within the department may be used by the reviewer to assist in substantiating an accurate reflection as to the correctness of the assistance received by the client.

This rule is intended to implement Iowa Code sections 234.12, 239B.4, 249A.4 and 514I.4.

**441—13.3(234,239B,249A,514I) Cases to be reviewed.** Any active or negative public assistance case may be reviewed at any time at the discretion of the department to:

**13.3(1)** Ensure federal and state requirements for quality control are met.

**13.3(2)** Detect error prone case issues to assist in corrective action.

**13.3(3)** Maintain public assistance program integrity.

This rule is intended to implement Iowa Code sections 234.6, 234.12, 239B.4, 249A.4, and 514I.4.

**441—13.4(234,239B,249A,514I) Notification of review.** On positive case actions, clients will be notified, either orally or in writing, that their case has been selected for review when contact is required by federal guidelines, or when contact is allowed and additional information is required to complete the review. The client will be contacted in a negative case only if a discrepancy exists that cannot be resolved from the case record and contact is allowed by federal guidelines.

This rule is intended to implement Iowa Code sections 234.6, 234.12, 239B.4, 249A.4, and 514I.4.

**441—13.5(234,239B,249A,514I) Review procedure.** The department will select the appropriate method of conducting the review.

**13.5(1)** A random sampling of active and negative case actions will be used to determine the case records to be studied.

**13.5(2)** The case record will be analyzed for discrepancies and correct application of policies and procedures and will be used as the basis for a field investigation.

**13.5(3)** Client interviews are required as follows:

- a. Personal interviews are required on all active SNAP reviews.
- b. An appointment letter may be sent to the client by the department to schedule or confirm the appointment date, time and location.
- c. Client contacts are only required in negative case reviews when there is a discrepancy that cannot be resolved from the case record.

**13.5(4)** Collateral contacts are made whenever the client is unable to furnish information needed or the reviewer needs additional information to establish the correctness of eligibility and payment but only

## HUMAN SERVICES DEPARTMENT[441](cont'd)

when allowed by federal guidelines. Verification to confirm the accuracy of statements or information may be obtained by documentary evidence or a contact with a third party.

*a.* The client shall release specific information whenever necessary to verify information essential to the determination of eligibility and payment.

*b.* Should the client refuse to authorize the department to contact an informant to verify information that is necessary for the completion of the review, collateral contacts will still be made through use of the general release statement contained in the financial support application or the review/recertification eligibility document.

This rule is intended to implement Iowa Code sections 234.6, 234.12, 239B.4, 249A.4, and 514I.4.

**441—13.6(234) Failure to cooperate.** Client cooperation with quality control is a program eligibility requirement as set forth in rule 441—65.3(234). When quality control determines that a client has refused to cooperate with the review process, the client is no longer eligible for the program benefits and will not be eligible for the program benefits until the client has cooperated.

This rule is intended to implement Iowa Code section 234.12.

**441—13.7(234,239B,249A,514I) Report of findings.** The quality control review findings are used by the department in the following ways:

**13.7(1)** To take the appropriate case action where an overpayment or underpayment has been found in a client's case record.

**13.7(2)** To identify error-prone program issues to be used in planning a department corrective action plan.

**13.7(3)** To determine the error rate used to establish state agency liability.

This rule is intended to implement Iowa Code sections 234.12, 239B.4, 249A.4, and 514I.4.

**441—13.8(234,237A,239B,249A,514I) Federal review.** A sample of cases may also be reviewed by the applicable federal agency to determine the correctness of the department's action or of the department's review of the case.

This rule is intended to implement Iowa Code sections 234.12, 237A.12, 239B.4, 249A.4, and 514I.4.

**ARC 7362C**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rulemaking related to fiscal oversight of the early childhood Iowa initiative and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to amend Chapter 122, "Fiscal Oversight of the Early Childhood Iowa Initiative," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 256I.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 256I.

*Purpose and Summary*

Proposed Chapter 122 sets forth oversight measures of HHS in relation to the Early Childhood Iowa area boards to ensure sound fiscal management of Early Childhood Iowa funds. HHS reviews internal controls managing disbursement of funding, approves and signs agreements between the area boards and the State, requires a regular audit of funds managed by each area board, and ensures area boards have

## HUMAN SERVICES DEPARTMENT[441](cont'd)

liability insurance and a contract monitoring schedule for their funded programs. Sound fiscal oversight of Early Childhood Iowa area boards works to ensure these boards operate optimally, allowing boards to successfully improve efficiency and effectiveness of early care services provided to families.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on November 28, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Rescind 441—Chapter 122 and adopt the following **new** chapter in lieu thereof:

CHAPTER 122  
FISCAL OVERSIGHT OF THE EARLY CHILDHOOD IOWA INITIATIVE

**441—122.1(256I) Definitions.** For the purpose of these rules, the following definitions apply:

“*Agreement*” means a contract between the area boards, state board, department, and state agencies to which funding is allocated.

“*Audit*” means a financial review by area boards of early childhood Iowa funds. Area boards that receive federal funds shall complete an audit of the funds. The audit must be a single audit if the area board received a total of federal funds from all funding sources in excess of the threshold defined in 2 CFR 200.501(b) as amended to December 31, 2023. Area boards that are not required to conduct a single audit under 2 CFR 200.501(b) as amended to December 31, 2023, may coordinate with the fiscal agent to conduct the required audit. The audit requirements shall be found in the online toolkit available on the department website.

“*Early childhood Iowa area board*” or “*area board*” means the same as defined in Iowa Code section 256I.1.

“*Early childhood Iowa state board*” or “*state board*” means the same as defined in Iowa Code section 256I.1.

**441—122.2(256I) Fiscal oversight.**

**122.2(1)** In consultation with the state board, the department has adopted policies to oversee the fiscal responsibilities of area boards.

**122.2(2)** The department will:

- a. Review the internal controls of all disbursements of early childhood Iowa funding;
- b. Approve the process for issuing agreements with area boards;
- c. Approve and sign all agreements between the area boards and the state for the purposes of Iowa Code chapter 256I;
- d. Develop a policy for the disbursement of funds;
- e. Require an audit, conducted by an independent agency, of the early childhood Iowa funds managed by area boards. The minimum requirements and frequency of audits for the area boards shall be determined and approved by the state board;
- f. Ensure that all area boards secure liability insurance;
- g. Require that area boards submit a contract-monitoring schedule for their funded programs.

These rules are intended to implement Iowa Code sections 256I.1 through 256I.12.

**ARC 7378C**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rulemaking related to adoption services  
and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 200, “Adoption Services,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 232.119.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 600.

HUMAN SERVICES DEPARTMENT[441](cont'd)

### *Purpose and Summary*

This chapter structures adoption services to be provided by HHS to place eligible children in adoptive arrangements that are safe, high quality, and in the best interest of the child. HHS accepts applications for adoption of children with special needs; application for adoption of a child without special needs is referred to a private child-placing agency, though exception may be made for relatives of children under the guardianship of HHS.

Applicants applying to HHS to adopt must participate in a preplacement assessment and home visit. A child will not be placed in an adoptive home until parental rights of the child's birth parents have been terminated. Preference is given to placing children from the same birth family together. A relative or other adult with a significant relationship with the child is given priority consideration. Foster parents will be given consideration for a child in their care.

HHS conducts activities designed to prepare the family and the child to make the transition to adoptive placement, including conducting transitional visits between the adoptive family and the child before placement in the home. Additionally, HHS makes monthly supervision visits from the time the child is placed with the family until finalization of the adoption occurs. The HHS will not release identifying information from sealed adoption records unless approved to do so by the Director for purposes of treatment or research.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 6, 2023.

### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

### *Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

February 14, 2024  
11 to 11:30 a.m.

Microsoft Teams meeting ID: 212 588 466 197  
Passcode: SThXzX

February 26, 2024  
1 to 2 p.m.

Microsoft Teams meeting ID: 249 196 980 071  
Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 200 and adopt the following **new** chapter in lieu thereof:

TITLE XVI  
ALTERNATIVE LIVING  
CHAPTER 200  
ADOPTION SERVICES

**441—200.1(600) Definitions.**

“*Adoption*” means a legal and social process through which a child becomes a member of a family into which the child was not born. Adoption provides the child the same rights, privileges and duties as a birth child.

“*Adoption selection*” means the process of making adoption placement decisions. The adoption selection committee team, tasked with making the final adoption placement decision, is made up of department of health and human service professionals. These professionals are brought together to review the child(ren)'s needs and the family's abilities to meet those needs, to make the best adoption match available and to ensure compliance with applicable adoption laws.

“*Adoption selection committee team*” means department staff members designated to assist in the adoption selection process. The adoption selection committee team consists of the adoption supervisor and a minimum of two adoption workers. The social work administrator (SWA) may elect to be part of the team if there is more than one family seeking to adopt the child, and the SWA may select additional department staff to serve as members of the team on a case-by-case basis.

“*Adoption service*” means a service directed toward children who are legally available for adoption, the birth family, prospective adoptive family, and adoptive family.

“*Adoptive family*” means an approved person or persons who have a child placed in their home and are being supervised prior to finalizing the adoption; or who have a child in their home who is legally adopted and entitled to the same benefits as a child born into the family.

“*Adoptive home study*” includes an assessment of the family's parental attributes and a written report stating approval or nonapproval of the family for adoptive placement of a child or children.

“*Child study*” includes a written description of the child including strengths and needs; medical, mental, social, educational, placement and court history; a description of the child's relationships with the birth family, foster family, and significant others; a summary of the child's understanding and feeling about adoption and recommendations as to the type of family that can best meet the child's needs.

“*Child with special needs*” means a child who meets one or more of the criteria set forth at 441—subrule 201.3(1).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*“Court-ordered studies”* means home studies ordered by a judge for the purpose of determining custody of a child or placement of a child for the purpose of adoption.

*“Department”* means the Iowa department of health and human services and includes the local offices of the department.

*“Family-centered services”* means services and other support intended to safely maintain a child with the child’s family or with an adult relative, to safely and in a timely manner return a child to the home of the child’s parent or relative, or to promote achievement of concurrent planning goals by identifying and helping the child secure placement for adoption, with a guardian, or with other alternative permanent family connections. Family-centered services include services adapted to the individual needs of a family regarding the specific services and other support provided to the child’s family and the intensity and duration of service delivery and services intended to preserve a child’s connections to the child’s neighborhood, community, and family and to improve the overall capacity of the child’s family to provide for the needs of the children in the family.

*“Foster family adoption”* means the adoption of a child by a licensed foster family that has cared for the child.

*“Guardianship record”* means a case record regarding a child, established and retained by the department, when the department is named guardian of the child by court order. The purpose of the guardianship record is to collect and maintain information about the child and the birth family, legal documents, and other information that will assist in fulfilling the responsibility of guardian.

*“Life book”* means a compilation of information about the child, including birth information, photographs of the child; placement history, including dates of placement, names of caretakers, reasons for leaving the placement; relationships; school reports; social, medical, mental health developmental history; awards received, important events, letters from significant persons, and other information that the child wishes to include. The life book will assist the child in dealing with separation and loss issues and provide background and genealogy data.

*“Placement services”* includes the activities and travel necessary to plan and carry out the placement of a child or children into the adoptive family.

*“Postadoption services”* includes those services that an adoptive family may access after the adoption is finalized to assist the family in coping with and resolving problems within the family.

*“Postplacement services”* includes the supervision, support and intervention necessary prior to finalization to assist in maintaining the adoptive placement.

*“Preadoptive family”* means an approved adoptive family with a child placed in the home for adoption whose adoption has not been finalized.

*“Preparation of child”* includes activities necessary to ready the child for placement into an adoptive family.

*“Preparation of family”* includes the activities necessary to assist the family in adding an adoptive child as a new member of their family.

*“Preplacement visits”* means contacts, activities, and visits between the child and adoptive family prior to the adoptive placement.

*“Procedendo”* means an order issued by the Iowa Supreme Court returning jurisdiction to the district court after a final appellate decision regarding an appeal.

*“Recruitment and retention contractor”* or *“contractor”* means the entity that contracts with the department statewide to recruit foster and adoptive parents, complete home studies, and perform activities to support and encourage retention of foster and adoptive parents, or any of its subcontractors.

*“Relative”* means an individual related to a child within the fourth degree of consanguinity or affinity, by marriage, or through adoption.

*“Selection of family”* means reviewing approved home studies to match a family’s strengths with a specific child’s needs.

**441—200.2(600) Application.** Persons wishing to apply to adopt a child through the department shall complete an Application for Adoption form. An application for adoption shall only be accepted for children who are under the guardianship of the department.



## HUMAN SERVICES DEPARTMENT[441](cont'd)

**200.2(1) Limitations.** The department and its contractor shall accept only applications for adoption of a special needs child. The department shall refer adoption applications for children without special needs to private child-placing agencies. Exceptions to this rule may be made for:

- a. Relatives of a child under the guardianship of the department; or
- b. Foster parents with whom the child has a significant relationship.

**200.2(2) Procedures.** Before a home study is completed, applicants shall:

- a. Complete the Application for Adoption form, and
- b. Ensure that the Physician's Report for Foster and Adoptive Parents form is completed by the applicant's family physician.

**441—200.3(600) Adoption services.** Adoption services shall include: adoptive home study, preparation of child, selection of family, preparation of family, preplacement visits, placement services, and postplacement services.

**200.3(1) Adoptive home study.** For applicants who apply to the department to adopt, the contractor shall prepare an adoptive home study through the following activities:

a. *Family assessment.* The family assessment shall include a minimum of two face-to-face interviews with the applicants and at least one face-to-face interview with each member of the household. At least one of the interviews shall take place at the applicant's home. The assessment of the prospective adoptive family shall include an evaluation of the family's ability to parent a special needs child or children including the following:

(1) Motivation for adoption and whether the family has biological children, adopted children or children in foster care currently placed in the home.

(2) Family's and extended family's attitude toward accepting an adopted child and plans for discussing adoption with the child.

(3) The attitude toward adoption of other people involved with the family in a significant way.

(4) Emotional maturity; marital history, including verification of marriages and divorces; assessment of marital relationship; and compatibility of the adoptive parents.

(5) Ability to cope with problems, stress, frustrations, crises, separation, and loss.

(6) Medical, mental, and emotional conditions that may affect the applicant's ability to parent a child; treatment history; status of treatment; and the evaluation of the treatment. Applicants and all household members must disclose any past or current mental health or substance abuse issues, or both. The department may require further documentation, evaluation, or both, to determine the suitability of the home.

(7) Willingness to accept a child who has medical problems (such as a child who is at risk for a communicable disease), intellectual disabilities, or emotional or behavioral problems. Ability to provide for the child's physical, medical, and emotional needs and commit to support a child's overall well-being.

(8) Description of biological children and previously adopted children, if any, including their attitudes toward adoption, relationship with others, and school performance.

(9) Capacity to give and receive affection.

(10) Statements from three references provided by the family and additional references the contractor may wish to contact.

(11) Attitudes of the adoptive applicants toward the birth parents and the reasons the child is available for adoption.

(12) Financial information, including the family's ability to provide for a child.

(13) Disciplinary practices that will be used.

(14) History of abuse involving family members, including how the abuse was addressed and how that history impacts the applicant's ability to be an adoptive parent.

(15) Assessment of, commitment to, and capacity to maintain other significant relationships.

(16) Recommendations for the number, age, sex, characteristics, and special needs of a child or children the family can best parent.

(17) The family's ability to anticipate and understand the special needs of an adopted child as the child gets older and how the family will manage those needs.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*b. Record checks.* Record checks are required for each applicant and for anyone who is 14 years of age or older living in the home of the applicant to determine whether any of those persons have founded child abuse reports, dependent adult abuse reports or criminal convictions or have been placed on the sex offender registry.

- (1) The records of the applicants shall be checked:
  1. On the Iowa central abuse registry using the Request for Child Abuse Information form;
  2. By the Iowa division of criminal investigation, using the HHS Criminal History Record Check Form B;
  3. On the Iowa sex offender registry;
  4. On the child abuse registry of any state where the applicant has lived during the five years prior to the issuance of the investigative report; and
  5. For a national criminal history through fingerprinting or another biometric identification-based process accepted by the federal government.
- (2) The records of persons aged 14 or older living in the home of the applicant shall be checked:
  1. On the Iowa central abuse registry using the Request for Child Abuse Information form;
  2. By the Iowa division of criminal investigation, using the HHS Criminal History Record Check Form B; and
  3. On the Iowa sex offender registry.
- (3) Out-of-state child abuse checks, dependent adult abuse checks and national criminal history checks may be completed on any adult living in the home of the applicant if the department has reason to do so.

(4) The department shall not approve a prospective applicant and shall not perform an evaluation if the applicant or anyone living in the home of the applicant has been convicted of a felony offense as set forth in Iowa Code section 600.8(2)“b.”

(5) The department shall not approve a prospective applicant and shall not perform an evaluation if the applicant or anyone living in the home of the applicant has committed a crime in a state other than Iowa that would be a forcible felony if the crime would have been committed in Iowa, as set forth in Iowa Code section 600.8(2)“b.”

*c. Evaluation of record.*

(1) If the applicant or anyone living in the home has a record of founded child abuse, dependent adult abuse, a criminal conviction, or placement on the sex offender registry, the applicant shall not be approved to adopt unless an evaluation determines that the abuse or criminal conviction does not warrant prohibition of approval.

(2) The evaluation shall be conducted according to procedures in 441—subrules 113.13(2) and 113.13(3) for applications for adoption through the department or procedures in 441—paragraph 108.9(4)“e” for applications for adoption through a child-placing agency.

*d. Written report.* The contractor shall prepare a written report of the family assessment, known as the adoptive home study, which shall be used to make recommendations on appropriate placement.

(1) The department shall notify the family of the decision using the Adoption Notice of Decision form.

(2) If the department does not approve the home study, the reasons shall be stated on the notice.

(3) The department shall provide the family a copy of the adoptive home study with the notification of approval or denial.

*e. Preplacement assessment and home study update.* A preplacement assessment and home study update is required if the adoptive home study was written more than two years previously, in accordance with Iowa Code section 600.8. The preplacement assessment and home study update shall be conducted by completion of the following:

(1) The child abuse, dependent adult abuse and criminal record checks shall be repeated, except for fingerprinting. If there are any founded abuses or convictions of crimes that were not evaluated in the previous home study, they shall be evaluated using the process set forth in paragraph 200.4(1)“c.”

(2) One face-to-face visit shall be conducted with the approved adoptive family.

(3) The information in the approved adoptive home study shall be reassessed.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(4) An updated written report of the reassessment and adoptive home study shall be written, dated, signed by the worker and supervisor for the contractor, and a copy provided to the adoptive family.

(5) Families that are dually licensed to provide foster family care shall have their adoption approval date align with their foster home licensing date.

*f. Procedure for foster parent adoptions.* When a licensed foster parent applies for approval as an adoptive home, home study activities that have been completed within the previous year as part of a licensing study pursuant to 441—Chapter 113 need not be repeated.

*g. Annual visits to the adoptive family home.* The contractor shall complete a minimum of one visit each year in the homes of families approved to adopt.

(1) The visit shall not be waived.

(2) When a person aged 14 or older moves into the home, the agency shall perform checks on the Iowa central abuse registry, by the division of criminal investigation, and on the sex offender registry. The record check evaluation process shall be completed if the person has a criminal conviction or founded abuse report or is on the sex offender registry.

(3) Findings and observations of the visit shall be documented and provided to the department when the update is submitted.

(4) The department shall be notified within 30 days of any deficiencies noted or other concerns discovered that require corrective action.

**200.3(2) Preparation of child.** The department shall conduct specific activities designed to enable a child to make the transition to an adoptive placement or refer the child to the family-centered services contractor or other professionals. The activities shall include, but not be limited to:

*a.* Counseling regarding issues of separation, loss, grief, guilt, anger and adjustment to an adoptive family.

*b.* Assisting in the preparation or update of a life book.

*c.* Provision of age-appropriate information regarding community resources available, such as children's support groups, to assist the child in the transition and integration into the adoptive family.

*d.* Any appropriate evaluations or testing.

**200.3(3) Adoption selection process.** When the department is appointed guardian of a child(ren) following the termination of parental rights, the department has both the duty and the authority to select an adoptive placement for that child(ren). To fulfill this duty, the department must hold a conference during which the department selects an adoptive family for an identified child(ren). At the conference, known as an adoption selection staffing, each interested family with an approved adoption or interstate compact home study will be considered. The adoption selection committee will determine which family will be able to best meet the needs of the child(ren) going forward. The adoption selection process will value the best interest of the child(ren) above all else.

*a.* The selection committee will consider placement priority as outlined in Iowa Code section 232.117 and will consider the following:

(1) The adoptive family selected for a child or sibling group must be based on a thorough assessment of each child's current and potential developmental, medical, emotional, and educational needs.

(2) The child(ren)'s need for family connections will be prioritized. Separation of siblings should be avoided. When separation is necessary to protect the safety and well-being of one or more children in the sibling group, all reasonable efforts must be made to select a placement likely to maintain contact between siblings if such contact is in the best interests of each sibling.

(3) The adoptive family selected will be able to nurture and accept the child(ren) as a fully integrated member(s) of the family.

(4) Race, color, or national origin may not be considered in placement selections except when an Indian child is being placed pursuant to Iowa Code section 232.7 or chapter 232B.

(5) Placement decisions shall be made consistent with the best interests and special needs of the child, including the adoptive family's capacity and commitment to holistically supporting the child's development and well-being.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(6) A relative who is within the fourth degree of consanguinity shall be given consideration for selection as the adoptive family for a child who is legally available for adoption if the child has a significant relationship with the relative or the child is aged 14 or older and elects adoption by the relative.

(7) Foster parents shall be given consideration for selection as the adoptive family for a child in the foster parents' care who is legally available for adoption if the child has been in the foster parents' care for six months or longer or the child has a significant relationship with the family.

*b.* The adoption selection committee team should strive to complete the adoption selection process in 60 days or less absent special circumstances.

*c.* Upon reaching a decision, the adoption selection committee team staff will notify families of the decision made by the adoption selection committee team and will send placement notification to the family not selected within two business days of the date all parties were initially notified, using the Adoption Notice of Decision form.

*d.* The selection of an adoptive family is not an appealable issue since a child continues to be under the guardianship of the department until an adoption is finalized.

**200.3(4) *Preparation of family.*** The contractor and the department shall conduct activities designed to enhance the family's readiness to accept the child or children into the family and strengthen the family's commitment to adopt. A referral may be made for family-centered services if needed. The activities shall include, but not be limited to:

*a.* Completion of required preservice training and the self-study course, "Universal Precautions in Foster and Adoptive Family Homes," before placement of a child. These training requirements apply to families who are adopting special needs children who are under the guardianship of the department.

(1) Relatives who have cared for a related child for at least six months and who have been selected to adopt that related child may have their participation in the preservice training waived by the service area manager or designee.

(2) The department may waive the preservice training requirement in whole or in part when the department finds that:

1. The applicant has completed relevant training or has a combination of relevant training and experience that is an acceptable equivalent to all or a portion of the required preservice training; or

2. There is good cause for the waiver based upon the circumstances of the child and the applicant.

(3) Applicants must retake the preservice training if the adoption approval process is not completed within 24 months after the preservice training is initially completed.

*b.* Discussion with family members regarding problems resulting from a child's separation, loss, grief, and anger due to the loss of the birth parents.

*c.* Provision of background information on the child and birth family, including a child study that includes experiences such as foster and adoption placements and other pertinent information and the child's life book.

*d.* Provision of information regarding the child's special needs and behavior patterns.

*e.* Provision of a description of the child's medical needs, including whether or not the child has a communicable disease.

*f.* Discussion of the impact that adding a new member or members to the family may have on all current family members.

*g.* Explanation of the state's subsidized adoption program.

*h.* Provision of information regarding the community resources that are available to assist the family, such as parent support groups, community supports including Medicaid funded supports and post adoption supports.

**200.3(5) *Preplacement visits.*** The department shall plan, conduct and assess the transitional visits between the adoptive family and the child or children before the adoptive placement of the child in the home.

**200.3(6) *Placement services.*** Placement services include the activities necessary to plan and carry out the placement of a child or children into the adoptive family.

Before placement of a child, the Agreement of Placement for Adoption form shall be signed by all parties.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**200.3(7) Postplacement services.** An adoptive family is eligible for postplacement services from the time a child is placed with the family until finalization of the adoption occurs. The department shall supervise the placement, provide ongoing support to the child and family, perform crisis intervention, and complete required reports. Assistance with behavioral interventions to strengthen the placement and prevent disruption may be provided through family-centered services.

- a.* Postplacement supervision shall focus on the following areas:
- (1) Integration and interaction of the child or children with the family.
  - (2) Changes in the family functioning that may be due to the child's placement.
  - (3) Social and emotional adjustment of the child or children.
  - (4) Child's growth and development since placement with the adoptive family.
  - (5) Changes and adjustments that have been made in the family since the child's placement.
  - (6) Family's method of dealing with testing behaviors and discipline.
  - (7) Behavioral evidence of the degree of bonding that is taking place and the degree to which the child is becoming a permanent member of the adoptive family.
  - (8) School adjustment of a child who is attending a school.
  - (9) The behavioral needs of the child.
  - (10) The psychological and mental health needs of the child.
  - (11) Services and supports that will assist the child and family in the future.

*b.* At a minimum, the department shall make monthly home visits until the adoption is final. If the family is experiencing problems, the department shall make as many visits as are necessary to assess and support the placement.

*c.* The department shall prepare a written report based on the postplacement visits with recommendations regarding the finalization of the adoption and submit the report to the court before the hearing to consider granting a decree of adoption.

**200.3(8) Postadoption services.** The department's contractor shall provide postadoption services to families that are eligible for the department's adoption subsidy program in accordance with the contract. The goal of these services is to prevent adoption dissolution. The family may obtain additional support through community resources or support groups.

**441—200.4(600) Termination of parental rights.** The department shall not place a child in an approved adoptive home until parental rights of the child's birth parents have been terminated and guardianship assigned to the department. This would not apply to families and children participating in tribal customary adoption. If one or both birth parents are deceased, the worker shall provide the court with verification of the birth parents' death and the death shall be stated in the guardianship order. When the termination of parental rights is appealed by a birth parent, an adoptive placement may be made if the adoptive parents sign an adoptive placement agreement that includes an acknowledgment of the conditions of the placement should termination be overturned. However, the adoption may not be finalized until the appeal is withdrawn or a final decision regarding the appeal is reached and a procedendo issued.

**441—200.5(600) Interstate placements.** Interstate placement of a child into Iowa, or out of Iowa, shall follow interstate placement of child procedures in accordance with Iowa Code sections 232.158 through 232.166.

**441—200.6(600) Requests for home studies.**

**200.6(1) Court-ordered.** Court-ordered home studies for adoption of a child or children under the authority of the department shall be completed by the department's contractor.

**200.6(2) Interstate compact.** Requests for an adoptive home study through the interstate compact process shall be completed by the department's contractor.

**441—200.7(600) Reasons for denial.**

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**200.7(1)** An individual or family shall be denied approval of an adoptive home study for any of the following reasons unless an evaluation determines that denial is improper:

- a. Founded child abuse report or dependent adult abuse report.
- b. Criminal conviction.
- c. Documented concerns. Concerns may be documented in one or more of the following areas:
  - (1) Motivation to adopt.
  - (2) Child-rearing ability and practices.
  - (3) Emotional stability.
  - (4) Physical or mental health.
  - (5) Interpersonal relationships.
  - (6) Finances.
  - (7) Marital relationship.
  - (8) Other areas that may impact the applicant's ability to meet the needs of a child both at present and in the future.
- d. Substance abuse. Verified substance use or abuse that prevents the family from adequately caring for the child shall mean denial of approval.
- e. Lack of cooperation. If the individual or family fails to cooperate in providing the information needed to complete the preplacement assessment or home study, the application shall be denied.

**200.7(2)** Prospective adoptive families may appeal denial of approval of their home study.

**441—200.8(600) Removal of child from preadoptive family.** When the department determines that it is in the child's best interest to be removed from a preadoptive family, a Letter of Removal form shall be mailed to the family prior to removal. Removal of a child from a preadoptive family is not an appealable action.

**441—200.9(600) Consents.** A request for consent to the adoption shall be submitted to the guardian for a child who is under the guardianship of the department and for whom finalizing an adoption is recommended. If the adoption is in the best interest of the child, the department shall sign a Consent to Adoption form, prior to a court hearing finalizing the adoption.

A consent to adopt may be rescinded by the department, by signing a Rescinding the Consent to Adoption form for any of the following reasons:

1. At the request of the adoptive family.
2. A founded child abuse report, dependent adult abuse report, accusation of child abuse, or dependent adult abuse pending determination of the report.
3. Conviction of a crime, or accusation of a crime, pending a court decision regarding the crime.
4. At the request of a child who is aged 14 or over and has reversed the decision regarding the adoption.
5. Other verified indications that the adoption is not in the best interest of the child.

**441—200.10(600) Requests for access to information for research or treatment.**

**200.10(1) Requests.** Any person seeking access to the department's sealed adoption records for the purpose or purposes set forth in Iowa Code section 600.16(1) "c" or 600.24(2) shall submit a request in writing to the department. Each request shall contain sufficient facts to establish that the information sought is necessary for conducting a legitimate medical research project, or for treating a patient in a medical facility.

**200.10(2) Process.** Upon receipt of a request for information sought in conducting a research project, the director or a designee shall review the request for information and make a decision to approve, or deny, the request based on the research to be conducted, the benefits of the research, the methodology, and the confidentiality measures to be followed. Upon a request for information for treating a patient in a medical facility, a decision regarding approval or denial shall be made by the director or designee based on the written information provided by a physician or the medical facility making the request. A requester shall be notified in writing of approval or denial and, if denied, reasons for denial given.

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**441—200.11(600) Requests for information for purposes other than research or treatment.** Requests for information from department adoption records for purposes other than research or treatment shall be made on the department's website.

**200.11(1)** The department shall not release identifying information from sealed adoption records. Adult adoptees, adoptive parents, birth parents, siblings or descendants of an adopted person, or legal representatives of any of the above shall be provided:

- a. An adoption packet containing a sample affidavit for filing with the court,
- b. Directions for filing the affidavit,
- c. A list of county clerks of court,
- d. The address of the bureau of vital statistics, and
- e. Instructions on how to obtain the name of the Iowa county where the adoption was finalized, if necessary.

**200.11(2)** An adopted person who was a resident of the Annie Wittenmyer Home (Iowa Soldier's and Sailor's Home) may receive nonidentifying information from Annie Wittenmyer records if the information is available.

These rules are intended to implement Iowa Code chapter 600.

**ARC 7363C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to subsidized adoptions and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 201, "Subsidized Adoptions," Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 600.17 to 600.23.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 600.17 to 600.23.

#### *Purpose and Summary*

Proposed Chapter 201 seeks to increase access to adoptive arrangements for children with special needs, older children, and children otherwise hard to place in an adoptive home by implementing a subsidized adoption program. This program provides financial assistance to interested adoptive parents capable of providing suitable care but lacking in necessary economic resources.

To be eligible, a child under the guardianship of HHS must have been determined by a qualified health care professional to have met the definition of special needs included in this chapter, or be aged five or over, or be a member of a sibling group of three or more children who are placed in the same adoptive home. A child in the guardianship of a licensed child-placing agency may be eligible for subsidy if the child is eligible to receive Supplemental Security Income (SSI) based on a diagnosed disability or if the child has received a federally funded adoption subsidy in a prior adoption.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 4, 2023.

#### *Fiscal Impact*

HUMAN SERVICES DEPARTMENT[441](cont'd)

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 201 and adopt the following **new** chapter in lieu thereof:

CHAPTER 201  
SUBSIDIZED ADOPTIONS

**441—201.1(600) Administration.** The department shall administer the subsidized adoption program, in conformance with the legal requirements for adoption.

**441—201.2(600) Definitions.**



## HUMAN SERVICES DEPARTMENT[441](cont'd)

“*Child*” means a person who has not attained age 18 or a person with a physical or mental disability who has not attained age 21.

“*Escrow account*” means an interest-bearing account in a bank or savings and loan association which is maintained by the department in the name of a particular child.

“*Maintenance subsidy*” means a monthly payment to assist the family in meeting the living expenses and expenses related to the care of a child with special needs in covering the cost of room, board, clothing, and spending money. The child will also be eligible for medical assistance pursuant to 441—Chapter 75.

“*Nonrecurring expenses*” means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs. These shall be limited to attorney fees, court filing fees and other court costs.

“*Physician*” means a licensed medical or osteopathic doctor as defined in rule 441—77.1(249A).

“*Presubsidy*” means payment for maintenance or special services for a child with special needs who is placed in an adoptive home and who meets all eligibility criteria for maintenance subsidy but whose adoption is not finalized.

“*Qualified intellectual disability professional*” means a person who has at least one year of experience working directly with persons with an intellectual disability or other developmental disabilities and who is one of the following:

1. A doctor of medicine or osteopathy.
2. A registered nurse.
3. A person who holds at least a bachelor’s degree in a human services field including, but not limited to, social work, sociology, special education, rehabilitation counseling, or psychology.

“*Qualified mental health professional*” means a person who meets all the following conditions:

1. Holds a master’s degree in a mental health field including, but not limited to, psychology, counseling and guidance, or psychiatric nursing and social work; or is a doctor of medicine or osteopathic medicine; and
2. Holds a current Iowa license when required by the Iowa professional licensure laws for persons practicing as a psychiatrist, a psychologist, a marital and family therapist, a mental health counselor, an advanced registered nurse practitioner, a psychiatric nurse, or a social worker; and
3. Has at least two years of postdegree experience supervised by a mental health professional in assessing mental health problems, mental illness, and services needs and in providing mental health services.

“*Special services subsidy*” means payment to a provider or reimbursement to the parent for medical, dental, therapeutic, or other services, equipment or appliances required by a child to meet the child’s identified special needs.

**441—201.3(600) Conditions of eligibility or ineligibility.**

**201.3(1)** The child is eligible for subsidy when the department or a private agency has documented that it has been unable to place the child in an appropriate adoptive home without a subsidy and the child is determined to be a child with special needs based on one or more of the following reasons:

*a.* The child has a medically diagnosed disability, as determined by a physician, an advanced registered nurse practitioner or a physician assistant, which substantially limits one or more major life activities, requires ongoing professional treatment, impacts the child’s ability to perform daily living skills, and is expected to last 12 months or longer.

*b.* The child has been determined by a qualified intellectual disability professional to be intellectually disabled.

*c.* The child has been determined by a qualified professional to be at high risk of developing a qualifying medical, mental, or emotional condition as defined in this subrule. A child in this group is eligible for subsidy of nonrecurring expenses only.

*d.* The child has been diagnosed by a qualified mental health professional to have a psychiatric condition which impairs the child’s mental, intellectual, or social functioning, and for which the child requires ongoing professional services.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*e.* The child has been diagnosed by a qualified mental health professional to have a behavioral or emotional disorder characterized by situationally inappropriate behavior which deviates substantially from behavior appropriate to the child's age or significantly interferes with the child's intellectual, social and personal adjustment and which requires ongoing treatment.

*f.* The child is aged five or over.

*g.* The child is a member of a sibling group of three or more children who are placed in the same adoptive home.

**201.3(2)** A child who enters the United States from another country on the basis of a visa classifying the child as an orphan, in accordance with the Immigration and Naturalization Act as amended to December 31, 2023, for the purpose of adoption by a specific United States family is not eligible for subsidized adoption maintenance payments, medical assistance, or special services except for nonrecurring expenses.

**201.3(3)** Adverse eligibility determinations by the department may be appealed according to rules in 441—Chapter 7.

**201.3(4)** The department shall review the subsidy agreement when the child reaches the age of 17½ to determine whether the child is eligible to receive subsidy to the age of 21 due to the child's physical, intellectual, or mental health disability.

*a.* The disability shall be diagnosed by a physician, a qualified mental health professional, or a qualified intellectual disability professional.

*b.* The diagnosis shall be current within one year prior to the child's eighteenth birthday.

*c.* The child's parents shall provide documentation of the child's disability.

**441—201.4(600) Application.** Application for presubsidy or subsidy for a child with special needs in the guardianship of the department shall be made at the time of the adoptive placement of the child, or at any time in the adoptive process before finalization of the adoption.

**201.4(1)** The prospective adoptive family residing in Iowa who has been studied and approved for adoptive placement, or a family residing outside of the state of Iowa studied and approved by a governmental child-placing agency or a licensed child-placing agency in that state, may apply for subsidy for an eligible Iowa child.

**201.4(2)** Withdrawal of the subsidy application shall be reported to the department immediately.

**201.4(3)** The effective date for the Adoption Subsidy Agreement will be the date the agreement is signed by the adoptive parents and the department, which may be the date the child is placed in the adoptive home or any date up to and including the date the adoption is finalized. The agreement shall state the amount of the presubsidy or subsidy, the frequency and duration of payments and the conditions under which the agreement may be terminated.

**201.4(4)** An application for subsidy cannot be taken after the child is adopted except when there are facts relevant to a child's eligibility that were not presented before the finalizing of the adoption.

*a.* Upon receiving verification that the child was eligible before the child's adoption, the department may conduct an administrative review of the facts and may determine the child an eligible child with special needs. Eligibility will be effective after the Application for Subsidy is completed and the Adoption Subsidy Agreement form is signed by all parties.

*b.* Requests for determination after the adoption is finalized shall be forwarded with verification of eligibility to the department. The department shall conduct an administrative review of eligibility factors and render a written decision within 30 days of receipt of request and verification materials unless additional verification is requested. If additional verification is requested, a decision shall be reached within 30 days of receipt of additional verification materials.

**201.4(5)** A child in the guardianship of a licensed child-placing agency may be eligible for adoption subsidy when one of the following conditions is met:

*a.* The child receives or is eligible to receive SSI based on a diagnosed disability, or

*b.* The child received federally funded adoption subsidy in a prior adoption.

**441—201.5(600) Negotiation of amount of presubsidy or subsidy.**

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**201.5(1)** The amount of presubsidy or subsidy shall be negotiated between the department and the adoptive parents and shall be based upon the needs of the child and the circumstances of the family.

*a.* Each time negotiations are completed, the Adoption Subsidy Agreement shall be completed.

*b.* The Adoption Subsidy Agreement shall be completed and retained in an inactive case record for future reference when:

(1) A child is eligible for subsidy but the child or family does not currently need assistance; or

(2) The child is at risk of being determined a child with special needs according to paragraph 201.3(1) “a,” “b,” “d,” or “e” in the future.

**201.5(2)** Other services available to the family free of charge to meet the needs of the child, such as other federal, state, and local governmental and private assistance programs, shall be explored and used before the expenditure of subsidy funds.

Unearned income of the child shall be verified by documentation provided to the department worker by the family from the source of the income.

**201.5(3)** A maintenance subsidy may be no less than \$10 per month.

**201.5(4)** An adoptive family may request a review of the subsidy agreement when there is a change in the family’s circumstances or the needs of the child.

**201.5(5)** Maintenance subsidy shall continue under the same rules if the adoptive family moves outside of the state of Iowa.

**201.5(6)** The maximum monthly maintenance payment for a child in subsidized adoption shall be made pursuant to the foster family care maintenance rates according to the age and special needs of the child as found at rule 441—156.6(234).

**441—201.6(600) Types of subsidy.**

**201.6(1)** *Special services only.*

*a.* Reimbursement to the family or direct payment to a provider may be made for the following special services needed to meet the needs of the child:

(1) Outpatient counseling or therapy services. Reimbursement for outpatient individual or family services may be provided from a non-Medicaid provider only with approval from the department and when one of the following applies:

1. The services are not available from a Medicaid provider within a reasonable distance from the family.

2. The child and the family were already receiving therapy or counseling from a non-Medicaid provider and it would not be in the child’s best interest to disrupt the services.

3. Available Medicaid providers lack experience in working with foster, adoptive, or blended families.

Reimbursement to non-Medicaid providers shall be limited to the Medicaid rate.

(2) Expenses for transportation, lodging, or per diem related to preplacement visits, not to exceed \$2,000 per family.

(3) Medical services not covered by the Medicaid program when the child, either alone or with the family, resides outside the state of Iowa and that state’s Medicaid does not cover a needed service, or a provider enrolled with Iowa Medicaid cannot be secured. An adoption subsidy payment shall not supplement the Medicaid payment rate to a Medicaid provider or a non-Medicaid provider.

(4) An additional premium amount as a result of adding the child to the family’s health insurance group.

(5) Medical transportation, food and lodging not covered by Medicaid when the child is receiving specialized care in a facility 50 miles or farther from the family home, when the family is participating in services and to facilitate reunification with the child.

(6) Supplies and equipment as required by the child’s special needs and unavailable through other resources.

1. When the siblings in a sibling group of three or more are placed together, a one-time-only payment can be made, not to exceed \$500 per child, to reimburse the family for expenses related to accommodating the needs of the sibling group.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

2. When home modifications have been authorized to accommodate a child's special needs and the family later sells the house, the family shall repay the department an amount equal to the increase in the equity value of the home attributable to the modifications.

(7) Nonrecurring expenses. Payment for nonrecurring expenses is generally limited to a total of \$1,000 per child for attorney fees, court costs and other related legal expenses. Nonrecurring expenses may be paid when the adoptive family has negotiated an Adoption Subsidy Agreement, or an Agreement to Future Adoption Subsidy.

(8) Funeral benefits at the amount allowed for a foster child in accordance with 441—Chapter 156.

b. The need for special services shall be documented in the Adoption Subsidy Agreement. The family shall provide documentation of expenses to the department.

c. Any single special service and any special service delivered over a 12-month period costing \$500 or more shall have prior approval from the central office adoption program manager prior to expending program funds.

d. For all Medicaid covered services the department shall reimburse at the same rate and duration as Medicaid as set forth in rule 441—79.1(249A).

**201.6(2) Maintenance only.** A monthly payment to assist with room, board, clothing and spending money may be provided, as determined under this chapter. The child will also be eligible for medical assistance pursuant to 441—Chapter 75.

**201.6(3) Maintenance and special services.** For children with special needs, a special services subsidy may also be included when a maintenance subsidy is provided.

**441—201.7(600) Determination of ongoing subsidy eligibility and suspension of subsidy payments.**

**201.7(1)** Eligibility for continuation of adoption subsidy shall be evaluated when the department has reasonable cause to suspect the adoptive parent is not providing financial support, or is no longer legally responsible for the child. This includes, but is not limited to, the following circumstances:

- a. The child is placed in out-of-home care.
- b. A person alleges the parents are not providing financial support to the child.
- c. A person other than the parent is awarded legal custody of the child.
- d. A person other than the parent is appointed as the guardian of the child.
- e. The child has applied for food assistance or other benefits.
- f. The child has not resided with the parent for the past 30 consecutive days.
- g. The parent is incarcerated.
- h. The parent is awaiting trial for criminal charges related to harm caused to a child in the home.

**201.7(2)** The department will contact the child's parents via letter, telephone, or electronic or other means and document such efforts.

**201.7(3)** The child's parents shall provide documentation of support, including receipts, to the department upon request.

**201.7(4)** Upon completion of the department's evaluation of the child's continued eligibility for adoption subsidy, the department will issue a written notice to the parents documenting required ongoing actions by the parents, including an expectation of continued cooperation by the parents to provide documentation of ongoing support to the child at the request of the department.

**201.7(5)** The department shall suspend adoption subsidy payments if the parents refuse to cooperate or if the department is unable to determine whether the parents are providing financial support or are legally responsible for the child.

**201.7(6)** Through a Notice of Decision, the department shall terminate the Adoption Subsidy Agreement upon a finding that the child is not being financially supported.

**201.7(7)** When the child has resided out of the parental home for 30 consecutive days, the department will request a renegotiation of the Adoption Subsidy Agreement with the parents to reduce or suspend payments as agreed to by the parents.

**441—201.8(600) Termination of subsidy.** Subsidy will terminate when any of the following occur:

**201.8(1)** The adoptive child no longer meets the definition of child in rule 441—201.1(600).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**201.8(2)** The child marries.

**201.8(3)** The adoptive parents are no longer using the maintenance payments to support the child.

**201.8(4)** Death of the child, or death of the parents of the child (one in a single-parent family and both in a two-parent family).

**201.8(5)** Upon conclusion of the terms of the agreement.

**201.8(6)** Upon request of the adoptive parents.

**201.8(7)** The adoptive parents are no longer legally responsible for the child.

**201.8(8)** The child enlists in the military.

**441—201.9(600) Reinstatement of subsidy.** Reinstatement of subsidy will be made when the subsidy was terminated because of reasons in subrule 201.8(3), 201.8(6), or 201.8(7) and the reason for termination no longer exists.

**441—201.10(600) New application.** New applications will be taken at any time, but processed only so long as funds are available. Maintenance and special services already approved will continue.

**441—201.11(600) Medical assistance based on residency.** Children with special needs eligible for any type of subsidy are entitled to medical assistance as defined in 441—Chapter 75. The funding source for medical assistance is based on the following criteria:

**201.11(1)** IV-E-eligible children:

*a.* IV-E-eligible children residing in Iowa from Iowa and from other states shall receive medical assistance from Iowa.

*b.* IV-E-eligible children from Iowa residing in another state shall receive medical assistance from the family's state of residence, even though medical assistance available in the family's state of residence may vary from Iowa's medical assistance.

**201.11(2)** Non-IV-E-eligible children:

*a.* Non-IV-E-eligible children from Iowa residing in Iowa shall be covered by Iowa's medical assistance.

*b.* Non-IV-E-eligible children from Iowa residing in another state shall be covered by Iowa's medical assistance unless eligible for benefits from the other state pursuant to a program funded under Title XIX of the federal Social Security Act as amended to December 31, 2023.

*c.* Non-IV-E-eligible children from another state residing in Iowa shall be covered by Iowa's medical assistance if all the following conditions are met:

(1) The child is under the age of 21.

(2) The child is residing in Iowa in a private home with the child's adoptive parent or parents.

(3) Another state is currently paying an adoption subsidy for the child pursuant to an adoption assistance agreement in effect for the child with that state.

(4) The state paying the adoption subsidy is a member of the interstate compact on adoption and medical assistance (ICAMA).

(5) The state paying the adoption subsidy provides medical assistance benefits pursuant to a program funded under Title XIX of the Social Security Act, under the optional group at Section 1902(a)(10)(A)(ii)(VIII) of the Act as amended to December 31, 2023, to children residing in that state (at least until age 18) for whom there is a state adoption assistance agreement in effect with the state of Iowa other than under Title IV-E of the Social Security Act.

**201.11(3)** When an Iowa child receives medical assistance from another state, Iowa shall discontinue paying any medical costs the month following the move unless additional time is necessary for a timely notice of decision to be provided to the family. An exception shall be made when the initial Iowa subsidy agreement provides for services not covered by the other states.

**441—201.12(600) Presubsidy recovery.** The department will recover the cost of presubsidy maintenance and special services provided by the department as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

**201.12(1)** Funds will be applied to the cost of presubsidy maintenance and special services from the unearned income of the child.

**201.12(2)** The department will serve as payee to receive the child's unearned income. The income will be placed in an account and be applied toward the cost of the child's current care with the remainder placed in an escrow account.

**201.12(3)** When a child has funds in escrow these funds may be used by the department to meet the current needs of the child not covered by the presubsidy payments and not prohibited by the source of the funds.

**201.12(4)** When the child leaves presubsidy care, funds in the escrow shall be paid to the adoptive parents, or to the child if the child has attained the age of majority.

These rules are intended to implement Iowa Code sections 600.17 to 600.23.

**ARC 7368C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to the Iowa adoption exchange and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 203, "Iowa Adoption Exchange," Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 232.119.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 232.119.

#### *Purpose and Summary*

Proposed Chapter 203 seeks to increase access to adoptive arrangements by creating the Iowa Adoption Exchange, a streamlined system of matching children available for adoption with potential adoptive homes. Matches are managed through a computerized statewide exchange system.

Children under the guardianship of HHS for whom an adoptive home is not available are entered on the exchange within 60 or 90 days of receipt of termination of parental rights. Children under the guardianship of a licensed child-placing agency whose parental rights have been terminated may be registered on the exchange at any time. Approved families wishing to adopt are entered on the exchange by HHS or a licensed child-placing agency.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 4, 2023.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

#### *Waivers*

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 203 and adopt the following **new** chapter in lieu thereof:

CHAPTER 203  
IOWA ADOPTION EXCHANGE

**441—203.1(232) Definitions.**

“*Children who are difficult to place*” means “child” as described in 441—subrule 201.3(1), children under state guardianship for whom an adoptive home is not available within 90 days after termination and children as part of a sibling group of more than three children.

“*Iowa adoption exchange system*” or “*exchange system*” is a computerized system established to facilitate the adoptive placement of children by matching children legally available for adoption and approved families desiring to adopt a child who is difficult to place.

“*Recruitment, retention, training and support (RRTS) contract*” means the state’s contractor(s) responsible for activities related to licensing foster families and approving adoptive families, providing

## HUMAN SERVICES DEPARTMENT[441](cont'd)

support services to foster and preadoptive families, conducting preservice and in-service training, and assisting in matching children in need of foster home care.

**441—203.2(232) Children to be registered on the exchange system.**

**203.2(1)** All children who are difficult to place shall be registered on the exchange system within 60 days of receipt of the termination of parental rights court order unless a deferral is granted by the adoption program manager.

**203.2(2)** Licensed child-placing agencies shall register a child whose parental rights have been terminated and who is under their guardianship using one of the following methods:

*a.* If the agency is registering less than four children in a calendar year, the agency shall submit the Waiting Child Enrollment form to the department.

*b.* If the agency registers more than three children in a calendar year, the agency shall access the exchange system and enter the child's name and data.

**441—203.3(232) Families to be registered on the exchange system.**

**203.3(1)** Approved families wishing to adopt a child who is difficult to place shall be registered on the exchange system by the department.

**203.3(2)** Licensed child-placing agencies and certified adoption investigators shall register an approved family on the exchange using one of the following methods:

*a.* If the licensed child-placing agency is registering less than four families a calendar year, the agency shall submit the Exchange Referral of Family form to the department.

*b.* If the licensed child-placing agency registers more than three children in a calendar year, the agency shall access the exchange system and enter the family's name and data.

*c.* Certified adoption investigators shall submit the Exchange Referral of Family form to the department.

**441—203.4(232) Matching process.** Using the computerized exchange system, the department and licensed child-placing agencies shall search for approved families to meet the needs of the available children. The child's and family's workers shall be contacted for additional information needed to make an informed decision concerning possible adoptive placements.

These rules are intended to implement Iowa Code section 232.119.

**ARC 7359C**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rulemaking related to the subsidized guardianship program  
and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 204, "Subsidized Guardianship Program," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 234.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 232D and sections 232.104(2)"d"(2), 232.104(6), 232.117, 234.6, 249A.4 and 633.552; 1996 Iowa Acts, chapter 203, section 15, subsection 9; 2006 Iowa Acts, House File 2734, section 17, subsection 10; and Social Security Act Sections 472 and 473(d)(3).



HUMAN SERVICES DEPARTMENT[441](cont'd)

*Purpose and Summary*

Proposed Chapter 204 seeks to increase access to guardianship arrangements by implementing a Subsidized Guardianship Program to provide financial assistance to guardians of eligible children who are in foster care but are not able to be adopted and are not able to return home. Eligible children include those aged ten years or older or part of a sibling group with a child aged ten years or older, who have been previously under the custody of HHS, with a documented permanency goal of guardianship or another planned permanent arrangement. Prospective guardians must be licensed, have a significant relationship with the child, and seek a long-term commitment.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on November 28, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 441—Chapter 204 and adopt the following **new** chapter in lieu thereof:

CHAPTER 204  
SUBSIDIZED GUARDIANSHIP PROGRAM

**441—204.1(234) Definitions.**

“*Child*” means either a person less than 18 years of age or a person 18, 19, or 20 years of age who meets one or more of the following conditions:

1. Is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma.
2. Is attending an instructional program leading to a high school equivalency diploma.
3. Has been identified by the director of special education of the area education agency as a child requiring special education as defined in Iowa Code section 256B.2(1).

“*Guardianship subsidy*” means a monthly payment to assist in covering the cost of room, board, clothing, and spending money for the child.

“*Nonrecurring expenses*” means reasonable and necessary guardianship fees, court costs, attorney fees, and other expenses that are directly related to finalizing the legal guardianship of a child. These expenses shall be limited to attorney fees, court filing fees and other court costs.

“*Relative*” means a person to whom a child is related by blood, marriage, or adoption, or a person who has a significant, committed, positive relationship with the child.

“*Sibling group*” means at least two children who are whole or half-siblings. A sibling group may include adopted children who have a common parent.

**441—204.2(234) Eligibility.**

**204.2(1) General conditions of eligibility.** The guardian named in a permanency order under Iowa Code section 232.104(2)“d”(1) or chapter 232D for a child who was previously in the custody of the department is eligible for subsidy when all of the following conditions exist:

- a. The child has a documented permanency goal of:
  - (1) Guardianship; or
  - (2) Another planned permanent living arrangement.
- b. The child is either:
  - (1) Ten years of age or older and consents to the guardianship; or
  - (2) Part of a sibling group with a child aged ten or older.
- c. The child has lived in continuous foster family care with the prospective guardian for the six months before initiation of the guardianship subsidy.
- d. The prospective guardian is a licensed relative foster parent who has a significant relationship with the child and demonstrates a willingness to make a long-term commitment to the child's care.
  - (1) The guardian shall be a relative as defined in this chapter.
  - (2) Placement with that guardian must be in the best interest of the child. The best-interest determination must be documented in the case file.
- e. A child who is part of a sibling group with a child ten years of age or older may be eligible for subsidy if all criteria are met. The following conditions for the younger sibling shall also be met:
  - (1) The sibling is placed as a foster child in the same prospective guardian home.
  - (2) The guardian and the department agree it is appropriate for guardianship to be granted for the sibling.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**204.2(2) Residency.** The subsidized guardianship applicant or recipient need not reside in Iowa.

**204.2(3) Unearned income.** The family or the guardian shall provide to the department documentation from the source of the child's unearned income.

**204.2(4) Other services.** Other services available to meet the needs of the child that are free of charge, such as federal, state, and local governmental programs, or private assistance programs, shall be explored and used prior to the expenditure of subsidized guardianship funds.

**441—204.3(234) Application.** Applications for the subsidized guardianship program may be made at any county office of the department.

**204.3(1) Application forms.** Application for a subsidized guardianship shall be made on the approved department form.

**204.3(2) Eligibility determination.** The determination of whether a child meets the eligibility requirements is made by the department. The proposed guardian shall be notified in writing of the decision of the department regarding the child's eligibility for the program and the amount of subsidy to be provided.

**204.3(3) Effective date.** The effective date of the guardianship subsidy payment shall be the date the guardianship order is signed if all other conditions of eligibility are met.

**204.3(4) Redetermination.** The department shall review the child's eligibility, the needs of the child and the child's unearned income every 12 months. Reviews may be done more often if needed due to the child's need for special services, revision of the subsidy amount because of the child's age, or a request for review by the guardian.

**204.3(5) Determination of eligibility after age 18.** The department shall review the subsidy agreement when the child reaches the age of 17½ to determine whether the child is eligible to receive subsidy to the age of 21 to complete high school or equivalency or due to the child's physical, intellectual, or mental health disability.

*a.* A disability shall be diagnosed by a physician, a qualified mental health professional or a qualified intellectual disability professional.

*b.* The diagnosed disability shall be current within one year prior to the child's eighteenth birthday.

*c.* Documentation of the child's diagnosed disability shall be provided by the child's guardian to the department.

*d.* Upon the child's reaching the age of 18, the subsidy may continue until the child completes courses leading to a high school diploma or equivalency or reaches the age of 21. Documentation of school enrollment and completion shall be provided by the child's guardian.

**441—204.4(234) Negotiation of amount of subsidy.**

**204.4(1) Subsidy agreement.** The amount of subsidy shall be negotiated between the department and the guardian and shall be based upon the needs of the child and the circumstances of the family.

**204.4(2) Amount of subsidy.** Each time negotiations are completed, the department and the guardian shall complete and sign a new Guardianship Subsidy Agreement.

*a.* The maximum monthly maintenance payment for a child in subsidized guardianship shall be made pursuant to the foster family care maintenance rates according to the age and special needs of the child as found in 441—subrule 156.6(4).

(1) The rate for the guardianship subsidy shall not exceed the state's current daily basic foster care rate plus any daily special needs allowance or sibling allowance for which the child is eligible, as found in 441—subrule 156.6(4).

(2) Reserved.

*b.* If the subsidized guardianship payment is less than the maximum amount allowed, the guardian may request an increase if there is a substantial change in the child's needs and circumstances that requires additional resources.

*c.* Guardianship payments shall continue if the guardian dies or becomes incapacitated and has named a successor guardian in the Guardianship Subsidy Agreement or in any amendments to the agreement.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**204.4(3) Placement outside of home.** If a child needs to be placed out of the guardian's home and the plan is for the child to return to the guardian within six months, a partial subsidy amount may be negotiated.

**204.4(4) Nonrecurring expenses.** The nonrecurring expenses necessary to finalize a guardianship shall not exceed \$2,000.

**204.4(5) Special services.**

a. Reimbursement to the guardian family or direct payment made to a provider is limited to the following services:

(1) Outpatient individual or family services provided from a non-Medicaid provider only with approval from the department and when one of the following applies:

1. The services are not available from a Medicaid provider within a reasonable distance from the family.

2. The child and the family were receiving therapy or counseling from a non-Medicaid provider and it would not be in the child's best interest to disrupt the services.

3. Available Medicaid providers lack experience in working with foster, adopted, or blended families.

(2) Travel-related expenses including transportation, meals and lodging not covered by Medicaid for visitation or family therapy when the child is receiving Medicaid-paid services out of the home.

(3) Supplies and equipment as required by the child's special needs and unavailable through other resources.

(4) Funeral benefits at the amount allowed for a foster child in accordance with rule 441—156.8(234).

b. Any single special service and any special service delivered over a 12-month period costing \$500 or more shall have prior approval from the department prior to expending program funds.

c. For all Medicaid-covered services, the department shall reimburse at the same rate and duration as Medicaid as set forth in rule 441—79.1(249A).

**441—204.5(234) Parental liability.** These subsidy payments are considered foster care payments for purposes of child support recovery and as such create a support debt for the legally responsible parent or parents.

**441—204.6(234) Determination of ongoing subsidy eligibility and suspension of subsidy payments.**

**204.6(1)** Eligibility for continuation of guardianship subsidy shall be evaluated when the department has good cause to suspect the guardian is not providing financial support or is no longer legally responsible for the child. Good cause includes, but is not limited to, the following circumstances:

a. The child is placed in out-of-home care under Iowa Code chapter 232.

b. A person alleges the guardian is not providing financial support to the child.

c. A person other than the guardian is awarded legal custody of the child.

d. A person other than the guardian is appointed as the guardian of the child.

e. The child has applied for food assistance or other benefits.

f. The child has not resided with the guardian for the past 30 consecutive days.

g. The guardian is incarcerated.

h. The guardian is awaiting trial for criminal charges related to harm caused to a child in the home.

**204.6(2)** The department will contact the child's guardian via letter, telephone, or electronic or other means and document such efforts if an evaluation is determined to be necessary.

**204.6(3)** If such an evaluation occurs, the child's guardian shall provide documentation of support, including receipts, to the department upon request.

**204.6(4)** Upon completion of the department's evaluation of the child's continued eligibility for guardianship subsidy, the department will issue a written notice to the guardian documenting required ongoing actions by the guardian, including an expectation of continued cooperation by the guardian to provide documentation of ongoing support to the child at the request of the department.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

**204.6(5)** The department shall suspend guardianship subsidy payments if the guardian refuses to cooperate with any department evaluation designed to determine legal responsibility for the child or to determine whether the guardian is providing financial support for the child.

**204.6(6)** Through a Notice of Decision, the department will notify the guardian that the guardianship subsidy payment will be suspended, modified, or terminated.

**204.6(7)** When the child has resided out of the guardian's home for 30 consecutive days, the department shall request a renegotiation of the Guardianship Subsidy Agreement with the guardian to reduce or suspend payments as agreed to by the guardian.

**441—204.7(234) Termination of subsidy.** A Guardianship Subsidy Agreement remains in effect until the subsidy is terminated. The subsidy shall terminate when any of the following occur, and a notice shall be sent which states the reason for the termination:

1. The child reaches the age of 18, unless the department determines that the subsidy may continue until the child reaches the age of 21 as specified by subrule 204.3(5).
2. The child marries or enlists in the military.
3. The child no longer lives with the guardian, except for placement outside the home as limited by subrule 204.4(3).
4. The relationship ends due to the death of the child.
5. The terms of the Guardianship Subsidy Agreement are concluded.
6. The guardian requests that the guardianship payment cease.
7. The department has determined the guardian is not providing financial support to the child.
8. The guardian fails to abide by the terms of the Guardianship Subsidy Agreement.
9. The guardianship case is terminated by court order.
10. The department funds for subsidized guardianship are no longer available.
11. Due to incapacity, the guardian can no longer discharge the responsibilities necessary to protect and care for the child, the guardianship has been or will be vacated, and a successor guardian was not named in the Guardianship Subsidy Agreement.
12. The death of the guardian when a successor guardian is not named in the Guardianship Subsidy Agreement (one in a single-parent family or both in a two-parent family).

**441—204.8(234) Reinstatement of subsidy.** Reinstatement of the subsidy shall be made when the subsidy was terminated at the guardian's request and the guardian has requested reinstatement.

**441—204.9(234) Appeals.** The guardian may appeal adverse determinations pursuant to 441—Chapter 7.

**441—204.10(234) Medical assistance.** Children eligible for subsidy are entitled to medical assistance as defined in 441—Chapter 75. When an Iowa child receives medical assistance from another state, Iowa shall discontinue paying any medical costs the month following the move unless additional time is necessary for a timely notice of decision to be provided to the guardian.

The funding source for medical assistance is based on the following criteria:

1. Children from Iowa residing in Iowa shall be covered by Iowa's medical assistance.
2. Children from Iowa residing in another state shall receive medical assistance from the state of residence if eligible. Iowa shall provide medical assistance for children not eligible in their state of residence. Medical assistance available in the family's state of residence may vary from Iowa's medical assistance.
3. Children from another state residing in Iowa shall continue to be covered by the other state's medical assistance unless the state has adopted the adoption assistance interstate compact and a contract between Iowa and the other state exists.

These rules are intended to implement Iowa Code section 234.6 and 2006 Iowa Acts, House File 2734, section 17, subsection 11.

**ARC 7344C****INSURANCE DIVISION[191]****Notice of Intended Action****Proposing rulemaking related to administration  
and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 1, “Administration,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3, 502.601, 502.605, 505.1 and 505.30.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 502 and 505.

*Purpose and Summary*

The proposed chapter describes the organizational structure for the Division.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024  
10 to 11 a.m.

1963 Bell Avenue, Suite 100  
Des Moines, Iowa

February 15, 2024  
3 to 4 p.m.

1963 Bell Avenue, Suite 100  
Des Moines, Iowa

## INSURANCE DIVISION[191](cont'd)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 1 and adopt the following **new** chapter in lieu thereof:

*ORGANIZATION AND PROCEDURES*

CHAPTER 1  
ORGANIZATION

**191—1.1(502,505) Definitions.** For rules of the insurance division, the following definitions apply:

“*Commissioner*” means the commissioner of insurance or the commissioner’s designee.

“*Division*” means the Iowa insurance division.

“*Division’s website*” means the information and related content found at [iid.iowa.gov](http://iid.iowa.gov).

**191—1.2(502,505) Mission.** The division protects consumers through consumer education and enforcement while effectively and efficiently providing a fair, flexible, and positive regulatory environment.

**191—1.3(502,505) General course and method of operations.** The division is the state regulator that supervises all insurance business transacted in the state of Iowa as well as securities and other regulated industries.

**191—1.4(502,505) Contact information and business hours.** The division’s office and mailing address is 1963 Bell Avenue, Suite 100, Des Moines, Iowa 50315. The general telephone number for the division is 515.654.6600 or 1.877.955.1212. The division’s facsimile number is 515.654.6500. The division’s website address is [iid.iowa.gov](http://iid.iowa.gov). The division’s hours are 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

**191—1.5(502,505) Information, forms, and requests.** Information, applications, and forms may be obtained from the division’s website, in person at the division’s offices, or by telephone using the division’s general telephone number. Specific instructions, forms and guidance may be provided in administrative rules or on the division’s website. Submissions and requests can be submitted through the division’s website, in person, or by telephone.

**191—1.6(502,505) Organization.** The division is headed by the commissioner, who is assisted by a first deputy commissioner, a second deputy commissioner, a deputy commissioner for supervision, and other deputy commissioners and assistant commissioners. The functions of the division are divided into eight bureaus.

**1.6(1) Administrative bureau.** The administrative bureau provides staff support to the commissioner and the division and is responsible for budget, personnel, procurement, communication, legislative, and other services.

**1.6(2) Company regulation bureau.** The company regulation bureau is responsible for the following:

## INSURANCE DIVISION[191](cont'd)

- a.* Regulating domestic and foreign insurance companies licensed in Iowa, through licensure, analysis and financial and market examinations.
- b.* Examining the financial condition of domestic insurance companies not less than once every five years. Foreign companies are examined as deemed appropriate. The bureau ensures compliance with National Association of Insurance Commissioners accreditation mandates and with financial examination and analysis standards.
- c.* Serving as a general insurance information repository and resource for both insurers and consumers and publishing the division's annual report to the governor, required by Iowa Code section 505.12.
- d.* Reviewing and approving filed company transactions, including but not limited to approval of acquisitions and mergers of domestic insurers, intercompany contractual agreements and assumption reinsurance agreements.
- e.* Authorizing and overseeing individual and group workers' compensation self-insurance.
- f.* Authorizing, examining and analyzing benevolent associations and fraternal benefit societies.
- g.* Authorizing and reviewing multiple employer welfare arrangements.
- h.* Registering and verifying compliance for risk retention groups.
- i.* Supervising the rehabilitation and liquidation of insurance companies.
- j.* Auditing and monitoring premium tax remittances for admitted companies and supervising statutory deposits.
- k.* Reviewing and approving admission applications for foreign surplus lines insurers, as well as conducting premium tax audits associated with the nonadmitted insurance industry.
- l.* Implementing and maintaining the division's information technology resources.

**1.6(3) *Securities and regulated industries bureau.*** The securities and regulated industries bureau is responsible for administering and enforcing the Iowa uniform securities Act through enforcement, licensing, and securities registration to ensure investor protection and a positive climate for capital formation. The bureau is also responsible for protecting the public by administering and enforcing rules related to motor vehicle service contracts, residential service contracts, retirement facilities, cemeteries, and preneed purchase agreements for cemetery merchandise, funeral merchandise and funeral services.

**1.6(4) *Consumer advocate bureau.*** The consumer advocate bureau consists of the consumer advocate and, in addition to being responsible for the duties described in Iowa Code section 505.8(6) "b," is responsible for providing outreach to consumers, assisting in creation of consumer protection laws and regulations, and reviewing complaints. In order to fulfill the prescribed duties, the commissioner has delegated investigation and enforcement duties to the market regulation, enforcement, and fraud bureaus.

**1.6(5) *Market regulation bureau.*** The market regulation bureau is responsible for the following:

- a.* Ensuring fair treatment of consumers.
- b.* Investigating unfair or deceptive trade practices in the business of insurance.
- c.* Reviewing, investigating and responding to inquiries and complaints from the public regarding insurance producers and insurers.

- d.* When requested by consumers, coordinating external reviews of health insurance claim decisions if insurance companies deny benefits either on the basis that the services were not medically necessary or on the basis that the services were investigational or experimental.

- e.* When requested by consumers, coordinating independent reviews of long-term care insurance claim decisions if insurance companies deny benefits on the basis that insureds did not meet benefit trigger requirements.

**1.6(6) *Enforcement bureau.*** The enforcement bureau takes administrative action against individuals and entities regulated by the division for violations of insurance, securities, and other laws under the authority of the division and provides legal counsel to the division.

**1.6(7) *Fraud bureau.*** The fraud bureau confronts the problem of insurance and securities fraud by prevention, investigation, and prosecution of fraudulent insurance acts in an effort to reduce the amount of premium dollars used to pay fraudulent insurance claims, as set forth in Iowa Code chapter 507E, and may refer such matters to the appropriate jurisdiction for action or prosecution.



## INSURANCE DIVISION[191](cont'd)

**1.6(8) Product and producer regulation bureau.** The product and producer regulation bureau is responsible for the following:

- a. Reviewing, approving or disapproving property, casualty, life and health forms and, where provided by law, premium rates of certain types of insurance.
- b. Performing actuarial analysis of life and health insurance plans funded by certain public bodies.
- c. Licensing, registering, and monitoring entities and individuals under the authority of the commissioner.
- d. Overseeing the senior health insurance information program (SHIIP) and senior Medicare patrol (SMP) and other Medicare beneficiaries and their families and caregivers. These programs include providing information needed to make informed decisions about care and benefits; accessing financial assistance to cover related costs; and preventing Medicare fraud, errors and abuse.

**191—1.7(505) Service of process.** Certain individuals and entities under the jurisdiction of the commissioner are required by law to consent to having the commissioner serve as agent for the individual or entity for the purpose of receiving service of process.

**1.7(1) Request for service.** A party to a proceeding who requests that the commissioner accept service of process as allowed by law must submit to the division, at the address stated in rule 191—1.4(502,505), all of the following:

- a. For each individual or entity to be served, one original and one copy of the documents to be served by the division.
- b. A cover letter indicating the name of each individual or entity to be served by the division.
- c. A check for service fees, made payable to Iowa Insurance Division, for \$50 for each individual or entity to be served, unless another amount is required by law.

**1.7(2) Division actions.** After the division receives the items listed in paragraph 1.7(1)“a,” the division must do the following:

- a. Accept the service of process on behalf of the individual or entity.
- b. Forward, by certified mail, the original documents to the individual or entity to be served.
- c. File a notice of acceptance electronically through the Iowa court electronic filing system.

**1.7(3) Types of documents the division will serve.**

- a. The division will serve documents related to the initiation of a case, such as original notices, petitions, and jury demands. The division will not serve documents related to later processes in a case, including but not limited to subpoenas and garnishments, unless required to do so by law.
- b. The division will serve documents related to matters in the Iowa court system. The division will not serve documents related to matters in other courts, including but not limited to the federal court system, or matters in other administrative systems, except for workers’ compensation cases filed with the Iowa division of workers’ compensation.

These rules are intended to implement Iowa Code sections 17A.3, 502.601, 502.605, 505.1 and 505.30.

**ARC 7345C**

**INSURANCE DIVISION[191]**

**Notice of Intended Action**

**Proposing rulemaking related to public records and fair information practices  
and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 2, “Public Records and Fair Information Practices,” Iowa Administrative Code, and adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 22.

INSURANCE DIVISION[191](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 22.

*Purpose and Summary*

The proposed chapter provides rules about public records and fair information practices.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024 10 to 11 a.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa
February 15, 2024 3 to 4 p.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

INSURANCE DIVISION[191](cont'd)

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

**191—2.1(17A,22) Statement of policy.** The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound division determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This division is committed to the policies set forth in Iowa Code chapter 22. The division's website provides access to all public records. Division staff will cooperate with members of the public in implementing the provisions of that chapter.

**191—2.2(17A,22) Definitions.** The definitions in Iowa Code section 22.1 are incorporated into this chapter by this reference. In addition to the definitions in rule 191—1.1(502,505), the following definitions apply:

*"Confidential record"* means a record that is not available as a matter of right for inspection and copying by members of the public under applicable provisions of law. Confidential records may be specified as confidential by Iowa Code section 22.7, or other provisions of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

*"Division"* means the insurance division of the department of insurance and financial services, created by Iowa Code section 505.1. The division is both the "government body" and the "lawful custodian" as defined in Iowa Code sections 22.1(1) and 22.1(2), respectively. The division is also the "agency" as defined in Iowa Code chapter 17A and referenced in Iowa Code chapter 22. For purposes of this chapter, "division" includes both the commissioner of insurance and the administrator as defined in Iowa Code chapters 502 and 505.

*"File," "filed," or "filing,"* when used as a verb, means submitting or having submitted to the division a record or information. "File" or "filing," when used as a noun, means a record or information.

*"Inspect" or "inspection"* means the same as "examine" or "examination" in Iowa Code chapter 22. The term "examination" in this chapter does not mean the same as "examination" as used in Iowa Code chapter 22.

*"Lawful custodian,"* as used in Iowa Code section 22.1(2), is the division, the division's record officer, or an employee lawfully delegated authority by the division to act for the division in implementing Iowa Code chapter 22.

*"Open record"* means a record other than a confidential record.

*"Personally identifiable information"* means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

*"Record"* means all or part of a "public record," as defined in Iowa Code section 22.1, that is owned by or in the physical possession of the division.

*"Record system"* means any group of records under the control of the division from which a record may be retrieved by a personal identifier.

**191—2.3(17A,22) General provisions.**

**2.3(1) Entities holding division records covered by this rule.** This rule applies to records belonging to, required by, or created by the division, as well as records held by third parties, including other state agencies, that do any of the following:

- a. Perform division functions on behalf of the division;
- b. Store records for the division;
- c. Perform services for the division; or

## INSURANCE DIVISION[191](cont'd)

*d.* Otherwise handle records that would be governed by this rule if they were in the possession of the division.

**2.3(2) Existing records.** A request for access shall apply only to records that exist at the time the request is made and access is provided. The division is not required to create, compile or procure a record solely for the purpose of making it available except as described in Iowa Code section 22.3A and subrule 2.4(5).

**2.3(3) Public records.** All of the division's records are open records available to the public except for records that are confidential under rule 191—2.12(17A,22) or redactable under rule 191—2.11(17A,22).

**2.3(4) Availability of open records.** Open records of the division are available to the public for examination and copying unless otherwise provided by state or federal law, regulation or rule.

**2.3(5) Office hours.** Open records are available for inspection during customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

**2.3(6) Scope.** This chapter does not:

*a.* Require the division to index or retrieve records that contain information about individuals by that person's name or other personal identifier.

*b.* Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

*c.* Govern the maintenance or disclosure of, notification of or access to, records in the possession of the division that are governed by the regulations of another agency.

*d.* Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs.

*e.* Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings.

*f.* Make any warranty of the accuracy or completeness of a record.

**191—2.4(17A,22) Requests for access to records.**

**2.4(1) Request for access.** Requests for access to open records not available on the division's website may be made in writing, by mail, by email, or online as instructed on the division's website. Requests must identify the particular records sought by name or description in order to facilitate the location of the record. Requests must include the name, address, email address if available, and telephone number of the person requesting the information. A person is not required to give a reason for requesting an open record. If the division has records in its possession that may be public records but that are copies of materials from another agency or public organization, the division may refer individuals to the originating agency or entity.

**2.4(2) Response to requests.**

*a. Access.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the division must comply with the request as soon as feasible.

*b. Delay.* Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4), for redaction by the division of confidential information, or for search and review of requested records. The division must promptly give written notice to the requester of the reason for any delay and an estimate of the length of that delay.

*c. Deny.* The division may deny access to the record by members of the public when warranted under Iowa Code chapter 22 or other applicable law or when the record's disclosure is prohibited by a court order.

**2.4(3) Security of record.** No person may, without permission from the division, search or remove any record from division files. Inspection and copying of division records must be supervised by the division or a designee of the division in order for the records to be protected from damage and disorganization.

**2.4(4) Fees.** The division may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. Under Iowa Code section 22.3, the fee for the copying service, whether electronic or hard copy, or mailing shall not exceed the cost of providing the service. An hourly fee

## INSURANCE DIVISION[191](cont'd)

may be estimated in advance and charged for actual division expenses in the inspection, reviewing, and copying of requested records when the total staff time dedicated to fulfilling the request requires an excess of two hours.

**2.4(5) Information released.** If a person is provided access to less than an entire record, the division shall take measures to ensure that the person is furnished only the information that is to be released. This may be done by providing to the person either an extraction of the information to be released or a copy of the record from which the information not to be released has been otherwise redacted.

**191—2.5(17A,22) Access to confidential records.**

**2.5(1) Procedure.** The following provisions are in addition to those specified in rule 191—2.4(17A,22) and are minimum requirements. A statute or another administrative rule may impose additional requirements for access to certain classes of confidential records. A confidential record may, due to its nature or the way it is compiled or stored, contain a mixture of confidential and nonconfidential information. The division shall not refuse to release the nonconfidential information simply because of the manner in which the record is compiled or stored.

*a. Form of request.* The division shall ensure that there is sufficient information to provide reasonable assurance that access to a confidential record may be granted. Therefore, the division may require the requester to:

- (1) Submit the request in writing.
- (2) Provide proof of identity and authority to secure access to the record.

*b. Response to request.* The division must notify the requester of approval or denial of the request for access. The notice must include:

- (1) The name and title or position of the person responding on behalf of the division; and
- (2) A brief statement of the grounds for denial, including a citation to the applicable statute or other provision of law.

*c. Reconsideration of denial.* A requester whose request is denied by the division may apply to the commissioner of insurance for reconsideration of the request.

**2.5(2) Release of confidential records by the division.** The division may release a confidential record or a portion of it to:

- a.* The legislative services agency pursuant to Iowa Code section 2A.3.
- b.* The ombudsman pursuant to Iowa Code section 2C.9.
- c.* Other governmental officials and employees only as needed to enable them to discharge their duties.
- d.* The public information board pursuant to Iowa Code section 23.6.

**191—2.6(17A,22) Requests for confidential treatment.** The division may treat a record as a confidential record and withhold it from inspection or refuse to disclose that record to members of the public only to the extent that the division is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order. All other information submitted to the division shall be treated as if that person has no objection to its disclosure to members of the public.

**2.6(1) Request.** A person may request that all or a portion of a record be confidential. The request for confidential treatment must be submitted in writing to the division and:

- a.* Identify the information for which confidential treatment is sought.
- b.* Cite the legal and factual basis that justifies confidential treatment.
- c.* Identify the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request.
- d.* Specify the precise period of time for which the confidential treatment is requested should the request be only for a limited time period.

**2.6(2) Additional information.** The division may request additional factual information from the person to justify treatment of the record as a confidential record.

**2.6(3) Decision.** The division must notify the requester in writing of the granting or denial of the request and, if the request is denied, the reasoning for the denial.

## INSURANCE DIVISION[191](cont'd)

**2.6(4) Request denied.** If the request for confidential treatment of a record is denied, the requester may apply to the commissioner for reconsideration of the request.

**2.6(5) Failure to request.** Failure of a person to request confidential record treatment for a record does not preclude the division from treating it as a confidential record.

**191—2.7(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.** Except as otherwise provided by law, the person who is the subject of a record may have a written statement of additions, dissents or objections entered into that record. The statement shall be filed with the division. The statement must be dated and signed by the person who is the subject of the record and include the person's current address and telephone number. This rule does not authorize the person who is the subject of the record to alter the original record or to expand the official record of any division proceeding.

**191—2.8(17A,22) Disclosures without the consent of the subject.**

**2.8(1)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject.

**2.8(2)** Authority to release confidential records. The division may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect these records withheld from inspection under a statute that authorizes limited or discretionary disclosure as provided in rule 191—2.6(17A,22). If the division initially determines that it will release such records, the division may notify interested persons and withhold the records from inspection as provided in rules 191—2.6(17A,22) and 191—2.7(17A,22).

**191—2.9(17A,22) Consent to disclosure by the subject of a confidential record.** To the extent permitted by any applicable provision of law, the subject of a confidential record may consent to have a copy of the portion of that record that concerns the subject disclosed to a third party. A request for such a disclosure must be in writing, and the person to whom the record is to be disclosed may be required to provide proof of identity. Appearance of counsel before the division on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the division to disclose records about that person to the person's attorney.

**191—2.10(17A,22) Notice to suppliers of information.** When the division requests a person to supply information about that person, the division must notify the person by reasonable means of the use that will be made of the information, which persons outside the division might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested.

**2.10(1) Notice.** The notice shall generally be given at the first contact with the division and need not be repeated. Where appropriate, the notice may be given to a person's legal or personal representative. Notice may be withheld in an emergency or when it would compromise the purpose of a department investigation.

**2.10(2) License and examination applicants.** License and examination applicants are requested to supply a wide range of information depending on the qualifications for licensure or sitting for an examination, as provided by division statutes, rules and application forms. Failure to provide requested information may result in denial of the application. Some requested information, such as social security numbers, home addresses, examination scores, and criminal histories, is confidential under state or federal law, but most of the information contained in license or examination applications is treated as public information, freely available for public examination.

**2.10(3) License renewal.** Licensees are requested to supply a wide range of information in connection with license renewal, both on paper and electronically. Failure to provide requested information may result in denial of the application. Most information contained on renewal applications is treated as public information freely available for public examination, but some information may be confidential under state or federal law.

## INSURANCE DIVISION[191](cont'd)

**2.10(4) Investigations.** Persons and entities regulated by the division are required to respond to division requests for information as part of the investigation of a complaint or inquiry. Failure to timely respond may result in disciplinary action against the person or entity to which the request is made. Information provided in response to such a request is confidential pursuant to Iowa Code, including but not limited to Iowa Code section 502.607(2), 505.8(8) “a,” 507E.5, or 523A.803, but may become public if introduced at a hearing which is open to the public, contained in a final order, or filed with a court of judicial review.

**2.10(5) Discovery request, subpoenas, and investigations.** Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law or similar demands for information.

**2.10(6) Other requested information.** In general, pursuant to state or federal law, the division requests information necessary for its regulation of insurance, securities, and regulated industries that is required to be provided to the division. This required information may be shared outside the division when required by state or federal law or division rules. Failure of a regulated entity or person to provide this information may result in the denial of the licensure or regulatory approval, as appropriate, for which the information was requested.

**191—2.11(17A,22) Personally identifiable information collected by the division.** The division collects and maintains open records, some of which may contain personally identifiable information, and some of which may be shared with other state or federal agencies or organizations or vendors. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the division. Unless otherwise stated, the authority for the collection of the record is provided by Iowa Code chapter 502 or 505. Some personally identifiable information is protected by Iowa Code sections 502.607(2) “e” and 505.8(9).

**2.11(1) Nature and extent.** The following records may contain personally identifiable information:

*a.* Confidential records. Records listed as confidential records are described in rule 191—2.12(17A,22).

*b.* Rulemaking records. Rulemaking records may contain information about people who make written or oral comments about proposed rules.

*c.* Contested case records. Contested case records contain names and identifying numbers of people involved. Evidence and documents submitted as a result of a contested case are contained in contested case records.

*d.* Licensing records. Licensing records of individuals and entities regulated by the division contain names and identifying numbers of the regulated individual or individuals designated as responsible for the regulated entity.

*e.* Complaint, inquiry, investigation, and examination records. Complaint, inquiry, investigation, and examination records contain names and identifying numbers of the people who submit, are the subject of, or are otherwise involved in the complaint, inquiry, investigation or examination.

*f.* Personnel files. The division maintains files containing information about employees of the division and applicants for positions with the division.

**2.11(2) Redaction.** To the extent that the division finds it necessary to allow inspection of records containing personally identifiable information, the division must, when allowed by law, redact the personally identifiable information prior to allowing the inspection.

**2.11(3) Means of storage.** Paper and various electronic means of storage are used to store records containing personally identifiable information.

**191—2.12(17A,22) Confidential records.** This rule describes the types of agency information or records that are confidential. This rule is not exhaustive. The following records shall be kept confidential.

**2.12(1)** Records that are exempt from disclosure under Iowa Code section 22.7.

**2.12(2)** Records that constitute attorney work product, or attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4),

## INSURANCE DIVISION[191](cont'd)

622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

**2.12(3)** Those portions of the division's staff manuals, instructions or other statements issued by the division which set forth criteria or guidelines to be used by division staff in auditing, making inspections, settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when the disclosure of such statements would enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons who are in an adverse position to the division, pursuant to Iowa Code sections 17A.2 and 17A.3.

**2.12(4)** All information obtained and prepared in the course of an inquiry, complaint, or investigation, including but not limited to communications, insurer documents, data, reports, analysis, and notes, pursuant to Iowa Code section 505.8 and chapters 502, 502A, 505, 507A, 507E, 522B, 523C, and 523I.

**2.12(5)** Information of insurers designated as confidential by applicable law, including but not limited to information and reports that are part of an examination, pursuant to Iowa Code sections 505.17 and 507.14.

**2.12(6)** Information of the Iowa life and health guaranty association, pursuant to Iowa Code chapters 508C and 515B.

**2.12(7)** Insurance holding company systems registration and holding company examinations, pursuant to Iowa Code section 522.7.

**2.12(8)** Information related to the uniform securities Act that is designated nonpublic pursuant to Iowa Code section 502.607.

**2.12(9)** Information filed with the division related to preneed sellers and sales agents of cemetery and funeral merchandise and funeral services pursuant to Iowa Code chapter 523A.

**2.12(10)** Information obtained in the course of an examination of a cemetery pursuant to Iowa Code chapter 523I.

**2.12(11)** All records relating to prearranged funeral contracts, except upon approval by the commissioner of insurance or the attorney general, pursuant to Iowa Code section 523A.204(3).

**2.12(12)** Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“e.”

**2.12(13)** Sealed bids received prior to the time set for public opening of bids, pursuant to Iowa Code section 72.3.

**2.12(14)** Information related to external review of health care coverage decisions, pursuant to Iowa Code chapter 514J.

**2.12(15)** Information related to automobile insurance cancellation, pursuant to Iowa Code chapter 515D.

**2.12(16)** Determination of any suspension of an insurance producer's or other licensee's pending application for licensure, pending request for renewal, or current license, when the suspension is related to failure to pay child support, foster care, or state debt, pursuant to rule 191—10.21(252J).

**2.12(17)** All other information or records that by law are or may be confidential.

These rules are intended to implement Iowa Code section 22.11.



**ARC 7346C****INSURANCE DIVISION[191]****Notice of Intended Action****Proposing rulemaking related to contested cases  
and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 3, “Contested Cases,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

*Purpose and Summary*

The proposed chapter provides rules about contested cases.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024  
10 to 11 a.m.

1963 Bell Avenue, Suite 100  
Des Moines, Iowa

February 15, 2024  
3 to 4 p.m.

1963 Bell Avenue, Suite 100  
Des Moines, Iowa

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3  
CONTESTED CASES

**191—3.1(17A) Scope and applicability.** This chapter applies to contested case proceedings conducted by the insurance division.

**191—3.2(17A) Definitions.** In addition to the definitions in rule 191—1.1(502,505), and except where otherwise specifically defined by law or the context otherwise requires, the following definitions apply:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5), and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*File*,” “*filed*,” or “*filing*,” when used as a verb, means the actions set forth in subrules 3.12(3) and 3.12(4), except otherwise specifically defined by law. “*Filing*,” when used as a noun, means the documents filed.

“*Issuance*” means the date of mailing of a decision or order or the date of delivery if service is by other means, unless another date is specified in the order.

“*License*” means the whole or a part of any permit, certificate, approval, registration, charter or similar form of permission required by statute.

“*Licensee*” means a person or entity to whom the division has issued a license.

“*Party*” means the same as defined in Iowa Code section 17A.2.

“*Person*” means the same as defined in Iowa Code section 17A.2.

“*Presiding officer*” means the commissioner, the commissioner’s designee or an administrative law judge from the department of inspections, appeals, and licensing.

“*Proposed decision*” means the administrative law judge’s or the commissioner’s designee’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the commissioner did not preside.

“*Provision of law*” means the same as defined in Iowa Code section 17A.2.

**191—3.3(17A) Time requirements.**

**3.3(1)** Time shall be computed as provided in Iowa Code section 4.1(34).

**3.3(2)** For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer may afford all parties an opportunity to be heard or to file written arguments.

**191—3.4(17A) Requests for contested case proceeding.** Any person claiming an entitlement to a contested case proceeding shall file a written request for such a proceeding within the time specified

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by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the division action in question. The request shall be filed with the division, at the address disclosed in rule 191—1.4(502,505).

The request for a contested case proceeding shall state the name and address of the requester; identify the specific division action that is disputed if applicable; include a short and plain statement of the issues of material fact in dispute; and, where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing a contested case proceeding in the particular circumstances involved.

**191—3.5(17A,507B) Commencement of hearing; service; delivery; notice of hearing; answer.****3.5(1) Service and delivery of the notice of hearing.**

*a. Commencement of hearing.* Delivery of the notice of hearing referred to in this rule constitutes commencement of the contested case proceeding.

*b. Delivery of the notice of hearing.* Delivery shall be accomplished by personal service as provided in the Iowa Rules of Civil Procedure or by certified mail, return receipt requested, at least 15 days before the hearing date unless the parties agree to a shorter time period, or unless otherwise provided by statute. Proof of delivery by mail is the same as proof of mailing specified in subrule 3.12(5).

*c. Consent to service upon the commissioner.* For persons who have consented in writing to have the commissioner accept service of process on their behalf, delivery of the notice of hearing referred to in this rule is accomplished at the time the notice of hearing is signed by the commissioner, unless otherwise provided by law.

**3.5(2) Notice of hearing.** The notice of hearing shall be prepared in the form of an order and contain the following information in the notice of hearing or accompanying charging document:

- a.* A statement of the time, place, and nature of the hearing;
- b.* A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c.* A reference to the particular sections of the statutes and rules involved;
- d.* A short and plain statement of the matters asserted. If the division or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon written application, a more definite and detailed statement shall be furnished;
- e.* Identification of all parties including the name, address and telephone number of the person who will act as advocate for the division and of parties' counsel where known;
- f.* Reference to the procedural rules governing conduct of the contested case proceeding;
- g.* Reference to the procedural rules governing settlement;
- h.* Identification of the presiding officer and address, if known. If not known, a general description of the type of person who will serve as presiding officer;
- i.* Notification of the time period in which a party may request, under rule 191—3.6(17A), that the presiding officer be an administrative law judge;
- j.* Notification that failure to file an answer within 20 days of service may result in default pursuant to rule 191—3.22(17A); and
- k.* Reference to the procedural rules governing discovery.

**3.5(3) Answer:** An answer shall be filed within 20 days of service of the notice of hearing unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement of the matters asserted or charging document when appropriate.

*a.* An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the notice of hearing or accompanying charging document. The answer shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

*b.* An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

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*c.* Any allegation in the notice of hearing or accompanying charging document not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer that could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

*d.* The answer shall be filed with the division pursuant to rule 191—3.12(17A).

**3.5(4) Amendments.** Any notice of hearing or other charging document may be amended before a responsive pleading has been filed. Amendments to a notice of hearing or charging document after a responsive pleading has been filed and amendments to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

**3.5(5) Timing of hearing.** The hearing in a contested case proceeding shall be held within 90 days after the commencement of the contested case unless a continuance is granted by the presiding officer.

**191—3.6(17A) Presiding officer.**

**3.6(1)** If the presiding officer is not an administrative law judge, any party wishing to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing must file a written request with the division within 20 days after service of a notice of hearing identifying or describing the presiding officer as the commissioner or commissioner's designee.

**3.6(2)** The commissioner may deny the request only upon a finding that one or more of the following apply:

*a.* Neither the commissioner nor any designee under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.

*b.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

*c.* An administrative law judge with the qualifications identified in subrule 3.6(4) is unavailable to hear the case within a reasonable time.

*d.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

*e.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

*f.* Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

*g.* The request was not timely filed.

*h.* The request is not consistent with a specified statute.

*i.* A statute requires the commissioner or designee to serve as presiding officer.

*j.* The contested case arises from matters asserted pursuant to Iowa Code chapter 507A, 507B, 508B, 515G or 521A.

**3.6(3)** The commissioner or designee shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 3.6(4), the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

**3.6(4)** An administrative law judge assigned to act as presiding officer in insurance and securities matters shall be admitted to practice law before the courts of the state of Iowa.

**3.6(5)** Except as otherwise provided by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the commissioner. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

**191—3.7(17A) Waiver of procedures.** Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the division may exercise discretion to refuse to give effect to such a waiver when the waiver is inconsistent with the public interest.

**191—3.8(17A) Telephone, video, or electronic proceedings.**

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**3.8(1)** The presiding officer may resolve preliminary procedural motions by telephone conference, videoconference or other electronic means in which all parties have been afforded notice and an opportunity to participate.

**3.8(2)** The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference, videoconference or other electronic means in which all parties have an opportunity to participate. Any party may call witnesses by telephone conference, videoconference or other electronic means, with 14 days' advance notice to all parties and the presiding officer. Failure of a party to make timely disclosure may result in the disallowance of testimony by telephone conference, videoconference or other electronic means.

**191—3.9(17A) Disqualification.**

**3.9(1)** A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a.* Has a personal bias or prejudice concerning a party or a representative of a party;
- b.* Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another factually related contested case with common disputed facts, or a pending controversy with common disputed facts that may culminate in a contested case involving the same parties;
- c.* Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a factually related contested case with common disputed facts or controversy involving the same parties;
- d.* Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e.* Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f.* Has a spouse or relative within the third degree of relationship that is (1) a party to the case, or an officer, director or trustee of a party; (2) a lawyer in the case; (3) known to have an interest that could be substantially affected by the outcome of the case; or (4) likely to be a material witness in the case; or
- g.* Has any other legally sufficient cause to withdraw from participation in the decision making in the case.

**3.9(2)** The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 and subrules 3.9(3) and 3.23(8).

**3.9(3)** In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

**3.9(4)** To request disqualification of a presiding officer, a party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion shall be filed as soon as practical after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but shall establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall

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enter an order to that effect. A party requesting disqualification may seek an interlocutory appeal under rule 191—3.25(17A) and seek a stay under rule 191—3.29(17A).

**191—3.10(17A) Consolidation—severance.**

**3.10(1)** The presiding officer may consolidate contested case proceedings where (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

**3.10(2)** The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

**191—3.11** Reserved.**191—3.12(17A) Service and filing of pleadings and other papers.**

**3.12(1)** *Required service.* Every pleading, motion, document, or other paper that is filed in a contested case proceeding and every discovery request or response in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the division, no later than the time of filing, if filing is required. Except for an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

**3.12(2)** *Methods of service.* Service upon a party represented by an attorney shall be made upon the attorney of record unless otherwise ordered. Service is made by delivering or mailing a copy to the attorney at the attorney's last-known mailing address. Service upon an unrepresented party shall be made by delivering or mailing a copy to the party's last-known mailing address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order. Service may also be made upon a party or attorney by email if the party or attorney consents in writing to be served in that manner in that case. The party or attorney may consent by providing an email address for service to the other party or by filing a document with the division by email as specified in subrule 3.12(4). The consent may be withdrawn by written notice served on all other parties or attorneys. Service by electronic means is complete upon transmission to the provided email address unless the party making service received an electronic rejection or delivery failure.

**3.12(3)** *Required filing.* After the notice of hearing, all pleadings, motions, and notices of discovery in a contested case proceeding shall be filed with the division's designated filing clerk. If a contested case is assigned to an administrative law judge with the department of inspections, appeals, and licensing, filing shall be conducted in accordance with the rules of the department of inspections, appeals, and licensing, unless ordered otherwise.

**3.12(4)** *Methods of filing.* Except where otherwise provided by law, a document is deemed filed at the time it is hand-delivered to the division at the address disclosed in rule 191—1.4(502,505) during normal business hours, delivered to an established courier service for immediate delivery to that office during normal business hours, mailed by first-class mail or state interoffice mail to that office so long as there is proof of mailing, or emailed to the designated filing clerk at [enforcement filings@iid.iowa.gov](mailto:enforcement filings@iid.iowa.gov).

**3.12(5)** *Proof of mailing and emailing.* Proof of mailing and emailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

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I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Insurance Division at the address disclosed in 191—1.4(502,505) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail). I emailed copies of (describe document) addressed to the Insurance Division at the email address disclosed in subrule 3.12(4) and to the names and email addresses of the parties listed below by transmitting the same from (sending email address).

(Date)

(Signature)

**191—3.13(17A) Discovery.**

**3.13(1)** *Discovery permitted.* Where statutory time limitations permit, discovery may be conducted as permitted by the Iowa Rules of Civil Procedure and these rules. Discovery shall be conducted in an expedited manner to prevent unnecessary delays to the hearing.

**3.13(2)** *Scope of discovery.* Parties may obtain discovery regarding any matter, not privileged or confidential, which is relevant to the claim or defense of the party in the pending action seeking discovery or to the claim or defense of any other party. Discovery responses are subject to the confidentiality provisions of Iowa Code section 22.7, chapters under the jurisdiction of the commissioner, and rule 191—3.12(17A), in accordance with applicable law, including, but not limited to, Iowa Code sections 17A.13(2) and 522B.11(6), unless otherwise permitted by the presiding officer for good cause shown.

**3.13(3)** *Notice of discovery.* Discovery is only permitted after a party has filed, pursuant to rule 191—3.12(17A), a notice of discovery no later than 15 days after the filing of an answer unless extended by the presiding officer for good cause shown or by agreement of the parties. The notice of discovery shall be a general notice that the party is serving discovery. The notice should include a statement regarding the type of discovery being conducted and the due date.

**3.13(4)** *Discovery responses.* Parties must respond to discovery within 15 days of receipt unless the parties mutually agree there is good cause to lengthen the response period or by order of the presiding officer. Time periods for compliance with discovery may be lengthened or shortened by order of the presiding officer.

**3.13(5)** *Discovery completion.* All discovery must be completed no later than 30 days before the prehearing conference.

**3.13(6)** *Discovery motions.* Any motion relating to discovery must allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party in a timely manner. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of any such motion unless the time is shortened as provided in subrule 3.13(4). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

**191—3.14(17A,505) Subpoenas.**

**3.14(1)** A subpoena shall be issued by the presiding officer at a party's request.

*a.* A request for a subpoena must be in writing and submitted to the presiding officer or designated filing clerk by mail, email, or in-person delivery in accordance with the filing requirements of rule 191—3.12(17A).

*b.* The request shall include the names of the parties, the case number, the name and address of the requested witness, and a description or list of any documents or other items requested. The request shall also note the nature of the proceeding at which the witness is requested to testify (e.g., deposition, telephone hearing, or in-person hearing), the date and time of the proceeding, whether the witness is requested to appear in person or by telephone, the location of the proceeding, and the method of recording any deposition.

*c.* In the absence of good cause for permitting later action, a request for a subpoena must be received at least ten days before the scheduled proceeding.

**3.14(2)** The requesting party is responsible for arranging service of a subpoena prior to the proceeding at which the testimony is commanded or the time at which the requested documents must be

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produced. The requesting party is responsible for any cost associated with serving a subpoena and for the payment of witness fees and mileage expenses. Subpoenaed witnesses shall be entitled to receive witness fees for attendance, paid pursuant to Iowa Code section 622.69, and mileage shall be paid for each mile actually traveled for a subpoenaed witness to participate in an in-person hearing or deposition pursuant to Iowa Code section 622.69. Witnesses called to testify only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations and state the result thereof, may receive additional compensation, to be fixed by the presiding officer, with reference to the value of the time employed and the degree of learning or skill required, but such additional compensation shall not exceed the sum set forth in Iowa Code section 622.72.

**3.14(3)** The presiding officer may quash or modify a subpoena upon motion as provided in the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be promptly set for hearing.

**191—3.15(17A) Motions.**

**3.15(1)** No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief and relief sought.

**3.15(2)** Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. In ruling on a motion, the presiding officer may consider the motion unresisted, if no response is timely filed.

**3.15(3)** The presiding officer may schedule oral argument on any motion.

**3.15(4)** Motions pertaining to the hearing, except motions for summary judgment and requests for continuances, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by an order of the presiding officer.

**3.15(5)** Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment may be filed and served within a reasonable time prior to the hearing, as determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 15 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall be not less than 20 days after the filing of the motion unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 191—3.28(17A) and appeal pursuant to rule 191—3.27(17A).

**191—3.16(17A) Prehearing conference.**

**3.16(1)** A prehearing conference shall be scheduled not less than seven business days prior to the hearing date. The presiding officer shall give written notice of the prehearing conference to all parties.

**3.16(2)** Prehearing conferences may be conducted by telephone conference or videoconference or in person as stated in the notice of hearing, unless otherwise ordered by the presiding officer.

**3.16(3)** Each party shall exchange and receive prior to the prehearing conference:

*a.* A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for failure to include their names; and

*b.* A final list and copies of exhibits that the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for failure to include them.

**3.16(4)** Witness or exhibit lists may be amended subsequent to the prehearing conference within time limits established by the presiding officer at the prehearing conference. If no time limits are established at the prehearing conference, subsequent amendments to a witness or exhibit list may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms and time limits. Any such amendments must be served on all parties.



## INSURANCE DIVISION[191](cont'd)

**3.16(5)** In addition to the requirements of subrule 3.16(3), the parties at a prehearing conference may:

- a. Enter into stipulations of law or fact;
- b. Enter into stipulations on the admissibility of exhibits;
- c. Identify matters that the parties intend to request be officially noticed;
- d. Enter into stipulations for waiver of any provision of law; and
- e. Consider any additional matters that will expedite the hearing.

**191—3.17(17A) Continuances.** Unless otherwise provided, applications for continuances shall be made to the presiding officer.

**3.17(1)** An application for a continuance shall:

- a. Be made at the earliest possible time and no less than 14 days before the hearing except in case of unanticipated emergencies or consent of all parties, and
- b. State the specific reasons for the request.

**3.17(2)** In determining whether to grant a continuance, the presiding officer may consider:

- a. Prior continuances;
- b. The interests of all parties;
- c. The likelihood of informal settlement;
- d. The existence of an emergency;
- e. Any objection;
- f. Any applicable time requirements;
- g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h. The timeliness of the request;
- i. Failure to timely provide discovery responses; and
- j. Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

**191—3.18(17A) Withdrawals.** A party requesting a contested case proceeding may withdraw that request prior to the hearing.

**191—3.19(17A,507B) Intervention.**

**3.19(1)** A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, including any statutory grounds, and the position and interest of the proposed intervenor. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

**3.19(2)** Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for failure to file in a timely manner. Unless inequitable or unjust, an intervenor shall be bound by any agreement, arrangement, or other matter previously raised in the case.

**3.19(3)** The movant shall demonstrate that (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties; or (d) there exists a statutory right to intervene.

**3.19(4)** If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

INSURANCE DIVISION[191](cont'd)

**191—3.20(17A) Hearing procedures.**

**3.20(1)** The presiding officer presides at the hearing, and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure orderly conduct of the proceedings.

**3.20(2)** The presiding officer shall conduct the hearing in the following manner:

*a.* The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

*b.* Parties shall be given an opportunity to present opening statements;

*c.* Parties shall present their cases in the sequence determined by the presiding officer;

*d.* Each witness shall be sworn or affirmed by the presiding officer, the court reporter, or a person otherwise authorized by law, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law; and

*e.* When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

**3.20(3)** The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel a person whose conduct is disorderly.

**3.20(4)** Parties have the right to participate and to be represented by an attorney in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney or another person authorized by law, subject to Iowa Court Rule 31.14.

**3.20(5)** Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

**3.20(6)** All objections shall be timely made and stated on the record.

**3.20(7)** Witnesses may be sequestered during the hearing. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party that is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to presentation of the cause.

**191—3.21(17A,507B) Evidence.**

**3.21(1)** The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with applicable requirements of law.

**3.21(2)** Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

**3.21(3)** Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, may receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

**3.21(4)** The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should be provided to opposing parties no later than the time they are proffered to the presiding officer. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

**3.21(5)** A party may object to specific evidence. A party may request limits on the scope of any examination or cross-examination. Objections shall be accompanied by a brief statement of the grounds upon which the objections are based. The objection and the ruling on the objection shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision, if appropriate.

**3.21(6)** Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If

## INSURANCE DIVISION[191](cont'd)

the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

**191—3.22(17A) Default.**

**3.22(1)** If a party fails to appear or participate in a contested case proceeding after proper service of notice as provided in subrule 3.5(1), the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

**3.22(2)** Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and failed to file a required pleading or has failed to appear after proper service.

**3.22(3)** Default decisions or decisions rendered on the merits after a party has failed to appear or participate constitute final division action unless one of the following occurs: (1) the presiding officer otherwise orders, (2) a motion to vacate the default decision is filed within 15 days after the date of notification or mailing of the decision in accordance with rule 191—3.12(17A), or (3) an appeal to the commissioner of a proposed default decision is filed in accordance with rule 191—3.27(17A). A motion to vacate must be filed and served on all parties and state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

**3.22(4)** The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

**3.22(5)** A motion to vacate shall be granted only when it is timely filed, is properly substantiated, and demonstrates good cause for the party's failure to appear or participate. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

**3.22(6)** "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

**3.22(7)** A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 191—3.25(17A).

**3.22(8)** If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall schedule another hearing on the merits and the contested case shall proceed accordingly.

**3.22(9)** A default decision may award any relief authorized by statute or rule.

**3.22(10)** A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 191—3.29(17A).

**191—3.23(17A) Ex parte communication.**

**3.23(1)** Unless required for the disposition of ex parte matters specifically, through communication either written, oral, or other forms, authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the division or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 3.9(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those

## INSURANCE DIVISION[191](cont'd)

persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

**3.23(2)** Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

**3.23(3)** To avoid prohibited ex parte communications notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 191—3.12(17A) and may be supplemented by telephone, facsimile, email or other means of notification.

**3.23(4)** Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

**3.23(5)** Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 191—3.16(17A).

**3.23(6)** A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record, either under seal by protective order or in the public file, at the discretion of the presiding officer. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

**3.23(7)** Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery.

**3.23(8)** The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the division. Violation of ex parte communication prohibitions by division personnel shall be reported to the first deputy commissioner or designee for possible sanctions including censure, suspension, dismissal or other disciplinary action.

**191—3.24(17A) Recording costs.** Upon request, the presiding officer with notice to all parties shall provide a copy of the whole or any portion of the record at a reasonable cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party. Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

**191—3.25(17A) Interlocutory appeals.** Upon written request of a party or on its own motion, the commissioner or designee may review an interlocutory order of the presiding officer. In determining whether to do so, the commissioner or designee shall weigh the extent to which granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order at the time the proposed decision of the presiding officer is reviewed would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

**191—3.26(17A) Final decision.**

## INSURANCE DIVISION[191](cont'd)

**3.26(1)** When the commissioner presides over the reception of evidence at the hearing, the commissioner's decision is a final decision.

**3.26(2)** When the commissioner does not preside over the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the division when adopted by the commissioner or without further proceedings after the time provided in rule 191—3.27(17A) unless there is a timely appeal to the commissioner or motion by the division to review the proposed decision.

**3.26(3)** The presiding officer's decision shall specify in bold print either that the decision is final or that the decision shall become final without further proceedings after the time provided in rule 191—3.27(17A).

**3.26(4)** Any administrative law judge serving as a presiding officer in a contested case shall report to the commissioner on a monthly basis all matters taken under advisement for longer than 60 days, together with an explanation of the reasons for the delay and an expected date of a proposed decision. A matter shall be reported when all hearings have been completed and the matter awaits decision without further appearance of the parties or their attorneys, even though briefs or transcripts have been ordered but have not yet been filed. The report shall be due on the tenth day of each calendar month for the period ending with the last day of the preceding calendar month. The report shall be signed by the administrative law judge. All reports received will be filed with the Iowa insurance division as records available for public inspection.

**3.26(5)** Parties shall be promptly notified of each proposed or final decision or order by delivery to them of a copy of such decision or order in the manner provided by Iowa Code section 17A.12(1) unless the party has consented to an alternative form of delivery.

**191—3.27(17A) Appeals and review by the commissioner of proposed decisions.**

**3.27(1)** Any adversely affected party may appeal a proposed decision to the commissioner within 30 days after issuance of the proposed decision.

**3.27(2)** The division may initiate review of a proposed decision on its own motion at any time within 30 days following issuance of such a decision.

**3.27(3)** An appeal of a proposed decision is initiated by filing a timely notice of appeal with the commissioner. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The proposed decision or order appealed from;
- b. The parties initiating the appeal;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The grounds for relief; and
- e. The relief sought.

**3.27(4)** On appeal from a proposed decision of a presiding officer, the issues shall be limited to those raised before the presiding officer. No new issues will be considered for the first time on appeal.

**3.27(5)** On appeal, a party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within ten days of service of the notice of appeal. The commissioner may remand a case to the presiding officer for further hearing or the commissioner may preside at the taking of additional evidence.

**3.27(6)** The commissioner shall issue a schedule for consideration of the appeal.

**3.27(7)** Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Any written requests to present oral argument shall be filed with the briefs. The commissioner may resolve the appeal on the briefs or provide an opportunity for oral argument. The commissioner may shorten or extend the briefing period as appropriate.

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**191—3.28(17A) Applications for rehearing.**

**3.28(1)** Any party to a contested case proceeding may file an application for rehearing from a final order.

**3.28(2)** The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the division decision on the existing record and whether, on the basis of the grounds enumerated in subrule 3.27(5), the applicant requests an opportunity to submit additional evidence.

**3.28(3)** The application shall be filed with the commissioner within 20 days after issuance of the final decision.

**3.28(4)** A copy of the application shall be timely mailed by the division to all parties of record not joining therein if the application does not contain a certificate of service demonstrating service on all parties.

**3.28(5)** Any application for a rehearing shall be deemed denied unless the commissioner grants the application within 20 days after its filing.

**191—3.29(17A) Stay of division action.**

**3.29(1)** Petition requirements for stay of division action:

*a.* Any party to a contested case proceeding may petition the commissioner for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the division. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The commissioner may rule on the stay or authorize the presiding officer to do so.

*b.* Any party to a contested case proceeding may petition the commissioner for a stay or other temporary remedy pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

**3.29(2)** In determining whether to grant a stay, the presiding officer or commissioner shall consider the factors listed in Iowa Code section 17A.19(5).

**3.29(3)** Any petition for stay of division action shall be deemed denied unless the commissioner grants the application within 20 days after its filing.

**3.29(4)** A stay may be vacated by the issuing authority upon application of the commissioner or any other party.

**191—3.30(17A) No factual dispute contested cases.** If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as is practicable.

**191—3.31(17A) Emergency adjudicative proceedings.**

**3.31(1)** To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the division may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the division by emergency adjudicative order. Before issuing an emergency adjudicative order the division shall consider factors including, but not limited to, the following:

*a.* Whether there has been a sufficient factual investigation to ensure that the division is proceeding on the basis of reliable information;

*b.* Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

*c.* Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

## INSURANCE DIVISION[191](cont'd)

*d.* Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare;

*e.* Whether the specific action contemplated by the insurance division is necessary to avoid the immediate danger; and

*f.* Whether the proposed emergency adjudicative order is sufficiently limited in scope and narrowly tailored to protect the public health, safety or welfare.

**3.31(2)** An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the division's decision to take immediate action.

*a.* The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing the procedures specified in subrule 3.5(1).

*b.* If practical, the division shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

**3.31(3)** Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the division shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

**3.31(4)** After issuance of an emergency adjudicative order, the division shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

**3.31(5)** A written emergency adjudicative order shall include notification of the date on which division proceedings are scheduled for completion. After an emergency adjudicative order is issued, continuance of further division proceedings to a later date will be granted only in compelling circumstances, and upon written application.

**3.31(6)** This rule does not preclude issuance of summary cease and desist orders as authorized by Iowa Code sections 502.604, 502A.12, 523A.805, and 523D.13; Iowa Code chapters 505, 507B, 507C, 508, and 515; and rule 191—3.32(502,505).

**191—3.32(502,505,507B) Summary cease and desist orders.** When a statute authorizes action to be taken without a prior hearing, the commissioner's order shall be sent to the last-known address of the party by certified mail, return receipt requested, unless the party is a licensee, in which case the order shall be sent by restricted certified mail. The order shall include a brief statement of findings of fact, conclusions of law and policy reasons for the decision; direct the person or insurer to cease and desist from engaging in the act or practice or to take other affirmative action as is necessary, in the judgment of the commissioner, to comply with the statute; and state that the party will be afforded a contested case proceeding and a hearing if a request is filed with the commissioner at least 30 days from the date that the order is issued, unless a different time is specified by statute. The commissioner shall issue a notice of hearing no later than 30 days from the date of receipt of a timely request for a contested case proceeding and hearing. If a statute requires a hearing to be held following issuance of a summary order, the date and time of that hearing shall be set forth in the order. Summary orders shall remain effective during the pendency of proceedings.

**191—3.33(17A,502,505) Settlement.**

**3.33(1)** A party to a controversy that may culminate or has culminated in contested case proceedings may attempt settlement by complying with the procedures set forth in this subrule. No party shall be required to settle the controversy or contested case by submitting to settlement procedures.

**3.33(2)** Parties desiring settlement shall set forth in writing the various points of a proposed settlement, including findings of facts.

**3.33(3)** When signed by the parties and approved by the commissioner, a settlement shall represent final disposition of the matter.

**3.33(4)** When there is more than one party adverse to the division, a separate settlement between one party and the division is permissible.

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**3.33(5)** A proposed settlement that is not accepted or signed by the parties and the commissioner shall not be admitted as evidence in the record of a contested case proceeding. Evidence of conduct or statements made in settlement negotiations likewise are not admissible. This rule does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

These rules are intended to implement Iowa Code chapter 17A.

**ARC 7347C**

## **INSURANCE DIVISION[191]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to waivers and declaratory orders and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 4, “Agency Procedure for Rule Making, Waiver of Rules, and Declaratory Orders,” and adopt a new Chapter 4, “Waiver of Rules and Declaratory Orders,” Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

#### *Purpose and Summary*

The proposed chapter provides rules about the waiver process and declaratory orders.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

#### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)



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*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024 10 to 11 a.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa
February 15, 2024 3 to 4 p.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
WAIVER OF RULES AND DECLARATORY ORDERS

**191—4.1(17A) Applicability.** Except to the extent otherwise expressly provided by statute, all rules proposed or adopted by the division are subject to the provisions of Iowa Code chapter 17A and the provisions of this chapter.

**191—4.2(17A) Definitions.** The definitions in Iowa Code section 17A.2 are incorporated into this chapter by this reference. In addition to those definitions and the definitions in rule 191—1.1(502,505), the following definitions apply:

“*Commissioner*” means the commissioner of insurance or the commissioner’s designee. For the purposes of this chapter, “commissioner” includes both the commissioner of insurance and the administrator as defined in Iowa Code chapter 502.

“*Waiver*” means action by the division that suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

**191—4.3(17A) Severability.** If any provision of any rule adopted by the division, or if the application of any such rule to any person or circumstance, is for any reason held to be invalid, illegal or unenforceable by any court of law, the validity, legality and enforceability of the remainder of the rule and its application to other persons or circumstances shall not be affected or impaired thereby.

**191—4.4(17A) Public rulemaking docket.** The division shall maintain on the division’s website a current public rulemaking docket listing each pending rulemaking proceeding and relevant rulemaking information, including the information required by Iowa Code sections 17A.3(1) “d” and 17A.6A(2). If a rulemaking docket for all agencies is maintained on the Iowa legislature’s website, the division may utilize the legislature’s docket, in whole or in part, instead of creating a duplicative separate docket.

DIVISION I  
WAIVER OF RULES

**191—4.5(17A) Waivers.**

**4.5(1) Scope.** This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the division in situations when no other more specifically applicable law provides for waivers. This chapter shall not preclude the division from granting waivers in other contexts or on the basis of other standards if a statute or agency rule authorizes the division to do so and the division deems it appropriate to do so.

**4.5(2) Authority to grant waivers.** The division may grant a waiver from a rule only if the division has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The division may not waive the following categories of rules:

- a. Rules setting requirements that are created or duties that are imposed by statute.
- b. Rules that provide definitions or interpretations, set fees, clarify enforcement authority, deal with fraud or are the subject of prosecutorial discretion.
- c. Rules that merely define the meaning of a statute or other provision of law or precedent if the commissioner does not possess delegated authority to bind the courts to any extent with the commissioner’s definition.

**4.5(3) Criteria for order for waiver.** The division may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the division finds, based on clear and convincing evidence, all of the following:

- a. Application of the rule would impose an undue hardship on the person for whom the waiver is requested;
- b. Waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
- c. Provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and
- d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

**191—4.6(17A) Petition for waiver.** A petition for a waiver must be submitted in writing to the division as follows:

**4.6(1) Applications.** If the petition relates to an application or license, the petition must be made in accordance with the filing requirements for the application or license in question.

**4.6(2) Contested cases.** If the petition relates to a pending contested case, the petition must be filed in the contested case proceeding, using the caption of the contested case. The waiver petition shall be decided within the context of the contested case unless the presiding officer, other than the commissioner, determines that the petition should be referred directly to the commissioner.

**4.6(3) Other.** If the petition does not relate to an application or a pending contested case, the petition must be submitted to the division at the address in rule 191—1.4(502,505) or as instructed on the division’s website.

**4.6(4) Content of petition.** A petition for waiver must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BEFORE THE IOWA INSURANCE COMMISSIONER	
In the matter of: (Name of Person Requesting Waiver)	}
REQUEST FOR WAIVER OF RULE (Specify number of rule for which waiver is requested)	

**4.6(5)** The petition shall provide the following information in separate numbered paragraphs:

## INSURANCE DIVISION[191](cont'd)

1. The name, address and telephone number of the entity or person for whom a waiver is being requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the criteria described in subrule 4.5(3). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes justify a waiver.
5. A history of any prior contacts between the division and the petitioner relating to the regulated activity, application or license affected by the proposed waiver, including a description of each affected license held by the petitioner, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the prior five years and any waivers or waiver applications filed by the petitioner with the division within the prior five years.
6. Any information known to the petitioner regarding the division's treatment of similar cases.
7. The name, address and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of a waiver.
8. The name, address and telephone number of any entity or person who would be adversely affected by the granting of a waiver.
9. The name, address and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the division with information relevant to the waiver.

**4.6(6) Notice.** The division must acknowledge a petition upon receipt and ensure that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the division may give notice to other persons. To accomplish this notice provision, the division may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and to provide a written statement to the division attesting that notice has been provided.

**191—4.7(17A) Waiver hearing procedures and ruling.**

**4.7(1) Procedures.** The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case and shall otherwise apply to agency proceedings for a waiver only when the division so provides by rule or order or is required to do so by statute.

**4.7(2) Additional information.** Prior to issuing an order granting or denying a waiver, the division may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the division may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the division.

**4.7(3) Division discretion.** The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the division, upon consideration of all relevant factors. Each petition for a waiver must be evaluated by the division based on the unique, individual circumstances set out in the petition.

**4.7(4) Ruling.** An order granting or denying a waiver must be in writing and must contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

**4.7(5) Burden of persuasion.** The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the division should exercise its discretion to grant a waiver from a division rule.

**4.7(6) Narrowly tailored exception.** A waiver, if granted, must provide the narrowest exception possible to the provisions of a rule.

## INSURANCE DIVISION[191](cont'd)

**4.7(7) *Administrative deadlines.*** When the rule from which a waiver is sought establishes administrative deadlines, the division must balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

**4.7(8) *Conditions.*** The division may place any condition on a waiver that the division finds desirable to protect the public health, safety, and welfare.

**4.7(9) *Time period of waiver.*** A waiver must not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the division, a waiver may be renewed if the division finds that grounds for a waiver continue to exist.

**4.7(10) *Time for ruling.*** The division must grant or deny a petition for a waiver as soon as practicable but, in any event, must do so within 120 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the division must grant or deny the petition no later than the time at which the final decision in that contested case is issued.

**4.7(11) *When deemed denied.*** Failure of the division to grant or deny a petition within the required time period shall be deemed a denial of that petition by the division. However, the division shall remain responsible for issuing an order denying a waiver.

**4.7(12) *Service of order.*** Within seven days of its issuance, any order issued under this chapter must be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

**4.7(13) *Cancellation of a waiver.*** A waiver issued by the division pursuant to this chapter may be withdrawn, canceled, modified or revoked if, after appropriate notice and hearing, the division issues an order finding any of the following:

- a.* The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
  - b.* The alternative means for ensuring that the public health, safety and welfare will be protected after issuance of the waiver order have been demonstrated to be insufficient; or
  - c.* The subject of the waiver order has failed to comply with all conditions contained in the order;
- or
- d.* The waiver is contrary to the public health, safety and welfare in light of newly discovered evidence or changed circumstances.

**4.7(14) *Violations.*** Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

The rules in this division are intended to implement Iowa Code section 17A.9A and Executive Order Number 11 (September 14, 1999).

DIVISION II  
DECLARATORY ORDERS

**191—4.8(17A) Petition for declaratory order.**

**4.8(1)** Any person or agency may file a petition with the division for a declaratory order as to the applicability to specified circumstances of a statute, rule or order within the primary jurisdiction of the division.

**4.8(2)** The petition must be submitted to the division at the address provided in rule 191—1.4(502,505) or as instructed on the division's website.

**4.8(3)** The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BEFORE THE IOWA INSURANCE COMMISSIONER

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).



PETITION FOR DECLARATORY ORDER

4.8(4) The petition for declaratory order must provide the following information in separate numbered paragraphs:

- 1. The petitioner's name, address, and telephone number.
2. The citation to and the exact words, passages, sentences or paragraphs of the statute, rule, or order that is the subject of the petition.
3. A clear and concise statement of all relevant facts upon which the declaratory order is requested.
4. The questions the petitioner wants answered, stated clearly and concisely.
5. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
6. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
7. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
8. Any request by the petitioner for a meeting provided for by rule 191—4.14(17A).

4.8(5) The petition for declaratory order must be dated and signed by the petitioner or the petitioner's representative.

4.8(6) If applicable, the petition must also include the name, mailing address, and telephone number of the petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

4.8(7) A petition is deemed filed when it is received by the division. The division must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the division an extra copy for this purpose.

191—4.9(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the division must give notice of the petition to all persons not served by the petitioner pursuant to rule 191—4.13(17A) to whom notice is required by any provision of law. The division may also give notice to any other persons deemed appropriate.

191—4.10(17A) Intervention.

4.10(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order (after time for notice under rule 191—4.9(17A) and before 30-day time for division action under rule 191—4.15(17A)) shall be allowed to intervene in a proceeding for a declaratory order.

4.10(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the division.

4.10(3) A petition must be typewritten or legibly handwritten in ink and shall state in separately numbered paragraphs the following:

- a. Facts supporting the intervenor's standing and qualifications for intervention.
b. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
c. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
d. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.

## INSURANCE DIVISION[191](cont'd)

*e.* The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.

*f.* Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

**4.10(4)** The petition must be dated and signed by the intervenor or the intervenor's representative and include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

**191—4.11(17A) Briefs.** The petitioner or any intervenor may file a brief in support of the position urged. The division may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

**191—4.12(17A) Inquiries.** Inquiries concerning the status of a declaratory proceeding may be made to the division at the address disclosed in rule 191—1.4(502,505).

**191—4.13(17A) Service and filing of petitions and other papers.**

**4.13(1)** *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with its filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

**4.13(2)** *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the division at the address disclosed in rule 191—1.4(502,505). All petitions, briefs, or other papers required to be served upon a party shall be filed simultaneously with the division.

**4.13(3)** *Method of service, time of filing, proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by rule 191—3.12(17A).

**191—4.14(17A) Consideration.** Upon request by the petitioner, the division must schedule an informal meeting between the original petitioner, all intervenors, and the commissioner, or a member of the commissioner's staff, to discuss the questions raised.

**191—4.15(17A) Action on petition.**

**4.15(1)** Within the time allowed by Iowa Code section 17A.9(5), after receiving a petition for a declaratory order, the division shall take action on the petition as required by Iowa Code section 17A.9(5).

**4.15(2)** The date of issuance of an order is as defined in rule 191—3.2(17A).

**191—4.16(17A) Refusal to issue order.**

**4.16(1)** The division shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for any of the following reasons:

- a.* The petition does not substantially comply with the required form.
- b.* The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by failure of the division to issue an order.
- c.* The division does not have jurisdiction over the questions presented in the petition.
- d.* The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
- e.* The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
- f.* The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.

## INSURANCE DIVISION[191](cont'd)

*g.* There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

*h.* The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a division decision already made.

*i.* The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.

*j.* The petition requests the division to determine whether a statute is unconstitutional on its face.

**4.16(2)** A refusal by the division to issue a declaratory order must indicate the specific grounds for refusal and constitutes final agency action on the petition.

**4.16(3)** Refusal to issue a declaratory order pursuant to this rule does not preclude a petitioner from filing a new petition that seeks to eliminate the grounds for refusal to issue a ruling.

**191—4.17(17A) Contents of declaratory order—effective date.**

**4.17(1)** In addition to the order itself, a declaratory order must contain the date of its issuance, the name of the petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

**4.17(2)** A declaratory order is effective on the date of issuance.

**191—4.18(17A) Copies of orders.** A copy of all orders issued in response to a petition for a declaratory order must be mailed or emailed by the division promptly to the original petitioner and all intervenors.

**191—4.19(17A) Effect of a declaratory order.** A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the division, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the division. Issuance of a declaratory order constitutes final agency action on the petition.

The rules in this division are intended to implement Iowa Code section 17A.9.

**ARC 7348C**

**INSURANCE DIVISION[191]**

**Notice of Intended Action**

**Proposing rulemaking related to life insurance illustrations model regulation and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 14, “Life Insurance Illustrations Model Regulation,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 507B.12.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 507B.

*Purpose and Summary*

The proposed chapter provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations.

INSURANCE DIVISION[191](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024 10 to 11 a.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa
February 15, 2024 3 to 4 p.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make written or oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 14 and adopt the following **new** chapter in lieu thereof:

*UNFAIR TRADE PRACTICES*

## CHAPTER 14

## LIFE INSURANCE ILLUSTRATIONS MODEL REGULATION



## INSURANCE DIVISION[191](cont'd)

**191—14.1(507B) Purpose.** The purpose of this chapter is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education. These rules provide illustration formats, prescribe standards to be followed when illustrations are used, and specify the disclosures that are required in connection with illustrations. The goals of these rules are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms used in the illustration in language that would be understood by a typical person within the segment of the public to which the illustration is directed.

**191—14.2(507B) Authority.** These rules are issued based upon the authority granted the commissioner under Iowa Code section 507B.4.

**191—14.3(507B) Applicability and scope.** These rules apply to all group and individual life insurance policies and certificates except:

1. Variable life insurance;
2. Individual and group annuity contracts;
3. Credit life insurance; or
4. Life insurance policies or certificates with initial face amounts of \$10,000 or less.

**191—14.4(507B) Definitions.** For the purposes of these rules:

*“Actuarial Standards Board”* means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

*“Contract premium”* means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

*“Currently payable scale”* means a scale of nonguaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next 95 days.

*“Disciplined current scale”* means a scale of nonguaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. Further guidance in determining the disciplined current scale as contained in standards established by the Actuarial Standards Board may be relied upon if the standards:

1. Are consistent with all provisions of these rules;
2. Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;
3. Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and
4. Do not permit assumed expenses to be less than minimum assumed expenses.

*“Generic name”* means a short title descriptive of the policy being illustrated such as “whole life,” “term life” or “flexible premium adjustable life.”

*“Guaranteed elements”* and *“nonguaranteed elements.”*

1. “Guaranteed elements” means the premiums, benefits, values, credits or charges under a policy of life insurance that are guaranteed and determined at issue.
2. “Nonguaranteed elements” means the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

*“Illustrated scale”* means a scale of nonguaranteed elements currently being illustrated that is not more favorable to the policyowner than the lesser of:

1. The disciplined current scale; or
2. The currently payable scale.

*“Illustration”* means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years and that is one of the three types defined below:

1. “Basic illustration” means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and nonguaranteed elements.

## INSURANCE DIVISION[191](cont'd)

2. “Supplemental illustration” means an illustration furnished in addition to a basic illustration that meets the applicable requirements of this regulation, and that may be presented in a format differing from the basic illustration, but may only depict a scale of nonguaranteed elements that is permitted in a basic illustration.

3. “In-force illustration” means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.

“*Illustration actuary*” means an actuary meeting the requirements of rule 191—14.11(507B) who certifies illustrations based on the standard of practice promulgated by the Actuarial Standards Board.

“*Lapse-supported illustration*” means an illustration of a policy form failing the test of self-supporting as defined in these rules, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five years and 100 percent policy persistency thereafter.

“*Minimum assumed expenses*” means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

1. Fully allocated expenses;
2. Marginal expenses; and
3. A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the National Association of Insurance Commissioners.

Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.

“*Nonterm group life*” means a group policy or individual policies of life insurance issued to members of an employer group or other permitted group where:

1. Every plan of coverage was selected by the employer or other group representative;
2. Some portion of the premium is paid by the group or through payroll deduction; and
3. Group underwriting or simplified underwriting is used.

“*Policyowner*” means the owner named in the policy or the certificate holder in the case of a group policy.

“*Premium outlay*” means the amount of premium assumed to be paid by the policyowner or other premium payer out of pocket.

“*Self-supporting illustration*” means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or exceeds the total policyowner value available. For this purpose, policyowner value will include cash surrender values and any other illustrated benefits amounts available at the policyowner’s election.

#### **191—14.5(507B) Policies to be illustrated.**

**14.5(1)** Each insurer marketing policies to which these rules are applicable shall notify the commissioner whether a policy form is to be marketed with or without an illustration. For policy forms filed after February 1, 1997, the illustration identification shall be made at the time of filing.

**14.5(2)** If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited.

**14.5(3)** If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with these rules is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration given an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

## INSURANCE DIVISION[191](cont'd)

**14.5(4)** Potential enrollees of nonterm group life subject to these rules shall be given a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and nonguaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of these rules, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for nonterm group life who enroll for pure death benefit protection. In addition, the insurer shall make a basic illustration available to any nonterm group life enrollee upon request.

**191—14.6(507B) General rules and prohibitions.**

**14.6(1)** An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of these rules, be clearly labeled “life insurance illustration” and contain the following basic information:

- a. Name of insurer;
- b. Name and business address of producer or insurer’s authorized representative, if any;
- c. Name, age and sex of proposed insured, except where a composite illustration is permitted under these rules;
- d. Underwriting or rating classification upon which the illustration is based;
- e. Generic name of policy, the company product name, if different, and form number;
- f. Initial death benefit; and
- g. Dividend option election or application of nonguaranteed elements, if applicable.

**14.6(2)** When using an illustration in the sale of a life insurance policy, an insurer or its producers or other authorized representatives shall not:

- a. Represent the policy as anything other than a life insurance policy;
- b. Use or describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
- c. State or imply that the payment or amount of nonguaranteed elements is guaranteed;
- d. Use an illustration that does not comply with the requirements of these rules;
- e. Use an illustration that at any policy duration depicts policy performance more favorable to the policyowner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
- f. Provide an applicant with an incomplete illustration;
- g. Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;
- h. Use the term “vanish” or “vanishing premium” or a similar term that implies the policy becomes paid up, to describe a plan for using nonguaranteed elements to pay a portion of future premiums;
- i. Except for policies that can never develop nonforfeiture values, use an illustration that is “lapse-supported”; or
- j. Use an illustration that is not “self-supporting.”

**14.6(3)** If an interest rate used to determine the illustrated nonguaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

**191—14.7(507B) Standards for basic illustrations.**

**14.7(1) Format.** A basic illustration shall conform with the following requirements:

- a. The illustration shall be labeled with the date on which it was prepared.
- b. Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (e.g., the fourth page of a seven-page illustration shall be labeled “page 4 of 7 pages”).
- c. The assumed dates of payment receipt and benefit payout within a policy year shall be clearly identified.
- d. If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.

## INSURANCE DIVISION[191](cont'd)

*e.* The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.

*f.* Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.

*g.* If the illustration shows any nonguaranteed elements, they cannot be based on a scale more favorable to the policyowner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled nonguaranteed.

*h.* The guaranteed elements, if any, shall be shown before corresponding nonguaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the nonguaranteed elements (e.g., "see page 1 for guaranteed elements").

*i.* The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.

*j.* The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policyowner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.

*k.* Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

*l.* Any illustration of nonguaranteed elements shall be accompanied by a statement indicating that:

- (1) The benefits and values are not guaranteed;
- (2) The assumptions on which they are based are subject to change by the insurer; and
- (3) Actual results may be more or less favorable.

*m.* If the illustration shows that the premium payer may have the option to allow policy charges to be paid using nonguaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

*n.* If the applicant plans to use dividends or policy values, guaranteed or nonguaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

**14.7(2) Narrative summary.** A basic illustration shall include the following:

*a.* A brief description of the policy being illustrated, including a statement that it is a life insurance policy;

*b.* A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;

*c.* A brief description of any policy features, riders or options, guaranteed or nonguaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

*d.* Identification and a brief definition of column headings and key terms used in the illustration; and

*e.* A statement containing in substance the following: "This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

**14.7(3) Numeric summary.**

*a.* Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract

## INSURANCE DIVISION[191](cont'd)

premium. This summary shall be shown for at least policy years 5, 10 and 20 and at age 70, if applicable, on the three bases shown below. For multiple life policies, the summary shall show policy years 5, 10, 20 and 30.

- (1) Policy guarantees;
- (2) Insurer's illustrated scale;
- (3) Insurer's illustrated scale used but with the nonguaranteed elements reduced as follows:
  1. Dividends at 50 percent of the dividends contained in the illustrated scale used;
  2. Nonguaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and
  3. All nonguaranteed charges, including but not limited to term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

*b.* In addition, if coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three bases.

**14.7(4) Statements.** Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policyowner in the case of an illustration provided at time of delivery, as required in these rules.

*a.* A statement to be signed and dated by the applicant or policyowner reading as follows: "I have received a copy of this illustration and understand that elements illustrated are subject to change and could be either higher or lower. The producer has told me they are not guaranteed."

*b.* A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

**14.7(5) Tabular detail.**

*a.* A basic illustration shall include the following for at least each policy year from one to ten and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the twentieth year, for any year in which the premium outlay and contract premium, if applicable, is to change:

- (1) The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;
- (2) The corresponding guaranteed death benefit, as provided in the policy; and
- (3) The corresponding guaranteed value available upon surrender, as provided in the policy.

*b.* For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

*c.* Nonguaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any nonguaranteed elements are shown, they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a nonguaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

**191—14.8(507B) Standards for supplemental illustrations.**

**14.8(1)** A supplemental illustration may be provided so long as:

*a.* It is appended to, accompanied by or preceded by a basic illustration that complies with these rules;

*b.* The nonguaranteed elements shown are not more favorable to the policyowner than the corresponding elements based on the scale used in the basic illustration;

*c.* It contains the same statement required of a basic illustration that nonguaranteed elements are not guaranteed; and

*d.* For a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not

INSURANCE DIVISION[191](cont'd)

require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

**14.8(2)** The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.

**191—14.9(507B) Delivery of illustration and record retention.**

**14.9(1)** If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with these rules, shall be submitted to the insurer at the time of policy application. A copy shall also be provided to the applicant.

If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this rule, shall be labeled “Revised Illustration” and shall be signed and dated by the applicant or policyowner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policyowner.

**14.9(2)** If no illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policyowner.

**14.9(3)** If the basic illustration or revised illustration is sent to the applicant or policyowner by mail from the insurer, it shall include instructions for the applicant or policyowner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer’s obligation under this subrule shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

**14.9(4)** A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification either that no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force. A copy need not be retained if no policy is issued.

**191—14.10(507B) Annual report; notice to policyowners.**

**14.10(1)** In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policyowner with an annual report on the status of the policy that shall contain at least the following information:

- a.* For universal life policies, the report shall include the following:
- (1) The beginning and end date of the current report period;
  - (2) The policy value at the end of the previous report period and at the end of the current report period;
  - (3) The total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders);
  - (4) The current death benefit at the end of the current report period on each life covered by the policy;
  - (5) The net cash surrender value of the policy as of the end of the current report period;
  - (6) The amount of outstanding loans, if any, as of the end of the current report period; and either

## INSURANCE DIVISION[191](cont'd)

(7) For fixed premium policies: If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or

(8) For flexible premium policies: If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

*b.* For all other policies, where applicable:

- (1) Current death benefit;
- (2) Annual contract premium;
- (3) Current cash surrender value;
- (4) Current dividend;
- (5) Application of current dividend; and
- (6) Amount of outstanding loan.

*c.* Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

**14.10(2)** If the annual report does not include an in-force illustration, it shall contain the following notice displayed prominently: "IMPORTANT POLICYOWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling [insurer's telephone number], writing to [insurer's name] at [insurer's address] or contacting your agent. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in-force illustration.

**14.10(3)** Upon the request of the policyowner, the insurer shall furnish an in-force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of subrules 14.6(1), 14.6(2), 14.7(1) and 14.7(5). No signature or other acknowledgment of receipt of this illustration shall be required.

**14.10(4)** If an adverse change in nonguaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

**191—14.11(507B) Annual certifications.**

**14.11(1)** The board of directors of each insurer shall appoint one or more illustration actuaries.

**14.11(2)** The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of Practice for Compliance with the NAIC Model Regulation on Life Insurance Illustrations promulgated by the Actuarial Standards Board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of these rules.

**14.11(3)** The illustration actuary shall:

- a.* Be a member in good standing of the American Academy of Actuaries;
- b.* Be familiar with the standard of practice regarding life insurance policy illustrations;
- c.* Not have been found by the commissioner, following appropriate notice and hearing, to have:
  - (1) Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of dealings as an illustration actuary;
  - (2) Been found guilty of fraudulent or dishonest practices;
  - (3) Demonstrated incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or
  - (4) Resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

## INSURANCE DIVISION[191](cont'd)

*d.* Not fail to notify the commissioner of any action taken by a commissioner of another state similar to that under paragraph 14.11(3)“*c*”;

*e.* Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in-force policies, this must be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in-force policies are not consistent with the nonguaranteed elements actually being paid, charged or credited to the same or similar forms, this must be disclosed in the annual certification; and

*f.* Disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

- (1) Fully allocated expenses;
- (2) Marginal expenses; or
- (3) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the National Association of Insurance Commissioners.

**14.11(4)** The illustration actuary shall file a certification with the board and with the commissioner:

- a.* Annually for all policy forms for which illustrations are used; and
- b.* Before a new policy form is illustrated.

If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the commissioner promptly.

**14.11(5)** If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the commissioner promptly of the actuary’s inability to certify.

**14.11(6)** A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

- a.* That the illustration formats meet the requirements of these rules and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and
- b.* That the company has provided its agents with information about the expense allocation method used by the company in its illustrations and disclosed as required in paragraph 14.11(3)“*f*.”

**14.11(7)** The annual certifications shall be provided to the commissioner each year by a date determined by the insurer.

**14.11(8)** If an insurer changes the illustration actuary responsible for all or a portion of the company’s policy forms, the insurer shall notify the commissioner of that fact promptly and disclose the reason for the change.

**191—14.12(507B) Penalties.** In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of these rules shall be found to have committed a violation of Iowa Code section 507B.4.

**191—14.13(507B) Severability.** If any provision of these rules or their application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the rules and their application to other persons or circumstances shall not be affected.

**191—14.14(507B) Effective date.** These rules are effective as of [effective date of the rulemaking] and apply to policies sold on or after February 1, 1997

These rules are intended to implement Iowa Code chapter 507B.



**ARC 7349C****INSURANCE DIVISION[191]****Notice of Intended Action****Proposing rulemaking related to unfair trade practices  
and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 15, “Unfair Trade Practices,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 507B.12.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 507B.

*Purpose and Summary*

The proposed chapter establishes certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance as prohibited by Iowa Code chapter 507B.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## INSURANCE DIVISION[191](cont'd)

February 15, 2024  
10 to 11 a.m.

1963 Bell Avenue, Suite 100  
Des Moines, Iowa

February 15, 2024  
3 to 4 p.m.

1963 Bell Avenue, Suite 100  
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15  
UNFAIR TRADE PRACTICES

DIVISION I  
SALES PRACTICES

**191—15.1(507B) Purpose.** This chapter is intended to establish certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as prohibited by Iowa Code chapter 507B.

**191—15.2(507B) Definitions.**

“*Advertisement*” for the purpose of these rules means material designed to create public interest in insurance or an insurer, or to induce the public to purchase, increase, modify, reinstate or retain a policy including:

1. Printed and published material, audio and visual material, and descriptive literature of an insurer or producer used in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards, computer online networks and similar displays and descriptive literature and sales aids of all kinds issued by an insurer or producer for presentation to members of the public.

2. However, for the purpose of these rules “advertisement” shall not include: communications or materials used within an insurer’s own organization and not intended for dissemination to the public; communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, or retain a policy; and a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged, provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

“*Aftermarket crash parts*” means replacement parts as defined in Iowa Code section 537B.4.

“*Certificate*” means a statement of the coverage and provisions of a policy of group accident and sickness insurance that has been delivered or issued for delivery in this state and includes riders, endorsements and enrollment forms, if attached.

“*Duplicate Medicare supplement insurance*” means the sale or the attempt to knowingly sell to an individual a policy of insurance designed to supplement Medicare benefits as provided in Title XVIII,

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Health Insurance for the Aged and Disabled, of the Social Security Amendments of 1965 as then constituted or later amended, when the individual is already insured under such a policy.

*“Duplication”* means policies of the same coverage type according to minimum standards classifications outlined in rule 191—36.6(514D) that overlap to the extent that a reasonable individual would not consider the ownership of the policies to be beneficial.

*“Exception”* for the purpose of these rules shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

*“Illustrated scale”* means a scale of nonguaranteed elements currently being illustrated that is not more favorable to the policyholder than the lesser of the disciplined current scale or the currently payable scale as defined in rule 191—14.4(507B).

*“Institutional advertisement”* means an advertisement having as its sole purpose the promotion of the reader’s, viewer’s or listener’s interest in the concept of accident and sickness insurance, or the promotion of the insurer as a seller of accident and sickness insurance.

*“Insurer”* means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s, fraternal benefit society, and any other legal entity engaged in the business of insurance.

*“Invitation to contract”* means an advertisement for accident and sickness insurance that is neither an invitation to inquire nor an institutional advertisement.

*“Invitation to inquire”* means an advertisement having as its objective the creation of a desire to inquire further about accident and sickness insurance and that is limited to a brief description of the loss for which benefits are payable. An invitation to inquire must not refer to cost but may contain the dollar amount of benefits payable and the period of time during which benefits are payable.

*“Limitation”* for the purpose of these rules means any provision that restricts coverage under the policy other than an exception or a reduction.

*“Limited benefit health coverage”* means the same as defined in 191—subrule 36.6(10).

*“Person”* means any individual, corporation, association, partnership, reciprocal exchange, interinsurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including insurance producers and adjusters. “Person” also means any corporation operating under the provisions of Iowa Code chapter 514 and any benevolent association as defined and operated under Iowa Code chapter 512A. For purposes of this chapter, corporations operating under the provisions of Iowa Code chapters 514 and 512A shall be deemed to be engaged in the business of insurance.

*“Policy”* includes any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for insurance benefits.

*“Preneed funeral contract or prearrangement”* means an agreement by or for an individual before the individual’s death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

*“Producer”* means a person who solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance for risks residing, located or to be performed in this state.

*“Prominently”* or *“conspicuously”* means that the information to be disclosed will be presented in a manner that is noticeably set apart from other information or images in the advertisement.

*“Reduction”* for the purpose of these rules means any provision that reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used.

*“Twisting”* means any action by a producer or insurer to induce or attempt to induce any individual to lapse, forfeit, surrender, terminate, retain, assign, borrow, or convert a policy or an annuity in order that such individual procure another policy or annuity, when such action would operate to the overall detriment of the interests of the individual.

### **191—15.3(507B) Advertising.**

**15.3(1) Form and content of advertisements.** The format and content of an advertisement shall be truthful and sufficiently complete and clear to avoid deception or the capacity or tendency to misrepresent or deceive. Whether an advertisement has a capacity or tendency to misrepresent or deceive shall be determined by the overall impression that the advertisement may be reasonably expected to create upon

## INSURANCE DIVISION[191](cont'd)

an individual in the segment of the public to which it is primarily directed and who has average education, intelligence and familiarity with insurance terminology for products in that market.

Information regarding exceptions, limitations, reductions and other restrictions required to be disclosed by this rule shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading.

**15.3(2) Prohibited terms and disclosure requirements for health insurance.**

a. No advertisement shall contain or use words or phrases such as “all”; “full”; “complete”; “comprehensive”; “unlimited”; “up to”; “as high as”; “this policy will help fill some of the gaps that Medicare and your present insurance leave out”; “this policy will help to replace your income” (when used to express loss of time benefits); or similar words and phrases in a manner that exaggerates any benefits beyond the terms of the policy.

b. No advertisement shall contain descriptions of a policy limitation, exception, or reduction, worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a “benefit builder” or stating “even preexisting conditions are covered after two years.” Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered.

c. No advertisement of a benefit for which payment is conditional upon confinement in a hospital or similar facility shall use words or phrases such as “tax free,” “extra cash” and substantially similar phrases that have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable an individual to make a profit from being hospitalized.

d. No advertisement shall use the words “only”; “just”; “merely”; “minimum” or similar words or phrases to describe the applicability of any exceptions and reductions, such as: “This policy is subject to the following minimum exceptions and reductions.”

e. An advertisement that refers to either a dollar amount, or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit, or the loss for which such benefit is payable, shall also disclose those exceptions, reductions, and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity or tendency to mislead or deceive.

f. An advertisement may contain a brief description of coverage in an invitation to inquire so long as it is limited to a brief description of the loss for which benefits are payable. The brief description may not refer to the cost of the policy.

g. An advertisement for a policy that contains a waiting, elimination, probationary, or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss shall prominently disclose the existence of such periods.

h. An invitation to inquire shall contain a provision in the following or substantially similar form: “This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance agent or the company [whichever is applicable].”

**15.3(3) Prohibited terms in life insurance and annuity policies.** No advertisement for a life insurance or annuity policy shall use the terms “investment,” “investment plan,” “founder’s plan,” “charter plan,” “expansion plan,” “profit,” “profits,” “profit sharing,” “interest plan,” “savings,” “savings plan,” “retirement plan,” or other similar term that has the capacity or tendency to mislead an insured or prospective insured to believe that the insurer is offering something other than an insurance policy or some benefit not available to other individuals of the same class and equal expectation of life. An advertisement shall not state that there are “no more premiums” or that premiums will “vanish” or “disappear” or use similar terms when such statement is not based on the guaranteed rates.

**15.3(4) Exclusions, limitations, exceptions and reductions.** Words and phrases used in an advertisement to describe policy exclusions, limitations, exceptions and reductions shall clearly, prominently and accurately indicate the negative or limited nature of the exclusions, limitations, exceptions and reductions.

An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or other policies providing benefits that are limited in nature shall clearly and conspicuously in prominent

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type state the limited nature of the policy. The statement shall be worded in language identical to or substantially similar to the following: "THIS IS A LIMITED POLICY," "THIS POLICY PROVIDES LIMITED BENEFITS," or "THIS IS A CANCER-ONLY POLICY."

**15.3(5) Use of statistics.** An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in an advertisement shall be identified therein.

**15.3(6) Introductory, initial or special offers.**

*a.* An advertisement shall not directly or by implication represent that a policy is an introductory, initial or special offer, or that a person will receive advantages not available at a later date, or that the offer is available only to a specified group of persons, unless such is the fact.

*b.* An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal premium must be stated in each portion of the advertisement where the initial reduced premium appears. This paragraph shall not apply to annual renewable term policies.

**15.3(7) Testimonials or endorsements by third parties.**

*a.* Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to these rules.

*b.* If the person making a testimonial or an endorsement has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise, such fact shall be disclosed in the advertisement. If a person is compensated for making a testimonial or endorsement, such fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." The payment of substantial amounts, directly or indirectly, for "travel and entertainment" for filming or recording of TV or radio advertisements constitutes compensation and requires disclosure.

*c.* An advertisement that states or implies that an insurer or an insurance product has been approved or endorsed by any person or other organizations must also disclose any proprietary or other relationship between the parties.

**15.3(8) Disparaging and incomplete comparisons and statements.** An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of noncomparable policies of other insurers, and shall not disparage other insurers, their policies, services or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance. An advertisement shall not contain statements that are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of an insurer in the insurance business.

**15.3(9) Identity of insurer.**

*a.* The name of the actual insurer shall be clearly identified in all advertisements for a particular policy. An advertisement shall not use a trade name, insurance group designation, name of a parent company, name of a particular company division, service mark, slogan, symbol or other device that would have the capacity and tendency to misrepresent the true identity of an insurer.

*b.* No advertisement shall use any combination of words, symbols, or physical materials that by its content, phraseology, shape, color or other characteristics is so similar to combinations of words, symbols, or physical materials used by a municipal, state or federal agency that it would lead a reasonable individual to believe that the advertisement is approved, endorsed or accredited by an agency of the municipal, state, or federal government.

**15.3(10) Disclosure requirements for life insurance and annuities.**

*a.* An advertisement for a policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed.

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b. An advertisement for a policy with nonlevel premiums shall prominently describe the premium changes.

c. Dividends.

(1) An advertisement shall not state or imply that the payment or amount of dividends is guaranteed. If dividends for an annuity are illustrated, the illustration must be based on the insurer's illustrated scale and must contain a statement that the illustration is not to be construed as a guarantee or estimate of dividends to be paid in the future.

(2) An advertisement shall not state or imply that the illustrated scale under a participating policy or pure endowments will be or can be sufficient at any future time to ensure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains (1) what benefits or coverage would be provided at such time and (2) under what conditions this would occur.

d. An advertisement of a deferred annuity shall not state the net premium accumulation interest rate unless it discloses in close proximity thereto and with equal prominence the actual relationship between the gross and net premiums.

e. An advertisement that states the projected values of a policy must use the guaranteed interest rates in determining such projected values and, in addition, may show other projected values based on interest rates that comply with the illustrated scale. Any statements containing or based upon an interest rate higher than the guaranteed accumulation interest rates shall likewise set forth with equal prominence comparable statements containing or based upon the guaranteed accumulation interest rates. If the policy does not contain a provision for a guaranteed interest rate, any advertisement showing projected values must clearly state that the rates are not guaranteed. This subrule does not apply to an illustration or supplemental illustration subject to the provisions of the Life Insurance Illustrations Model Regulation, 191—Chapter 14.

f. An advertisement or presentation that does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such advertisement may be used for the purpose of demonstrating the cash flow pattern of a policy if such advertisement is accompanied by a statement disclosing that the advertisement does not recognize that, because of interest, a dollar in the future may not have the same value as a dollar at the time of the presentation.

g. An advertisement of benefits shall not display guaranteed and nonguaranteed benefits as a single sum unless they are also shown separately in close proximity thereto.

h. A statement regarding the use of life insurance cost indexes shall include an explanation that the indexes are useful only for the comparison of the relative costs of two or more similar policies.

i. A life insurance cost index that reflects dividends or an equivalent level annual dividend shall be accompanied by a statement that it is based on the insurer's illustrated scale and is not guaranteed.

**15.3(11) *Special offers.*** Advertisements, applications, requests for additional information and similar materials are prohibited if they state or imply that the recipient has been individually selected to be offered insurance or has had the recipient's eligibility for the insurance individually determined in advance when the advertisement is directed to all individuals in a group or to all individuals whose names appear on a mailing list.

**15.3(12) *Disclosure requirement.*** In an advertisement that is an invitation to contract for an accident and sickness insurance policy that is guaranteed renewable, cancelable or renewable at the option of the company, the advertisement shall disclose that the insurer has the right to increase premium rates if the policy so provides.

**15.3(13) *Group or quasi-group implications.***

a. An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and, as members, enjoy special rates or underwriting privileges, unless that is the fact.

b. This rule prohibits the solicitation of a particular class, such as governmental employees, by use of advertisements that state or imply that their class membership entitles the member to reduced rates

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on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.

*c.* Advertisements that indicate that a particular coverage or policy is exclusively for “preferred risks” or a particular segment of the population or that a particular segment of the population is an acceptable risk, when the distinctions are not maintained in the issuance of policies, are prohibited.

*d.* An advertisement to join an association, trust or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both membership in the association, trust or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application that requires a separate signature. The separate and distinct application required need not be on a separate document or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that the prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly, the use of terms such as “enroll” or “join” to imply group or blanket insurance coverage is prohibited when that is not the fact.

*e.* Advertisements for group or franchise group plans that provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless that is the fact.

**15.3(14)** *Compliance with Medicare supplement advertising rules.* Insurers and producers shall comply with the Medicare supplement advertising rules set forth in 191—Chapter 37.

**191—15.4(507B) Life insurance cost and benefit disclosure requirements.**

**15.4(1)** The definition of terms applicable to this rule and its appendices will be found in Appendix I.

**15.4(2)** Except as hereafter exempted, this rule shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. This rule shall apply to any insurer issuing life insurance contracts including fraternal benefit societies.

Unless otherwise specifically included, this rule shall not apply to:

- a.* Annuities.
- b.* Credit life insurance.
- c.* Group life insurance, except for disclosures relating to preneed funeral contracts or prearrangements as provided herein. These disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy.
- d.* Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).
- e.* Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

**15.4(3)** Prior to or at delivery of a life insurance policy, an insurer or producer shall provide the prospective purchaser the following:

- a.* A life insurance buyer’s guide in the current form prescribed by the National Association of Insurance Commissioners or language approved by the commissioner of insurance, and
- b.* A policy summary as defined in Appendix I.

**15.4(4)** A policy summary is not required to include information available in the policy form or illustration. If an illustration subject to the provisions of 191—Chapter 14, Life Insurance Illustrations Model Regulation, is used in the sale of a policy, delivery of a policy summary is not required. A policy summary may not include any element that is not guaranteed.

**191—15.5(507B) Health insurance sales to individuals 65 years of age or older.** The sale of duplicate Medicare supplement insurance is prohibited.

**191—15.6** Reserved.

**191—15.7(507B) Twisting prohibited.** No insurer or producer shall engage in the act of twisting.

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**191—15.8(507B) Producer responsibilities.**

**15.8(1) Required disclosures.** A producer shall inform the prospective purchaser, prior to commencing an insurance sales presentation, that the producer is acting as an insurance producer and inform the prospective purchaser of the producer's full name and the full name of the insurance company which the producer will represent in the insurance sales presentation. In sales situations in which a producer is not involved, the insurer shall identify its full name to a prospective purchaser.

**15.8(2) Improper sales tactics.**

*a.* Producers and insurers shall not employ any method of marketing or tactic which uses undue pressure, force, fright, threat, whether explicit or implied, to solicit the purchase of insurance.

*b.* A producer shall not:

(1) Execute a transaction for an insurance customer without authorization by the customer to do so; or

(2) Commit any act which shows that the producer has exerted undue influence over a person.

*c.* Producers and insurers shall not, without good cause:

(1) Fail or refuse to furnish any individual, upon reasonable request, information to which that individual is entitled, or to respond to a formal written request or complaint from any individual.

(2) Sell an insurance policy or rider to an individual which is a duplication of a policy or rider which the individual owns or for which the individual has applied at the time of the sale.

**15.8(3) Prohibited designations and fees.**

*a.* When an insurance producer is engaged only in the sale of insurance policies or annuities, the insurance producer shall not hold the producer out, directly or indirectly, to the public as a "financial planner," "investment adviser," "consultant," "financial counselor," or any other specialist solely engaged in the business of financial planning or giving advice relating to investments, insurance, real estate, tax matters or trust and estate matters. This provision does not preclude insurance producers who hold some form of formal recognized financial planning or consultant certification or designation from using this certification or designation when they are only selling insurance.

*b.* An insurance producer shall not engage in the business of financial planning without disclosing to the client prior to the execution of the agreement required by paragraph "c" or to the solicitation of the sale of a product or service that the producer is also an insurance producer and that a commission for the sale of an insurance product will be received in addition to a fee for financial planning, if such is the case. The disclosure requirement under this paragraph may be met by including the disclosure in any disclosure required by federal or state securities law.

*c.* An insurance producer shall not charge fees other than commissions unless such fees are based upon a written agreement signed by the client in advance of the performance of the services under the agreement. A copy of the agreement must be provided to the client at the time the agreement is signed by the client. The agreement must specifically state:

(1) The service for which the fee is to be charged;

(2) The amount of the fee to be charged or how it will be determined or calculated; and

(3) That the client is under no obligation to purchase any insurance product through the insurance producer or consultant.

The insurance producer shall retain a copy of the agreement for not less than three years after completion of services, and a copy shall be available to the commissioner upon request.

*d.* Producers shall not charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies. This prohibition shall not apply to assigned risk policies and commercial property and casualty policies. Any additional fee that a producer intends to charge for assigned risk policies and commercial property and casualty policies must be fully disclosed to the insured.

*e.* Producers shall comply with rule 191—10.19(522B) in using senior-specific certifications and professional designations in the sale of life insurance and annuities.

**15.8(4) Suitability.** A producer shall not recommend to any person the purchase, sale or exchange of any life insurance policy, or any rider, endorsement or amendment thereto, without reasonable grounds to believe that the transaction or recommendation is not unsuitable for the person based upon reasonable



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inquiry concerning the person's insurance objectives, financial situation and needs, age and other relevant information known by the producer. For purposes of this subrule, when a producer recommends a group life insurance policy, "person" shall refer to the intended group policyowner.

**15.8(5) Prohibited acts.**

a. For purposes of this subrule:

"*Gift*" means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received.

"*Immediate family*" shall include parent, mother-in-law, father-in-law, spouse, former spouse, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, child and stepchild. In addition, "immediate family" shall include any other person who is supported, directly or indirectly, to a material extent by a producer.

"*Loan*" means an agreement to advance property, including but not limited to money, in return for the promise that payment will be made for use of the property.

b. A producer shall not:

(1) Solicit or accept, directly or indirectly, at any time, a personal loan from an insurance customer that in the aggregate exceeds \$250, unless the customer is:

1. A bank, savings and loan, credit union or other recognized lending entity; or
2. A member of the producer's immediate family.

(2) Solicit or accept, directly or indirectly, at any time, a gift to the producer or to a member of the producer's immediate family from an insurance customer that in the aggregate exceeds \$250, unless the customer is a member of the producer's immediate family. A gift to a member of the producer's immediate family shall be included in calculating the aggregate amount. A gift received by a member of the producer's immediate family from a customer that is not a member of the producer's immediate family in excess of the aggregate amount shall be deemed a violation of this subrule by the producer.

(3) Solicit or accept being named as a beneficiary, executor or trustee in a will, trust, insurance policy or annuity of a customer, unless the customer is a member of the producer's immediate family.

(4) Evade or otherwise violate the spirit of this subrule by terminating a producer relationship with an insurance customer for the purpose of soliciting or accepting a loan or a gift, or for the purpose of being named as a beneficiary, executor or trustee in a will, trust, insurance policy or annuity that the producer otherwise would have been prohibited from soliciting or accepting by this subrule. A producer will not be in violation of this subrule if the producer has made a bona fide termination of the producer relationship with the insurance customer and has conducted no insurance or other business with the insurance customer for a period of three years.

c. Transactions which involve nominal interim ownership immediately precedent to transfer of ownership into a trust are exempt from this subrule.

**191—15.9(507B) Right to return a life insurance policy or annuity (free look).** The owner of an individual policy has the right, within ten days after receipt of a life insurance policy or annuity, to a free-look period. During this period, the policyowner may return the life insurance policy or annuity to the insurer at its home office, branch office, or to the producer through whom it was purchased. If so returned, the premium paid will be promptly refunded, the policy or annuity voided and the parties returned to the same position as if a policy or annuity had not been issued. If the transaction involved a replacement, the length of the free-look period will be determined according to 191—Chapter 16.

If the transaction involved a variable product, the amount to be refunded shall be determined according to the policy language. The calculations must comply with the relevant rule in either 191—Chapter 16, Replacement of Life Insurance and Annuities, or 191—Chapter 33, Variable Life Insurance Model Regulation.

**191—15.10(507B) Uninsured/underinsured automobile coverage—notice required.**

**15.10(1) Contents of notice.** Automobile insurance policies delivered in this state shall include a notice which contains and is limited to the following language:

NOTICE REGARDING UNINSURED/UNDERINSURED COVERAGE

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Uninsured/underinsured coverage does not cover damage done to your vehicle. It provides benefits only for bodily injury caused by an uninsured or underinsured motorist. If you wish to be insured for damage done to your vehicle, you must have collision coverage. Please check your policy to make sure you have the coverage desired.

**15.10(2) Form of notice.** Notice may be provided on a separate form or may be stamped on the declaration page of the policy. The notice shall be provided in conjunction with all new policies issued. Notice may be provided at the time of application but shall in no case be provided later than the time of delivery of the new policy. Insurers may inform applicants that the notice in this rule is required by the insurance division.

**191—15.11(507B) Unfair discrimination.****15.11(1) Sex discrimination.**

*a.* A contract shall not be denied to an individual based solely on that individual's sex or marital status. No benefits, terms, conditions or type of coverage shall be restricted, modified, excluded, or reduced on the basis of the sex or marital status of the insured or prospective insured except to the extent permitted under the Iowa Code or Iowa Administrative Code. An insurer may consider marital status for the purpose of defining individuals eligible for dependents' benefits. This subrule does not apply to group life insurance policies or group annuity contracts issued in connection with pension and welfare plans which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).

*b.* Specific examples of practices prohibited by this subrule include, but are not limited to, the following:

(1) Denying coverage to individuals of one sex employed at home, employed part-time or employed by relatives when coverage is offered to individuals of the opposite sex similarly employed.

(2) Denying policy riders to persons of one sex when the riders are available to persons of the opposite sex.

(3) Denying a policy under which maternity coverage is available to an unmarried female when that same policy is available to a married female.

(4) Denying, under group contracts, dependent coverage to spouses of employees of one sex, when dependent coverage is available to spouses of employees of the opposite sex.

(5) Denying disability income coverage to employed members of one sex when coverage is offered to members of the opposite sex similarly employed.

(6) Treating complications of pregnancy differently from any other illness or sickness under the contract.

(7) Restricting, reducing, modifying, or excluding benefits relating to coverage involving the genital organs of only one sex.

(8) Offering lower maximum monthly benefits to members of one sex than to members of the opposite sex who are in the same underwriting and occupational classification under a disability income contract.

(9) Offering more restrictive benefit periods and more restrictive definitions of disability to members of one sex than to members of the opposite sex in the same underwriting and occupational classifications under a disability income contract.

(10) Establishing different contract conditions based on gender which limit the benefit options a policyholder may exercise.

(11) Limiting the amount of coverage due to an insured's or prospective insured's marital status unless such limitation applies only to coverage for dependents and is uniformly applied to males and females.

*c.* When rates are differentiated on the basis of sex, an insurer must, upon the request of the commissioner of insurance, justify the rate differential in writing to the satisfaction of the commissioner. All rates shall be based on sound actuarial principles or a valid classification system and actual experience statistics, if available.

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*d.* This subrule shall not affect the right of fraternal benefit societies to determine eligibility requirements for membership. If a fraternal benefit society does, however, admit members of both sexes, this subrule is applicable to the insurance benefits available to its members.

**15.11(2) *Physical or mental impairment.*** No contract, benefits, terms, conditions or type of coverage shall be denied, restricted, modified, excluded or reduced solely on the basis of physical or mental impairment of the insured or prospective insured except where based on sound actuarial principles or related to actual or reasonably anticipated experience. For purposes of this subrule, both blindness and partial blindness shall be considered a physical impairment.

**15.11(3) *Income discrimination.*** An insurer shall not refuse to issue, limit the amount or apply different rates to individuals of the same class in the sale of individual life insurance based solely upon the prospective insured's legal source or level of income, unless such action is based on sound actuarial principles or is related to actual or reasonably anticipated experience. The portion of this subrule pertaining to level of income does not:

*a.* Apply to the sale of disability income insurance of any kind or of any insurance designed to protect against economic loss due to a disruption in the regular flow of an individual's earned income;

*b.* Prohibit the sale of any insurance or annuity which is made available only to employees;

*c.* Prohibit basing the amount of insurance sold to an employee on a multiple or a percentage of the employee's salary or prohibit limiting availability to employees who have achieved a certain employment status as defined by the employer;

*d.* Prohibit insurers from providing life or health insurance as an incidental benefit through a qualified pension plan;

*e.* Prohibit insurers from applying suitability standards which include income as a factor in the sale of any life insurance or annuity products;

*f.* Prohibit insurers from establishing maximum or minimum amounts of insurance that will be issued to individuals so long as this is pursuant to a preexisting specialized marketing strategy which the insurer can demonstrate is related to the financial capacity of the insurer to write business or to bona fide transaction costs.

**15.11(4) *Domestic abuse.*** A contract shall not be denied to an individual based solely on the fact that such individual has been or is believed to have been a victim of domestic abuse as defined in Iowa Code section 236.2.

**15.11(5) *Genetic information.*** Any action by an insurer that is not in compliance with Title I of the Genetic Information Nondiscrimination Act of 2008 (Public Law 110-233, 122 Stat. 881) shall be considered an unfair trade practice and shall be subject to the penalties of Iowa Code chapter 507B and of these rules.

**15.11(6) *Discrimination relating to children under the age of 19.*** It is an unfair trade practice to:

*a.* Encourage individuals or groups to refrain from filing an application with an insurer for coverage for a child under the age of 19 because of the child's health status, claims experience, industry, occupation, or geographic location;

*b.* Encourage or direct children under the age of 19 to seek coverage from another insurer because of the child's health status, claims experience, industry, occupation, or geographic location; and

*c.* Encourage an employer to exclude an employee from coverage.

**191—15.12(507B) Testing restrictions of insurance applications for the human immunodeficiency virus.**

**15.12(1) *Written release.*** No insurer shall obtain a test of any individual in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the individual to be tested provides a written release on a form which contains the following information:

*a.* A statement of the purpose, content, use, and meaning of the test.

*b.* A statement regarding disclosure of the test results including information explaining the effect of releasing the information to an insurer.

*c.* A statement of the purpose for which test results may be used.

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**15.12(2) Form.** A preapproved form is provided in Appendix II. An insurer wishing to utilize a form which deviates from the language in the appendix to these rules shall submit the form to the insurance division for approval. Any form containing, but not limited to, the language in the appendix shall be deemed approved.

**15.12(3) Test results.** A person engaged in the business of insurance who receives results of a positive human immunodeficiency virus (HIV) test in connection with an application for insurance shall report those results to a physician or alternative testing site of the applicant's or policyholder's choice or, if the applicant or policyholder does not choose a physician or alternative testing site to receive the results, to the Iowa department of health and human services.

**191—15.13(507B) Records maintenance.****15.13(1) Complaint and business records.**

*a.* An insurer shall maintain its books, records, documents and other business records in such an order that data regarding complaints, claims, rating, underwriting and marketing are accessible and retrievable for examination by the insurance commissioner.

*b.* An insurer shall maintain a complete record of all the complaints received since the date of its last examination by the insurer's state of domicile or port-of-entry state. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. Appendix III sets forth the minimum information required to be contained in the complaint record.

**15.13(2) Insurer's control over advertisements.** Every insurer shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements which explain a particular policy. All such advertisements, whether written, created, designed or presented by the insurer or its appointed producer, shall be the responsibility of the insurer whose particular policies are so advertised. As part of this requirement, each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement of its policies, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by the insurance division. All such advertisements shall be maintained for a period of either four years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.

**15.13(3) Education and training materials.** Every insurer shall establish and maintain a system of control over the content and form of all material used by the insurer or any of its employees for the recruitment, training, and education of producers in the sale of insurance. Upon request, copies of these materials shall be made available to the commissioner.

**191—15.14(505,507B) Enforcement section—cease and desist and penalty orders.**

**15.14(1)** If, after hearing, the commissioner determines that a person has engaged in an unfair trade practice in violation of these rules, an unfair method of competition, or an unfair or deceptive act or practice in violation of Iowa Code chapter 507B, the commissioner shall reduce the findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings and an order requiring the person to cease and desist from engaging in such method of competition, act or practice. The commissioner also may order one or more of the following:

*a.* Payment of a civil penalty of not more than \$1,000 for each act or violation, but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known that the actions were in violation of these rules or of Iowa Code chapter 507B, in which case the penalty shall be not more than \$5,000 for each act or violation, but not to exceed an aggregate penalty of \$50,000 in any one six-month period. If the commissioner finds that a violation of these rules or of Iowa Code chapter 507B was directed, encouraged, condoned, ignored, or ratified by the employer of the person or by an insurer, the commissioner shall also assess a fine to the employer or insurer;

*b.* Suspension or revocation of an insurer's certificate of authority or the producer's license if the insurer or producer knew or reasonably should have known that it was in violation of these rules or of Iowa Code chapter 507B;

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- c. Payment of interest at the rate of 10 percent per annum if the commissioner finds that the insurer failed to pay interest as required under Iowa Code section 507B.4(3) "p";
- d. Full disclosure by the insurer of all terms and conditions of the policy to the policyowner;
- e. Payment of the costs of the investigation and administrative expenses related to any act or violation. The commissioner may retain funds collected pursuant to any settlement, enforcement action, or other legal action authorized under federal or state law for the purpose of reimbursing costs and expenses of the division.

**15.14(2)** Any person who violates a cease and desist order of the commissioner while such order is in effect may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to one or both of the following:

- a. A civil penalty of not more than \$10,000 for each and every act or violation.
- b. Suspension or revocation of such person's license.

**191—15.15 to 15.30** Reserved.

DIVISION II  
CLAIMS

**191—15.31(507B) General claims settlement guidelines.** No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage that contains language purporting to release the insurer or its insured from total liability.

**191—15.32(507B) Prompt payment of certain health claims.** Effective July 1, 2002, the following provisions apply:

**15.32(1) Definitions and scope.**

- a. For purposes of this rule, the following definitions apply:

*"Circumstance requiring special treatment"* means:

1. A claim that an insurer has a reasonable basis to suspect may be fraudulent or that fraud or a material misrepresentation may have occurred under the benefit certificate or policy or in obtaining such certificate or policy; or
2. A matter beyond the insurer's control, such as an act of God, insurrection, strike or other similar labor dispute, fire or power outage or, for a group-sponsored health plan, the failure of the sponsoring group to pay premiums to the insurer in a timely manner; or
3. Similar unique or special circumstances which would reasonably prevent an insurer from paying an otherwise clean claim within 30 days.

*"Clean claim"* means clean claim as defined in Iowa Code section 507B.4A.

*"Coordination of benefits for third-party liability"* means a claim for benefits by a covered individual who has coverage under more than one health benefit plan.

*"Insurer"* means insurer as defined in Iowa Code section 507B.4.

*"Properly completed billing instrument"* means:

1. In the case of a health care provider that is not a health care professional:
  - The Health Care Finance Administration (HCFA) Form 1450, also known as Form UB-92, or similar form adopted by its successor Centers for Medicare/Medicaid Services (CMS) as adopted by the National Uniform Billing Committee (NUBC) with data element usage prescribed in the UB-92 National Uniform Billing Data Elements Specification Manual; or
  - The electronic format for institutional claims adopted as a standard by the Secretary of Health and Human Services pursuant to Section 1173 of the Social Security Act; or
2. In the case of a health care provider that is a health care professional:
  - The HCFA Form 1500 paper form or its successor as adopted by the National Uniform Claim Committee (NUCC) and further defined by the NUCC in its implementation guide; or
  - The electronic format for professional claims adopted as a standard by the Secretary of Health and Human Services pursuant to Section 1173 of the Social Security Act; and

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3. Any other information reasonably necessary for an insurer to process a claim for benefits under the benefit certificate or policy with the insured contract.

*b.* Scope. This subrule applies to claims submitted to an insurer as defined above on or after July 1, 2002, and is limited to policies issued, issued for delivery, or renewed in this state.

**15.32(2) *Insurer duty to promptly pay claims and pay interest.***

*a.* Insurers subject to this subrule shall either accept and pay or deny a clean claim for health care benefits under a benefit certificate or policy issued by the insurer within 30 days after the insurer's receipt of such claim. A clean claim is considered to be paid on the date upon which a check, draft, or other valid negotiable instrument is written. Insurers shall implement procedures to ensure that these payments are promptly delivered.

*b.* Insurers or entities that administer or process claims on behalf of an insurer who fail to pay a clean claim within 30 days after the insurer's receipt of a properly completed billing instrument shall pay interest. Interest shall accrue at the rate of 10 percent per annum commencing on the thirty-first day after the insurer's receipt of all information necessary to establish a clean claim. Interest will be paid to the claimant or provider based upon who is entitled to the benefit payment.

*c.* Insurers shall have 30 days from the receipt of a claim to request additional information to establish a clean claim. An insurer shall provide a written or electronic notice to the claimant or health care provider if additional information is needed to establish a clean claim. The notice shall include a full explanation of the information necessary to establish a clean claim.

*d.* Effective January 1, 2003, when a claim involves coordination of benefits, an insurer is required to comply with the requirements of this subrule when that insurer's liability has been determined.

**15.32(3) *Certain insurance products exempt.*** Claims paid under the following insurance products are exempt from the provisions of this subrule: liability insurance, workers' compensation or similar insurance, automobile or homeowners insurance, medical payment insurance or disability income insurance.

This rule is intended to implement Iowa Code sections 507B.4A, 514G.102 and 514G.111.

**191—15.33(507B) Audit procedures for medical claims.**

**15.33(1) *Prohibitions.*** This rule applies to all claims paid on or after January 1, 2002:

*a.* Absent a reasonable basis to suspect fraud, an insurer may not audit a claim more than two years after the submission of the claim to the insurer. Nothing in this rule prohibits an insurer from requesting all records associated with the claim.

*b.* Absent a reasonable basis to suspect fraud, an insurer may not audit a claim with a billed charge of less than \$25.

**15.33(2) *Standards.***

*a.* In auditing a claim, the insurer must make a reasonable effort to ensure that the audit is performed by a person or persons with appropriate qualifications for the type of audit being performed.

*b.* In auditing a claim, the auditor must use the coding guidelines and instructions that were in effect on the date the medical service was provided.

**15.33(3) *Contents of audit request.*** All correspondence regarding the audit of a claim must include the following information:

*a.* The name, address, telephone number and contact person of the insurer conducting the audit,

*b.* The name of the entity performing the audit if not the insurer,

*c.* The purpose of the audit, and

*d.* If included in the audit, the specific coding or billing procedure that is under review.

This rule is intended to implement Iowa Code section 507B.4(3) "j"(15).

**191—15.34 to 15.40** Reserved.

**191—15.41(507B) Claims settlement guidelines for property and casualty insurance.** For purposes of this rule, "insurer" means property and casualty insurers.

## INSURANCE DIVISION[191](cont'd)

**15.41(1)** An insurer shall fully disclose to first-party claimants all pertinent benefits, coverages or other provisions of a policy or contract under which a claim is presented.

**15.41(2)** Within 30 days after receipt by the insurer of properly executed proofs of loss, the first-party property claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing, and the claim file of the insurer shall contain documentation of the denial.

When there is a reasonable basis supported by specific information available for review by the commissioner that the first-party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this subrule. However, the claimant shall be advised of the acceptance or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

**15.41(3)** If the insurer needs more time to determine whether a first-party claim should be accepted or denied, the insurer shall so notify the first-party claimant within 30 days after receipt of the proof of loss and give the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 45 days from the initial notification and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation.

When there is a reasonable basis supported by specific information available for review by the commissioner for suspecting that the first-party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this subrule. However, the claimant shall be advised of the acceptance or denial of the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

**15.41(4)** Insurers shall not fail to settle first-party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.

**15.41(5)** No insurer shall make statements indicating that the rights of a third-party claimant may be impaired if a form or release, other than a release to obtain medical records, is not completed within a given period of time unless the statement is given for the purpose of notifying the third-party claimant of the provision of a statute of limitations.

**15.41(6)** The insurer shall affirm or deny liability on claims within a reasonable time and shall tender payment within 30 days of affirmation of liability, if the amount of the claim is determined and not in dispute. In claims where multiple coverages are involved, payments which are not in dispute under one of the coverages and where the payee is known should be tendered within 30 days if such payment would terminate the insurer's known liability under that coverage.

**15.41(7)** No producer shall conceal from a first-party claimant benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

**15.41(8)** A claim shall not be denied on the basis of failure to exhibit property unless there is documentation of breach of the policy provisions to exhibit or cooperate in the claim investigation.

**15.41(9)** No insurer shall deny a claim based upon the failure of a first-party claimant to give written notice of loss within a specified time limit unless the written notice is a written policy condition. An insurer may deny a claim if the claimant's failure to give written notice after being requested to do so is so unreasonable as to constitute a breach of the claimant's duty to cooperate with the insurer.

**15.41(10)** No insurer shall indicate to a first-party claimant on a payment draft, check or in any accompanying letter that said payment is "final" or "a release" of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first-party claimant and the insurer as to coverage and amount payable under the contract.

**15.41(11)** No insurer shall request or require any insured to submit to a polygraph examination unless authorized under the applicable insurance contracts and state law.

**191—15.42(507B) Acknowledgment of communications by property and casualty insurers.** For purposes of this rule, "insurer" means property and casualty insurers.

## INSURANCE DIVISION[191](cont'd)

**15.42(1)** Upon receiving notification of a claim, an insurer shall, within 15 days, acknowledge the receipt of such notice unless payment is made within that period of time. If an acknowledgment is made by means other than in writing, an appropriate notation of the acknowledgment shall be made in the claim file of the insurer and dated.

**15.42(2)** Upon receipt of any inquiry from the Iowa insurance division regarding a claim, an insurer shall, within 21 days of receipt of such inquiry, furnish the division with an adequate response to the inquiry, in duplicate.

**15.42(3)** The insurer shall reply within 15 days to all pertinent communications from a claimant which reasonably suggest that a response is expected.

**15.42(4)** Upon receiving notification of claim, an insurer shall promptly provide necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this subrule within 15 days of notification of a claim shall constitute compliance with subrule 15.42(1).

**191—15.43(507B) Standards for settlement of automobile insurance claims.**

**15.43(1)** Loss calculation and deviation guidelines.

*a. Loss calculation.* When the insurance policy provides for the adjustment and settlement of first-party automobile total losses on the basis of actual cash value or replacement with another automobile of like kind and quality, one of the following methods shall apply:

(1) The insurer may elect to offer a replacement automobile that is at least comparable in that it will be by the same manufacturer, same or newer year, similar body style, similar options and mileage as the insured vehicle and in as good or better overall condition and available for inspection at a licensed dealer within a reasonable distance of the insured's residence. All applicable taxes, license fees and other fees incident to the transfer of evidence of ownership of the automobile shall be paid by the insurer, at no cost to the insured, other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.

(2) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be derived from:

1. The cost of two or more comparable automobiles in the local market area when comparable automobiles are available or were available within the last 90 days to consumers in the local market area; or

2. The cost of two or more comparable automobiles in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that are available or were available within the last 90 days to consumers when comparable automobiles are not available in the local market area; or

3. One of two or more quotations obtained by the insurer from two or more licensed dealers located within the local market area when the cost of comparable automobiles is not available; or

4. Any source for determining statistically valid fair market values that meet all of the following criteria:

- The source shall give primary consideration to the values of vehicles in the local market area and may consider data on vehicles outside the area.

- The source's database shall produce values for at least 85 percent of all makes and models for the last 15 model years taking into account the values of all major options for such vehicles.

- The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to ensure statistical validity.

(3) If the insurer is notified within 35 days of the receipt of the claim draft that the insured cannot purchase a comparable vehicle for such market value, the insured shall have a right of recourse. The insurer shall reopen its claim file and the following procedure(s) shall apply:



## INSURANCE DIVISION[191](cont'd)

1. The insurer may locate a comparable vehicle by the same manufacturer, same or newer year, similar body style and similar options and price range for the insured for the market value determined by the insurer at the time of settlement. Any such vehicle must be available through a licensed dealer; or

2. The insurer shall either pay the insured the difference between the market value before applicable deductions and the cost of the comparable vehicle of like kind and quality which the insured has located, or negotiate and effect the purchase of this vehicle for the insured; or

3. The insurer may elect to offer a replacement in accordance with the provisions set forth in subrule 15.43(1); or

4. The insurer may conclude the loss settlement as provided for under the appraisal section of the insurance contract in force at the time of loss. This appraisal shall be considered as binding against both parties, but shall not preclude or waive any other rights either party has under the insurance contract or a common law.

The insurer is not required to take action under this subrule if its documentation to the insured at the time of settlement included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same or newer year, similar body style and similar options in as good or better condition as the total-loss vehicle which could have been purchased for the market value determined by the insurer before applicable deductions. The documentation shall include the vehicle identification number.

*b. Deviation.* When a first-party automobile total loss is settled on a basis which deviates from the methods described in paragraph "a," the deviation must be supported by documentation giving particulars of the automobile's condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first-party claimant.

**15.43(2)** Where liability and damages are reasonably clear, an insurer shall not recommend that third-party claimants make claims under their own policies solely to avoid paying claims under the insurer's policy.

**15.43(3)** The insurer shall not require a claimant to travel an unreasonable distance either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

**15.43(4)** The insurer shall, upon the claimant's request, include the first-party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first-party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses shall be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro-rata share of the allocated loss adjustment expense.

**15.43(5)** Vehicle repairs. If partial losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the insured a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, in accordance with applicable policy provisions, and of an amount which will allow for repairs to be made in a workmanlike manner. If the insured subsequently claims, based upon a written estimate which the insured obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, the insurer shall (1) pay the difference between the written estimate and a higher estimate obtained by the insured, or (2) promptly provide the insured with the name of at least one repair shop that will make the repairs for the amount of the written estimate. If the insurer designates only one or two such repair shops, the insurer shall ensure that the repairs are performed according to automobile industry standards. The insurer shall maintain documentation of all such communications.

**15.43(6)** When the amount claimed is reduced because of betterment or depreciation, all information for such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.

**15.43(7)** When the insurer elects to repair an automobile, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy, within a reasonable period of time.

## INSURANCE DIVISION[191](cont'd)

**15.43(8) Storage and towing.** The insurer shall provide reasonable notice to an insured prior to termination of payment for automobile storage charges. The insurer shall provide reasonable time for the insured to remove the vehicle from storage prior to the termination of payment. Unless the insurer has provided an insured with the name of a specific towing company prior to the insured's use of another towing company, the insurer shall pay all reasonable towing charges.

**15.43(9) Betterment.** Betterment deductions are allowable only if the deductions reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the vehicle. Betterment deductions must be measurable, itemized, specified as to dollar amount and documented in the claim file.

**191—15.44(507B) Standards for determining replacement cost and actual cost values.**

**15.44(1) Replacement cost.** When the policy provides for the adjustment and settlement of first-party losses based on replacement cost, the following shall apply:

*a.* When a loss requires repair or replacement of an item or part, any consequential physical damage incurred in making such repair or replacement not otherwise excluded by the policy shall be included in the loss. The insured shall not have to pay for betterment or any other cost except for the applicable deductible.

*b.* When a loss requires replacement of items and the replaced items do not match in quality, color or size, the insurer shall replace as much of the item as is necessary to result in a reasonably uniform appearance within the same line of sight. This subrule applies to interior and exterior losses. Exceptions may be made on a case-by-case basis. The insured shall not bear any cost over the applicable deductible, if any.

**15.44(2) Actual cash value.**

*a.* When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage, the insurer shall determine the actual cash value. "Actual cash value" means replacement cost of property at time of loss, less depreciation, if any. Alternatively, an insurer may use market value in determining actual cash value. Upon the insured's request, the insurer shall provide a copy of the claim file worksheet(s) detailing any and all deductions for depreciation.

*b.* In cases in which the insured's interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value as set forth above is not required. In such cases, the insurer shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.

**15.44(3) Applicability.** This rule does not apply to automobile insurance claims.

**191—15.45(507B) Guidelines for use of aftermarket crash parts in motor vehicles.**

**15.45(1) Identification.** All aftermarket crash parts supplied for use in this state shall comply with the identification requirements of Iowa Code section 537B.4.

**15.45(2) Like kind and quality.** An insurer shall not require the use of aftermarket crash parts in the repair of an automobile unless the aftermarket crash part is certified by a nationally recognized entity to be at least equal in kind and quality to the original equipment manufacturer part in terms of fit, quality and performance, or that the part complies with federal safety standards.

**15.45(3) Contents of notice.** Any automobile insurance policy delivered in this state that pays benefits based on the cost of aftermarket crash parts or that requires the insured to pay the difference between the cost of original equipment manufacturer parts and the cost of aftermarket crash parts shall include a notice which contains and is limited to the following language:

NOTICE—PAYMENT FOR AFTERMARKET CRASH PARTS

Physical damage coverage under this policy includes payment for aftermarket crash parts. If you repair the vehicle using more expensive original equipment manufacturer (OEM) parts, you may pay the difference. Any warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle.

## INSURANCE DIVISION[191](cont'd)

**15.45(4) Form of notice.** Notice may be provided on a separate form or may be printed prominently on the declaration page of the policy. The notice shall be provided in conjunction with all new policies issued. Notice may be provided at the time of application, but shall in no case be provided later than the time of delivery of the new policy. Insurers may inform applicants that the insurance division requires the notice in this rule.

**191—15.46 to 15.50** Reserved.

DIVISION III  
DISCLOSURE FOR SMALL FACE AMOUNT LIFE INSURANCE POLICIES

**191—15.51(507B) Purpose.** The purpose of these rules is to ensure the provision of meaningful information to the purchasers of small face amount life insurance policies. The rules in this division apply to all small face amount policies not exempted under rule 191—15.53(507B) that are issued on or after July 1, 2004.

**191—15.52(507B) Definition.** “*Small face amount policy*” means a life insurance policy or certificate with an initial face amount of \$15,000 or less.

**191—15.53(507B) Exemptions.** These rules apply to all group and individual life insurance policies and certificates except:

1. Variable life insurance;
2. Individual and group annuity contracts;
3. Credit life insurance;
4. Group or individual policies of life insurance issued to members of an employer group or other permitted group when:
  - Every plan of coverage was selected by the employer or other group representative;
  - Some portion of the premium is paid by the group or through payroll deduction; and
  - Group underwriting or simplified underwriting is used; and
5. Policies and certificates where an illustration has been provided pursuant to the requirements of 191—Chapter 14.

**191—15.54(507B) Disclosure requirements.**

**15.54(1)** An insurer issuing a small face amount policy shall provide the disclosure included in Appendix IV if at any point in time over the term of the policy the cumulative premiums paid may exceed the face amount of the policy at that point in time. The required disclosure shall be provided to the policy owner or certificate holder no later than at the time the policy or certificate is delivered. The disclosure shall not be attached to the policy, but may be delivered with the policy.

**15.54(2)** If, for a particular policy form, the cumulative premiums may exceed the face amount for some demographic or benefit combination but not for all combinations, the insurer may choose to either:

- a. Provide the disclosure only in those circumstances when the premiums may exceed the face amount; or
- b. Provide the disclosure for all demographic and benefit combinations.

**15.54(3)** Cumulative premiums shall include premiums paid for riders. However, the face amount shall not include the benefit attributable to the riders.

**191—15.55(507B) Insurer duties.** The insurer and its producers shall have a duty to provide information to policyholders or certificate holders that ask questions about the disclosure statement.

**191—15.56 to 15.60** Reserved.

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DIVISION IV  
ANNUITY DISCLOSURE REQUIREMENTS

**191—15.61(507B) Purpose.** The purpose of the rules in Division IV of this chapter is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and to foster consumer education. The rules specify the minimum information which must be disclosed, the method for disclosing it and the use and content of illustrations, if used, in connection with the sale of annuity contracts. The goal of these rules is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

**191—15.62(507B) Applicability and scope.** These rules apply to all annuities not exempted under this rule for which applications are taken on or after January 1, 2013, except that rule 191—15.66(507B) applies to all annuities not exempted under this rule that are in effect or for which applications are taken on or after January 1, 2013, and except that rule 191—15.67(507B) applies to all annuity contracts not exempted under this rule that are in effect on or after January 1, 2013. These rules apply to all group and individual annuity contracts and certificates except:

**15.62(1)** Immediate and deferred annuities that contain no nonguaranteed elements;

**15.62(2)** Annuities used to fund:

*a.* An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA);

*b.* A plan described by Section 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

*c.* A governmental or church plan defined in Section 414 of the Internal Revenue Code or a deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the Internal Revenue Code; or

*d.* A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

Notwithstanding this subrule, these rules shall apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make whether on a pretax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two or more fixed annuity providers and there is a direct solicitation of an individual employee by a producer for the purchase of an annuity contract. As used in this subrule, “direct solicitation” shall not include any meeting held by a producer solely for the purpose of educating or enrolling employees in the plan or arrangement;

**15.62(3)** Structured settlement annuities;

**15.62(4)** Charitable gift annuities as defined in Iowa Code chapter 508F;

**15.62(5)** Nonregistered variable annuities issued exclusively to an accredited investor or qualified purchaser as those terms are defined by the Securities Act of 1933 (15 U.S.C. Section 77a et seq.), the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), or the regulations promulgated under either of those acts, and offered for sale and sold in a transaction that is exempt from registration under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.); and

**15.62(6)** Transactions involving variable annuities and other registered products in compliance with Securities and Exchange Commission (SEC) rules and Financial Industry Regulatory Authority (FINRA) rules relating to disclosures and illustrations, provided that compliance with rule 191—15.64(507B) shall be required after January 1, 2015, unless, or until such time as, the SEC has adopted a summary prospectus rule or FINRA has approved for use a simplified disclosure form applicable to variable annuities or other registered products.

*a.* Notwithstanding this subrule 15.62(6), the delivery of the Buyer’s Guide is required in sales of variable annuities and, when appropriate, in sales of other registered products.

*b.* Nothing in this subrule 15.62(6) shall limit the commissioner’s ability to enforce the provisions of these rules or to require additional disclosure.

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**191—15.63(507B) Definitions.** For purposes of these rules:

“*Buyer’s Guide*” means the National Association of Insurance Commissioners’ approved Annuity Buyer’s Guide.

“*Contract owner*” means the owner named in the annuity contract or the certificate holder in the case of a group annuity contract.

“*Determinable elements*” means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after the contract is issued. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest-based credits, charges, or elements of formulas used to determine any of these elements. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements.

“*Funding agreement*” means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies.

“*Generic name*” means a short title descriptive of the annuity contract for which application is made or an illustration is prepared, such as “single premium deferred annuity.”

“*Guaranteed elements*” means the premiums, credited interest rates (including any bonus), benefits, values, non-interest-based credits, charges, or elements of formulas used to determine any of these elements, that are guaranteed and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

“*Illustration*” means a personalized presentation or depiction that is prepared for and provided to an individual consumer and that includes nonguaranteed elements of an annuity contract over a period of years.

“*Market value adjustment*” or “*MVA*” is a positive or negative adjustment that may be applied to the account value or cash value of the annuity upon withdrawal, surrender, contract annuitization or death benefit payment based either on the movement of an external index or on the company’s current guaranteed interest rate being offered on new premiums or new rates for renewal periods, if that withdrawal, surrender, contract annuitization or death benefit payment occurs at a time other than on a specified guaranteed benefit date.

“*Nonguaranteed elements*” means the premiums, credited interest rates (including any bonus), benefits, values, non-interest-based credits, charges or elements of formulas used to determine any of these elements, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

“*Structured settlement annuity*” means a “qualified funding asset” as defined in Section 130(d) of the Internal Revenue Code or an annuity that would be a qualified funding asset under Section 130(d) but for the fact that it is not owned by an assignee under a qualified assignment.

**191—15.64(507B) Standards for the disclosure document and Buyer’s Guide.**

**15.64(1) Delivery methods.** The documents required under this rule may be delivered as follows:

*a.* When an application for an annuity contract is taken in a face-to-face meeting, the applicant shall be given at or before the time of application both the disclosure document described in rule 191—15.65(507B) and the Buyer’s Guide, if any.

*b.* When an application for an annuity contract is taken by means other than a face-to-face meeting, the applicant shall be sent both the disclosure document and the Buyer’s Guide no later than five business days after the completed application is received by the insurer.

*c.* When an application is received as a result of direct solicitation through the mail:

(1) Providing a Buyer’s Guide in a mailing inviting prospective applicants to apply for an annuity contract shall be deemed to satisfy the requirement that the Buyer’s Guide be provided no later than five business days after receipt of the application.

## INSURANCE DIVISION[191](cont'd)

(2) Providing a disclosure document in a mailing inviting a prospective applicant to apply for an annuity contract shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

*d.* When an application is received via the Internet:

(1) Taking reasonable steps to make the Buyer's Guide available for viewing and printing on the insurer's website shall be deemed to satisfy the requirement that the Buyer's Guide be provided no later than five business days after receipt of the application.

(2) Taking reasonable steps to make the disclosure document available for viewing and printing on the insurer's website shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

**15.64(2) *Free Buyer's Guide.*** A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the Iowa insurance division for a free Buyer's Guide. In lieu of the foregoing statement, an insurer may include a statement that the prospective applicant may contact the insurer for a free Buyer's Guide.

**15.64(3) *Free-look period.*** When the Buyer's Guide and disclosure document are not provided at or before the time of application, a free-look period of no less than 15 days shall be provided for the applicant to return the annuity contract without penalty. This free look shall run concurrently with any other free look provided under state law or rule.

**191—15.65(507B) Content of disclosure documents.**

**15.65(1)** At a minimum, the following information shall be included in the disclosure document required to be provided under these rules:

*a.* The generic name of the contract, the company product name, if different, and form number and the fact that it is an annuity;

*b.* The insurer's legal name, physical address, website address and telephone number;

*c.* A description of the contract and its benefits, emphasizing its long-term nature, including examples where appropriate, including but not limited to:

(1) The guaranteed and nonguaranteed elements of the contract, and their limitations, if any, including for fixed indexed annuities, the elements used to determine the index-based interest, such as the participation rates, caps or spread, and an explanation of how they operate;

(2) An explanation of the initial crediting rate, or for fixed indexed annuities, an explanation of how the index-based interest is determined, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

(3) Periodic income options both on a guaranteed and nonguaranteed basis;

(4) Any value reductions caused by withdrawals from or surrender of the contract;

(5) How values in the contract can be accessed;

(6) The death benefit, if available, and how it will be calculated;

(7) A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

(8) Impact of any rider including, but not limited to, a guaranteed living benefit or a long-term care rider;

*d.* Specific dollar amount or percentage charges and fees, listed with an explanation of how they apply; and

*e.* Information about the current guaranteed rate or indexed crediting rate formula, if applicable, for new contracts that contains a clear notice that the rate is subject to change.

**15.65(2)** Insurers shall define terms used in the disclosure statement in language that facilitates understanding by a typical individual within the segment of the public to which the disclosure statement is directed.

**191—15.66(507B) Standards for annuity illustrations.**

**15.66(1)** An insurer or producer may elect to provide a consumer an illustration at any time, provided that the illustration is in compliance with this rule and:

## INSURANCE DIVISION[191](cont'd)

- a.* Is clearly labeled as an illustration;
- b.* Includes a statement referring consumers to the disclosure document and Buyer's Guide provided to them at time of purchase for additional information about their annuity; and
- c.* Is prepared by the insurer or third party using software that is authorized by the insurer prior to its use, provided that the insurer maintains a system of control over the use of illustrations.

**15.66(2)** An illustration furnished an applicant for a group annuity contract or contracts issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

**15.66(3)** The illustration shall not be provided unless accompanied by the disclosure document referenced in rules 191—15.64(507B) and 191—15.65(507B).

**15.66(4)** When an illustration is used, the illustration shall not:

- a.* Describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
- b.* State or imply that the payment or amount of nonguaranteed elements is guaranteed; or
- c.* Be incomplete.

**15.66(5)** Costs and fees of any type shall be individually noted and explained in the illustration.

**15.66(6)** An illustration shall conform to the following requirements:

- a.* The illustration shall be labeled with the date on which it was prepared;
- b.* Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the disclosure document (e.g., the fourth page of a seven-page disclosure document shall be labeled "page 4 of 7 pages");
- c.* The assumed dates of premium receipt and benefit payout within a contract year shall be clearly identified;
- d.* If the age of the proposed insured is shown as a component of the tabular detail, the age shown shall be issue age plus the numbers of years the contract is assumed to have been in force;
- e.* The assumed premium on which the illustrated benefits and values are based shall be clearly identified, including rider premium for any benefits being illustrated;
- f.* Any charges for riders or other contract features assessed against the account value or the crediting rate shall be recognized in the illustrated values and shall be accompanied by a statement indicating the nature of the rider benefits or the contract features and indicating whether or not they are included in the illustration;
- g.* Guaranteed death benefits and values available upon surrender, if any, for the illustrated contract premium shall be shown and clearly labeled as guaranteed;
- h.* Except as provided by paragraph 15.66(6)"v," nonguaranteed elements underlying the nonguaranteed illustrated values shall be no more favorable than current nonguaranteed elements and shall not include any assumed future improvement of such elements. Additionally, nonguaranteed elements used in calculating nonguaranteed illustrated values at any future duration shall reflect any planned changes, including any planned changes that may occur after expiration of an initial guaranteed or bonus period;
- i.* In determining the nonguaranteed illustrated values for a fixed indexed annuity, the index-based interest rate and account value shall be calculated for three different scenarios: one to reflect historical performance of the index for the most recent 10 calendar years; one to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the least index value growth (the "low scenario"); one to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the most index value growth (the "high scenario"). The following requirements apply:
  - (1) The most recent 10 calendar years and the last 20 calendar years are defined to end on the prior December 31, except for illustrations prepared during the first three months of the year, for which the end date of the calendar year period may be the December 31 prior to the last full calendar year;
  - (2) If any index utilized in determination of an account value has not been in existence for at least 10 calendar years, indexed returns for that index shall not be illustrated. If the fixed indexed annuity provides an option to allocate account value to more than one indexed or fixed declared rate account,

## INSURANCE DIVISION[191](cont'd)

and one or more of those indexes has not been in existence for at least 10 calendar years, the allocation to such indexed account shall be assumed to be zero;

(3) If any index utilized in determination of an account value has been in existence for at least 10 calendar years but less than 20 calendar years, the 10-calendar-year periods that define the low and high scenarios shall be chosen from the exact number of years the index has been in existence;

(4) The nonguaranteed elements, such as caps, spreads, participation rates or other interest crediting adjustments, used in calculating the nonguaranteed index-based interest rate shall be no more favorable than the corresponding current elements;

(5) If a fixed indexed annuity provides an option to allocate the account value to more than one indexed or fixed declared rate account:

1. The allocation used in the illustration shall be the same for all three scenarios; and

2. The ten-calendar-year periods resulting in the least and greatest index growth periods shall be determined independently for each indexed account option;

(6) The geometric mean annual effective rate of the account value growth over the ten-calendar-year period shall be shown for each scenario;

(7) If the most recent ten-calendar-year historical period experience of the index is shorter than the number of years needed to fulfill the requirement of subrule 15.66(8), the most recent ten-calendar-year historical period experience of the index shall be used for each subsequent 10-calendar-year period beyond the initial period for the purpose of calculating the account value for the remaining years of the illustration;

(8) The low and high scenarios:

1. Need not show surrender values (if different than account values);

2. Shall not extend beyond ten calendar years (and therefore are not subject to the requirements of subrule 15.66(8) beyond subparagraph 15.66(8)“a”(1)); and

3. May be shown on a separate page. A graphical presentation shall also be included comparing the movement of the account value over the ten-calendar-year period for the low scenario, the high scenario and the most recent ten-calendar-year scenario; and

(9) The low and high scenarios should reflect the irregular nature of the index performance and should trigger every type of adjustment to the index-based interest rate under the contract. The effect of the adjustments should be clear; for example, additional columns showing how the adjustment applied may be included. If an adjustment to the index-based interest rate is not triggered in the illustration (because no historical values of the index in the required illustration range would have triggered it), the illustration shall so state;

*j.* The guaranteed elements, if any, shall be shown before corresponding nonguaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the nonguaranteed elements (e.g., “see page 1 for guaranteed elements”);

*k.* The account or accumulation value of a contract, if shown, shall be identified by the name this value is given in the contract being illustrated and shown in close proximity to the corresponding value available upon surrender;

*l.* The value available upon surrender shall be identified by the name this value is given in the contract being illustrated and shall be the amount available to the contract owner in a lump sum after deduction of surrender charges, bonus forfeitures, contract loans, contract loan interest and application of any market value adjustment, as applicable;

*m.* Illustrations may show contract benefits and values in graphic or chart form in addition to the tabular form;

*n.* Any illustration of nonguaranteed elements shall be accompanied by a statement indicating that:

(1) The benefits and values are not guaranteed;

(2) The assumptions on which they are based are subject to change by the insurer; and

(3) Actual results may be higher or lower;

*o.* Illustrations based on nonguaranteed credited interest and nonguaranteed annuity income rates shall contain equally prominent comparisons to guaranteed credited interest and guaranteed annuity



## INSURANCE DIVISION[191](cont'd)

income rates, including any guaranteed and nonguaranteed participation rates, caps or spreads for fixed indexed annuities;

*p.* The annuity income rate illustrated shall not be greater than the current annuity income rate unless the contract guarantees are in fact more favorable;

*q.* Illustrations shall be concise and easy to read;

*r.* Key terms shall be defined and then used consistently throughout the illustration;

*s.* Illustrations shall not depict values beyond the maximum annuitization age or date;

*t.* Annuitization benefits shall be based on contract values that reflect surrender charges or any other adjustments, if applicable;

*u.* Illustrations shall show both annuity income rates per \$1,000 and the dollar amounts of the periodic income payable; and

*v.* For participating immediate and deferred income annuities:

(1) Illustrations shall not assume any future improvement in the applicable dividend scale (or scales, if more than one dividend scale applies, such as for a flexible premium annuity);

(2) Illustrations shall reflect the equitable apportionment of dividends, whether performance meets, exceeds or falls short of expectations;

(3) If the dividend scale is based on a portfolio rate method, the portfolio rate underlying the illustrated dividend scale shall not be assumed to increase;

(4) If the dividend scale is based on an investment cohort method, the illustrated dividend scale shall assume that reinvestment rates grade to long-term interest rates, subject to the following conditions:

1. Any assumptions as to future investment performance in the dividend formula shall be consistent with assumptions that are reflected in the marketplace within the normal range of analyst forecasts and investor behavior. These assumptions shall not be changed arbitrarily, notwithstanding changes in markets or economic conditions, and shall be consistent with assumptions that the insurer uses with respect to other lines of business.

2. The illustrated dividend scale shall assume that reinvestment rates grade to long-term interest rates, based on the rates of U.S. Treasury bonds (U.S. Treasury rates). For the purposes of this grading, the assumed long-term rates shall not exceed the rates calculated using the formula in numbered paragraph 15.66(6)“v”(4)“3” based on the time to maturity or reinvestment (the “tenor”) of the investments supporting the cohort of policies.

3. Maximum long-term interest rates shall be calculated for tenors of 3 months or less, 5 years, 10 years, and 20 years or more, using U.S. Treasury rates. For each tenor, the maximum long-term interest rate shall vary over time, based on historical interest rates as they emerge. The formula for the maximum long-term interest rate is the average of the median U.S. Treasury rate during the last 600 months and the average U.S. Treasury rate during the last 120 months, rounded to the nearest quarter of one percent (0.25%).

4. The maximum long-term interest rate for a tenor shall be recalculated once per year, in January, using historical interest rates as of December 31 of the calendar year two years prior to the calendar year of the calculation date. The historical interest rate for each month is the interest rate reported for the last business day of the month.

5. Grading to the maximum long-term interest rates shall take place during:

- No less than 20 years from the issue date if U.S. Treasury rates as of the illustration date are below the long-term interest rates; or

- No more than 20 years from the issue date if the U.S. Treasury rates as of the illustration date are above the long-term interest rates.

6. When the ten-year U.S. Treasury rate is less than the ten-year maximum long-term interest rate, an additional illustrated dividend scale shall be presented. This additional illustrated dividend scale shall satisfy the following conditions:

- Assume that reinvestment U.S. Treasury rates do not exceed the initial investment U.S. Treasury rates, and

- Illustrate dividends of no less than half of the dividends illustrated under the current dividend scales.

## INSURANCE DIVISION[191](cont'd)

If the conditions under the two prior bulleted paragraphs are in conflict (i.e., if half of the current dividends are greater than would be permitted by the condition under the first bulleted paragraph above), then the reinvestment U.S. Treasury rates shall equal the initial investment U.S. Treasury rates.

7. The illustration shall include a disclosure that is substantially similar to the following:

The illustrated current dividend scale is based on interest rates that are assumed to gradually [increase/decrease] from current interest rates to long-term interest rates during a period of [20] years. As required by state regulations, the long-term assumed interest rates cannot and do not exceed the rates listed in column (c) of the table below.

[Insert table from numbered paragraph 15.66(6) "v"(4)"9"]

8. If the illustration contains an additional dividend scale pursuant to numbered paragraph 15.66(6) "v"(4)"6," then the illustration also shall include a disclosure that is substantially similar to the following:

The additional illustrated dividend scale is based on interest rates that are assumed not to increase and that do not exceed the interest rates in column (b) of the table below.

[Insert table from numbered paragraph 15.66(6) "v"(4)"9"]

9. The following table shall be used in the disclosures as indicated in numbered paragraphs 15.66(6) "v"(4)"7" and "8":

(a)	(b)	(c)
	U.S. Treasury Rate as of 12/31/2016	Long-Term U.S. Treasury Rate
3 Months or Less	0.51%	3.00%
5 Years	1.93%	4.50%
10 Years	2.45%	5.00%
20 Years or More	3.06%	5.50%

**15.66(7)** An annuity illustration shall include a narrative summary that includes the following unless provided at the same time in a disclosure document:

*a.* A brief description of any contract features, riders or options, whether guaranteed or nonguaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the contract.

*b.* A brief description of any other optional benefits or features that are selected, but not shown in the illustration and the impact they have on the benefits and values of the contract.

*c.* Identification and a brief definition of column headings and key terms used in the illustration.

*d.* A statement containing in substance the following:

(1) For other than fixed indexed annuities:

This illustration assumes the annuity's current nonguaranteed elements will not change. It is likely that they **will** change and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.

The values in this illustration are **not** guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information.

(2) For fixed indexed annuities:

This illustration assumes the index will repeat historical performance and that the annuity's current nonguaranteed elements, such as caps, spreads, participation rates or other interest crediting adjustments, will not change. It is likely that the index **will not** repeat historical performance, the nonguaranteed elements **will** change, and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.

## INSURANCE DIVISION[191](cont'd)

The values in this illustration are **not** guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information.

*e.* Additional explanations as follows:

- (1) Minimum guarantees shall be clearly explained;
- (2) The effect on contract values of contract surrender prior to maturity shall be explained;
- (3) Any conditions on the payment of bonuses shall be explained;
- (4) For annuities sold as an IRA or as a qualified plan or in another arrangement subject to the required minimum distribution (RMD) requirements of the Internal Revenue Code, the effect of RMDs on the contract values shall be explained;
- (5) For annuities with recurring surrender charge schedules, a clear and concise explanation of what circumstances will cause the surrender charge to recur shall be included; and
- (6) A brief description of the types of annuity income options available shall be explained, including:
  1. The earliest or only maturity date for annuitization (as the term is defined in the contract);
  2. For contracts with an optional maturity date, the periodic income amount for at least one of the annuity income options available based on the guaranteed rates in the contract, at the later of age 70 or ten years after issue, but in no case later than the maximum annuitization age or date in the contract;
  3. For contracts with a fixed maturity date, the periodic income amount for at least one of the annuity income options available, based on the guaranteed rates in the contract at the fixed maturity date; and
  4. The periodic income amount based on the currently available periodic income rates for the annuity income option in numbered paragraph 15.66(7) "e"(6)"2" or "3," if desired.

**15.66(8)** Following the narrative summary, an illustration shall include a numeric summary which shall include, at minimum, numeric values at the following durations:

- a.* Either:
  - (1) The first ten contract years; or
  - (2) The surrender charge period if longer than ten years, including any renewal surrender charge period;
- b.* Every tenth contract year up to the later of 30 years or age 70; and
- c.* Either:
  - (1) The required annuitization age; or
  - (2) The required annuitization date.

**15.66(9)** If the annuity contains a market value adjustment, hereafter MVA, all of the following provisions apply to the illustration (Appendix V provides an illustration of an annuity containing an MVA that addresses paragraphs 15.66(9) "a" through "f" below):

- a.* The MVA shall be referred to as such throughout the illustration.
- b.* The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the value available upon surrender.
- c.* The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the death benefit.
- d.* A statement, containing in substance the following, shall be included:

When you make a withdrawal, the amount you receive may be increased or decreased by a Market Value Adjustment (MVA). If interest rates on which the MVA is based go up after you buy your annuity, the MVA likely will decrease the amount you receive. If interest rates go down, the MVA will likely increase the amount you receive.

*e.* Illustrations shall describe both the upside and the downside aspects of the contract features relating to the market value adjustment.

*f.* The illustrative effect of the MVA shall be shown under at least one positive and one negative scenario. This demonstration shall appear on a separate page and be clearly labeled that it is information demonstrating the potential impact of an MVA.

## INSURANCE DIVISION[191](cont'd)

- g.* Actual MVA floors and ceilings as listed in the contract shall be illustrated.
- h.* If the MVA has significant characteristics not addressed by paragraphs 15.66(9) “*a*” through “*f*,” the effect of such characteristics shall be shown in the illustration.

**15.66(10)** A narrative summary for a fixed indexed annuity illustration also shall include the following unless provided at the same time in a disclosure document:

*a.* An explanation, in simple terms, of the elements used to determine the index-based interest, including, but not limited to, the following elements:

- (1) The index(es) which will be used to determine the index-based interest;
- (2) The indexing method – such as point-to-point, daily averaging, monthly averaging;
- (3) The index term – the period over which indexed-based interest is calculated;
- (4) The participation rate, if applicable;
- (5) The cap, if applicable; and
- (6) The spread, if applicable;

*b.* The narrative shall include an explanation, in simple terms, of how index-based interest is credited in the indexed annuity;

*c.* The narrative shall include a brief description of the frequency with which the company can reset the elements used to determine the indexed-based credits, including the participation rate, the cap, and the spread, if applicable; and

*d.* If the product allows the contract holder to make allocations to declared-rate segment, then the narrative shall include a brief description of:

- (1) Any options to make allocations to a declared-rate segment, both for new premiums and for transfers from the indexed-based segments; and
- (2) Differences in guarantees applicable to the declared-rate segment and the indexed-based segments.

**15.66(11)** A numeric summary for a fixed indexed annuity illustration shall include, at a minimum, the following elements:

- a.* The assumed growth rate of the index in accordance with paragraph 15.66(6) “*i*”;
- b.* The assumed values for the participation rate, cap and spread, if applicable; and
- c.* The assumed allocation between indexed-based segments and declared-rate segment, if applicable, in accordance with paragraph 15.66(6) “*i*.”

**15.66(12)** If the contract is issued other than as applied for, a revised illustration conforming to the contract as issued shall be sent with the contract, except that nonsubstantive changes including, but not limited to, changes in the amount of expected initial or additional premiums and any changes in amounts of exchanges pursuant to Section 1035 of the Internal Revenue Code, rollovers or transfers, which do not alter the key benefits and features of the annuity as applied for will not require a revised illustration unless requested by the applicant.

**191—15.67(507B) Report to contract owners.** For annuities in the payout period that include nonguaranteed elements and for deferred annuities in the accumulation period, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract that contains at least the following information:

**15.67(1)** The beginning and ending date of the current report period;

**15.67(2)** The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

**15.67(3)** The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

**15.67(4)** The amount of outstanding loans, if any, as of the end of the current report period.

**191—15.68(507B) Penalties.** In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of these rules shall be guilty of a violation of Iowa Code chapter 507B.

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**191—15.69(507B) Severability.** If any provision of these rules or their application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the rule and its application to other persons or circumstances shall not be affected.

**191—15.70 and 15.71** Reserved.

DIVISION V  
SUITABILITY IN ANNUITY TRANSACTIONS

**191—15.72(507B) Purpose.** The purpose of these rules is to require producers, as defined in rule 191—15.74(507B), to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the times of the transactions are effectively addressed. Nothing herein shall be construed to create or imply a private cause of action for a violation of these rules or to subject a producer to civil liability under the best interest standard of care outlined in rule 191—15.75(507B) or under standards governing the conduct of a fiduciary or a fiduciary relationship.

**191—15.73(507B) Applicability and scope.**

**15.73(1)** These rules shall apply to any sale or recommendation of an annuity on or after January 1, 2021.

**15.73(2)** Unless otherwise specifically included, these rules do not apply to transactions involving:

*a.* Direct-response solicitations where there is no recommendation based on information collected from the consumer pursuant to these rules;

*b.* Contracts used to fund the following:

(1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(2) A plan described by Section 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC) if established or maintained by an employer;

(3) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the IRC; or

(4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

*c.* Settlements or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

*d.* Formal prepaid funeral contracts.

**191—15.74(507B) Definitions.** For purposes of this division:

“*Annuity*” means an annuity that is an insurance product under state law, individually solicited, whether the product is classified as an individual or group annuity.

“*Cash compensation*” means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

“*Consumer profile information*” means information that is reasonably appropriate to determine whether a recommendation addresses the consumer’s financial situation, insurance needs and financial objectives, including, at a minimum, the following:

1. Age;
2. Annual income;
3. Financial situation and needs, including debts and other obligations;
4. Financial experience;
5. Insurance needs;
6. Financial objectives;

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7. Intended use of the annuity;
8. Financial time horizon;
9. Existing assets or financial products, including investment, annuity and insurance holdings;
10. Liquidity needs;
11. Liquid net worth;
12. Risk tolerance, including, but not limited to, willingness to accept nonguaranteed elements in the annuity;
13. Financial resources used to fund the annuity; and
14. Tax status.

“*Continuing education credit*” or “*CE credit*” means one credit as defined in rule 191—11.2(505,522B).

“*Continuing education provider*” or “*CE provider*” means a CE provider as defined in rule 191—11.2(505,522B).

“*FINRA*” means the Financial Industry Regulatory Authority or a succeeding agency.

“*Insurer*” means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

“*Intermediary*” means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer’s annuities by producers.

“*Material conflict of interest*” means a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. “Material conflict of interest” does not include cash compensation or noncash compensation.

“*Noncash compensation*” means any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support and retirement benefits.

“*Nonguaranteed elements*” means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

“*Producer*” means a person or entity required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. For purposes of these rules, “producer” includes an insurer where no producer is involved.

“*Recommendation*” means advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, an exchange or a replacement of an annuity in accordance with that advice. Recommendation does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

“*Replacement*” means a transaction in which a new annuity is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer whether or not a producer is involved, that, by reason of the transaction, an existing annuity or other insurance policy has been or is to be any of the following:

1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;
2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
4. Reissued with any reduction in cash value; or
5. Used in a financed purchase.

“*SEC*” means the United States Securities and Exchange Commission.

### **191—15.75(507B) Duties of insurers and producers.**

**15.75(1) *Best interest obligations.*** A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is

## INSURANCE DIVISION[191](cont'd)

made, without placing the producer's or the insurer's financial interest ahead of the consumer's interest. A producer has acted in the best interest of the consumer if the producer has satisfied the following obligations regarding care, disclosure, conflict of interest and documentation:

*a. Care obligation.*

(1) The producer, in making a recommendation shall exercise reasonable diligence, care and skill to:

1. Know the consumer's financial situation, insurance needs and financial objectives;
2. Understand the available recommendation options after making a reasonable inquiry into options available to the producer;
3. Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and

4. Communicate the basis or bases of the recommendation.

(2) The requirements under subparagraph 15.75(1) "a"(1) include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.

(3) The requirements under subparagraph 15.75(1) "a"(1) require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. Producers shall be held to standards applicable to producers with similar authority and licensure.

(4) The requirements under this subrule do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in these rules.

(5) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs and financial objectives, but the level of importance of each factor under the care obligation of this paragraph may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

(6) The requirements under subparagraph 15.75(1) "a"(1) include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit or other insurance-related features.

(7) The requirements under subparagraph 15.75(1) "a"(1) apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.

(8) The requirements under subparagraph 15.75(1) "a"(1) do not mean the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be recommended.

(9) The requirements under subparagraph 15.75(1) "a"(1) do not mean the producer has ongoing monitoring obligations under the care obligation under this paragraph, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising or financial planning agreement between the consumer and the producer.

(10) In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

1. The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, such as death, living or other contractual benefits, or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;

2. The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

3. The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

(11) Nothing in this regulation should be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit or negotiate insurance in

## INSURANCE DIVISION[191](cont'd)

this state, including but not limited to any securities license, in order to fulfill the duties and obligations contained in this regulation; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

*b. Disclosure obligation.*

(1) Prior to the recommendation or sale of an annuity, the producer shall prominently disclose to the consumer on a form substantially similar to Appendix VI:

1. A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

2. An affirmative statement on whether the producer is licensed and authorized to sell the following products:

- Fixed annuities;
- Fixed indexed annuities;
- Variable annuities;
- Life insurance;
- Mutual funds;
- Stocks and bonds; and
- Certificates of deposit;

3. An affirmative statement describing the insurers the producer is authorized, contracted (or appointed), or otherwise able to sell insurance products for, using the following descriptions:

- One insurer;
- From two or more insurers; or
- From two or more insurers although primarily contracted with one insurer.

4. A description of the sources and types of cash compensation and noncash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary or other producer or by fee as a result of a contract for advice or consulting services; and

5. A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph 15.75(1) "b"(2);

(2) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

1. A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

2. Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages; and

(3) Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as: the potential surrender period and surrender charge; potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity; mortality and expense fees; investment advisory fees; any annual fees; potential charges for and features of riders or other options of the annuity; limitations on interest returns; potential changes in nonguaranteed elements of the annuity; insurance and investment components; and market risk.

*c. Conflict of interest obligation.* A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

*d. Documentation obligation.* A producer shall at the time of recommendation or sale:

(1) Make a written record of any recommendation and the basis for the recommendation subject to this regulation;

(2) Obtain a consumer-signed statement on a form substantially similar to Appendix VII documenting:

1. A customer's refusal to provide the consumer profile information, if any; and



## INSURANCE DIVISION[191](cont'd)

2. A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information; and

(3) Obtain a consumer-signed statement on a form substantially similar to Appendix VIII acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's recommendation.

*e. Application of the best interest obligation.* Any requirement applicable to a producer under this subrule shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

**15.75(2) Transactions not based on a recommendation.**

*a.* Except as provided under paragraph 15.75(2) "b," a producer shall have no obligation to a consumer under paragraph 15.75(1) "a" related to any annuity transaction if:

- (1) No recommendation is made;
- (2) A recommendation was made and was later found to have been prepared based on inaccurate material information provided by the consumer;
- (3) A consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended; or
- (4) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

*b.* An insurer's issuance of an annuity subject to paragraph 15.75(2) "a" shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

**15.75(3) Supervision system.**

*a.* Except as permitted under subrule 15.75(2), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives based on the consumer's consumer profile information.

*b.* An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with rules 191—15.72(507B) through 191—15.78(507B) including, but not limited to, the following:

(1) The insurer shall establish and maintain reasonable procedures to inform its producers of the requirements of these rules and shall incorporate the requirements of these rules into relevant producer training manuals;

(2) The insurer shall establish and maintain standards for producer product training and shall establish and maintain reasonable procedures to require its producers to comply with the requirements of rule 191—15.76(507B);

(3) The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its producers;

(4) The insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(5) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not in compliance with subrules 15.75(1), 15.75(2), 15.75(4) and 15.75(5). These procedures may include, but are not limited to, confirmation of the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or

## INSURANCE DIVISION[191](cont'd)

attestations, and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures or by confirming the consumer profile information or other required information under this rule after issuance or delivery of the annuity;

(6) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under this rule;

(7) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(8) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time; and

(9) The insurer shall annually provide a written report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

*c. Third-party supervisor.*

(1) Nothing in this subrule restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under this subrule. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to rule 191—15.77(507B) regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph 15.75(3) "c"(2).

(2) An insurer's supervision system under this subrule shall include supervision of contractual performance under this subrule including, but not limited to, the following:

1. Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

2. Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

*d. An insurer is not required to include in its system of supervision:*

(1) A producer's recommendations to consumers of products other than the annuities offered by the insurer; or

(2) Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

**15.75(4) *Prohibited practices.*** Neither a producer nor an insurer shall dissuade, or attempt to dissuade, a consumer from:

*a.* Truthfully responding to an insurer's request for confirmation of the consumer profile information;

*b.* Filing a complaint; or

*c.* Cooperating with the investigation of a complaint.

**15.75(5) *Safe harbor.***

*a.* Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under these rules. This subrule applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subrule shall limit the insurance commissioner's ability to investigate and enforce the provisions of these rules.

*b.* Nothing in paragraph 15.75(5) "a" shall limit the insurer's obligation to comply with paragraph 15.75(3) "a," although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

## INSURANCE DIVISION[191](cont'd)

*c.* For paragraph 15.75(5)“*a*” to apply, an insurer shall:

(1) Monitor the relevant conduct of the financial professional seeking to rely on paragraph 15.75(5)“*a*” or the entity responsible for supervising the financial professional, such as the financial professional’s broker-dealer or an investment adviser registered under federal securities laws using information collected in the normal course of an insurer’s business; and

(2) Provide to the entity responsible for supervising the financial professional seeking to rely on paragraph 15.75(5)“*a*,” such as the financial professional’s broker-dealer or investment adviser registered under federal securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.

*d.* For purposes of this subrule, “financial professional” means a producer that is regulated and acting as:

(1) A broker-dealer registered under federal securities laws or a registered representative of a broker-dealer;

(2) An investment adviser registered under federal securities laws or an investment adviser representative associated with the federal registered investment adviser; or

(3) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto.

*e.* For purposes of this subrule, “comparable standards” means:

(1) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including, but not limited to, Regulation Best Interest and any amendments or successor regulations thereto;

(2) With respect to investment advisers registered under federal securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940, including, but not limited to, the Form ADV and interpretations; and

(3) With respect to plan fiduciaries or fiduciaries, means the duties, obligations, prohibitions and all other requirements attendant to such status under ERISA or the IRC and any amendments or successor statutes thereto.

**191—15.76(507B) Producer training.**

**15.76(1)** A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer’s standards for product training. A producer may rely on insurer-provided product-specific training standards and materials to comply with this subrule.

**15.76(2)** Training required.

*a.* One-time course.

(1) A producer who engages in the sale of annuity products shall complete a one-time four-credit training course approved by the commissioner and provided by an education provider approved by the commissioner.

(2) Producers may not engage in the sale of annuities until the annuity training course required under this rule has been completed.

*b.* The minimum length of the training required under this rule shall be sufficient to qualify for at least four CE credits, but may be longer.

*c.* The training required under this rule shall include information on the following topics:

(1) The types of annuities and various classifications of annuities;

(2) Identification of the parties to an annuity;

(3) How fixed, variable, indexed, and other product-specific annuity contract provisions affect consumers;

(4) The application of income taxation of qualified and nonqualified annuities;

(5) The primary uses of annuities;

## INSURANCE DIVISION[191](cont'd)

- (6) Appropriate standard of conduct sales practices; and
- (7) Replacement and disclosure requirements.

*d.* Providers of courses intended to comply with this rule shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

*e.* A provider of an annuity training course intended to comply with this rule shall register as a CE provider in this state and comply with the rules and guidelines applicable to producer continuing education courses as set forth in 191—Chapter 11.

*f.* A producer who has completed an annuity training course approved by the commissioner prior to January 1, 2021, shall, before July 1, 2021, complete either:

(1) A new four-credit training course approved by the commissioner after January 1, 2021; or

(2) An additional one-time one-credit training course approved by the commissioner and provided by the commissioner-approved education provider on appropriate sales practices, replacement and disclosure requirements under this amended regulation.

*g.* Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with 191—Chapter 11.

*h.* Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with 191—Chapter 11.

*i.* Satisfaction of the training requirements of another state that are substantially similar to the provisions of this subrule shall be deemed to satisfy the training requirements of this subrule in this state.

*j.* The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this subrule shall be deemed to satisfy the training requirements of this subrule in this state.

*k.* An insurer shall verify that a producer has completed the annuity training course required under this subrule before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subrule by obtaining certificates of completion of the training course or obtaining reports provided by Iowa insurance commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved continuing education providers.

**191—15.77(507B) Compliance; mitigation; penalties; enforcement.**

**15.77(1)** An insurer is responsible for compliance with this regulation. If a violation occurs, either because of the action or inaction of the insurer or its producer, the commissioner may order:

*a.* An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with these rules by the insurer, an entity contracted to perform the insurer's supervisory duties, or by the producer;

*b.* A general agency, independent agency or the producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of the rules of this division; and

*c.* Appropriate penalties and sanctions.

**15.77(2)** Any applicable penalty under Iowa Code chapter 507B for a violation of the rules in Division V of this chapter may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

**15.77(3)** The authority to enforce compliance with these rules is vested exclusively with the commissioner.

**191—15.78(507B) Record keeping.**

**15.78(1)** Insurers, general agents, independent agencies, and producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer, disclosures made to the consumer (including summaries of oral disclosures) and other information used in making the recommendations that were the basis for insurance transactions for ten years after the insurance

## INSURANCE DIVISION[191](cont'd)

transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer.

**15.78(2)** Records required to be maintained by this rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

**191—15.79** Reserved.

DIVISION VI  
INDEXED PRODUCTS TRAINING REQUIREMENT

**191—15.80(507B,522B) Purpose.** The purpose of the rules in this division is to require certain specific minimum training for insurance producers who wish to sell indexed annuities or indexed life insurance in Iowa. This additional training is necessary due to the complex nature of these indexed products and to ensure that insurance producers are able to determine whether an indexed product is suitable for a consumer and are able to adequately explain to a consumer how the indexed product works. The ultimate goal of these rules is to ensure that purchasers of indexed products understand basic features of the indexed products. The rules in this division apply to all indexed products sold on or after January 1, 2008.

**191—15.81(507B,522B) Definitions.** For the purpose of this division:

“*CE credit*” means one continuing education “credit” as defined in 191—Chapter 11.

“*CE provider*” means any individual or entity that is approved to offer continuing education courses in Iowa pursuant to 191—Chapter 11.

“*Indexed products*” means all fixed indexed life insurance and fixed indexed annuity products.

“*Insurer*” means an insurance company admitted to do business in Iowa which sells indexed products in Iowa.

“*Producer*” means a person required to obtain an insurance license under Iowa Code chapter 522B.

**191—15.82(507B,522B) Special training required.** A producer who wishes to sell indexed products in Iowa shall complete at least one four-credit indexed products training course, as described in this division, prior to providing any advice or making any sales presentation concerning an indexed product.

**191—15.83(507B,522B) Conduct of training course.**

**15.83(1)** The indexed products training shall include information on all topics listed in the most recent version of the indexed products training outline available at the division’s website, [iid.iowa.gov](http://iid.iowa.gov).

**15.83(2)** CE providers of indexed products training shall cover all topics listed in the indexed products training outline and, within the time allotted for the required topics, shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer’s products. Additional topics may be offered in conjunction with and in addition to the required outline.

**15.83(3)** The minimum length of the indexed products training must be sufficient to qualify for at least four CE credits but may be longer.

**15.83(4)** To satisfy the requirements of subrules 15.83(1), 15.83(2) and 15.83(3), an indexed products training course shall be filed, approved and conducted according to the rules and guidelines applicable to insurance producer continuing education courses as set forth in 191—Chapter 11.

**15.83(5)** Indexed products training courses may be conducted and completed by classroom or self-study methods according to the rules in 191—Chapter 11.

**15.83(6)** CE providers of indexed products training shall comply with the reporting requirements as set forth in 191—Chapter 11.

**15.83(7)** CE providers of indexed products training shall issue certificates of completion according to the rules in 191—Chapter 11.

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**15.83(8)** A producer may use the CE credits completed under the indexed products training requirement to meet the producer's continuing education requirement under 191—Chapter 11.

**191—15.84(507B,522B) Insurer duties.**

**15.84(1)** Each insurer shall establish a system to verify which of its appointed insurance producers have completed one training course on indexed products as required in this division.

**15.84(2)** An insurer shall verify that a producer has completed the required indexed products training before allowing the producer to sell an indexed product for that insurer.

**15.84(3)** For insurance producers under contract with or employed by a broker-dealer, general agent or independent agency, an insurer may enter into a contract with the broker-dealer, general agent or independent agency to establish and maintain a system of verification as required by subrule 15.84(1) with respect to those insurance producers. In such circumstances, the insurer shall make reasonable inquiry to ensure that the broker-dealer, general agent or independent agency is performing the functions required under subrules 15.84(1) and 15.84(2).

**191—15.85(507B,522B) Verification of training.** Insurers, producers and third-party contractors may verify a producer's completion of the indexed products training by accessing the division's website, [iid.iowa.gov](http://iid.iowa.gov).

**191—15.86(507B,522B) Penalties.**

**15.86(1)** Insurers and third-party contractors that violate the rules of this division are subject to penalty under Iowa Code chapter 507B.

**15.86(2)** Producers who violate the rules of this division are subject to penalty under Iowa Code chapters 507B and 522B.

**15.86(3)** Continuing education providers that fail to follow the requirements of the rules of this division and the conduct requirements of 191—Chapter 11 are subject to penalty under 191—Chapter 11 and Iowa Code chapters 507B and 522B.

**191—15.87(507B,522B) Compliance date.**

**15.87(1)** A producer who provides advice or makes a sales presentation regarding an indexed product on or after January 1, 2008, shall have completed the indexed products training required by this division.

**15.87(2)** An Iowa-licensed insurer shall verify that, prior to the sale of any indexed products on or after January 1, 2008, any producer appointed by the insurer has completed the indexed products training required by this division.

APPENDIX I  
LIFE INSURANCE COST AND  
BENEFIT DISCLOSURE

## Definitions.

“Annual premium” for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

“Cash dividend” means dividends which can be applied toward payment of gross premiums which comply with the illustrated scale.

“Equivalent level annual dividend” is calculated by applying the following steps:

1. Accumulate the annual cash dividends at 5 percent interest compounded annually to the end of the tenth and twentieth policy years.

2. Divide each accumulation of paragraph “1” by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in paragraph “1” over the respective periods stipulated in paragraph “1.” If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

3. Divide the results of paragraph “2” by the number of thousands of the equivalent level death benefit to arrive at the equivalent level annual dividend.

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“Equivalent level death benefit” of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the guaranteed amount payable upon death, regardless of the cause of death other than suicide, or other specifically enumerated exclusions, at the beginning of each policy year for 10 and 20 years at 5 percent interest compounded annually to the end of the tenth and twentieth policy years respectively.

2. Divide each accumulation of paragraph “1” by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in paragraph “1” over the respective periods stipulated in paragraph “1.” If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

“Generic name” means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

“Life insurance net payment cost index.” The life insurance net payment cost index is calculated in the same manner as the comparable life insurance cost index except that the cash surrender value and any terminal dividend are set at zero.

“Life insurance surrender cost index.” The life insurance surrender cost index is calculated by applying the following steps:

1. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

2. For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual cash dividends at 5 percent interest compounded annually to the end of the period selected and add this sum to the amount determined in subparagraph “1.”

3. Divide the result of subparagraph “2” (subparagraph “1” for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subparagraph “2” (subparagraph “1” for guaranteed-cost policies) over the respective periods stipulated in subparagraph “1.” If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

4. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at 5 percent interest compounded annually to the end of the period stipulated in subparagraph “1” and dividing the result by the respective factors stated in subparagraph “3” (this amount is the annual premium payable for a level premium plan).

5. Subtract the result of subparagraph “3” from subparagraph “4.”

6. Divide the result of subparagraph “5” by the number of thousands of the equivalent level death benefit to arrive at the life insurance surrender cost index.

“Policy summary,” for the purposes of these rules, shall mean a written statement describing the elements of the policy including but not limited to:

1. A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

2. The name and address of the insurance producer or, if no producer is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.

3. The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

4. The generic name of the basic policy and each rider.

5. The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns including, but not necessarily limited to, the years for which life insurance cost indexes are displayed and at least one age from 60 through 65 or maturity, whichever is earlier:

(a) The annual premium for the basic policy.

(b) The annual premium for each optional rider.

(c) Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide and other specifically enumerated exclusions, which is provided by the

## INSURANCE DIVISION[191](cont'd)

basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

(d) Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

(e) Cash dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)

(f) Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

6. The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is variable, the policy summary includes the maximum annual percentage rate.

7. Life insurance cost indexes for 10 and 20 years but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for basic policies or optional riders covering more than one life.

8. The equivalent level annual dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which life insurance cost indexes are displayed.

9. A policy summary which includes dividends shall also include a statement that dividends are based on the company's illustrated scale and are not guaranteed and a statement in close proximity to the equivalent level annual dividend as follows: An explanation of the intended use of the equivalent level annual dividend is included in the life insurance buyer's guide.

10. A statement in close proximity to the life insurance cost indexes as follows: An explanation of the intended use of these indexes is provided in the life insurance buyer's guide.

11. The date on which the policy summary is prepared.

The policy summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in paragraph "5" of this definition shall be listed in total, not a per-thousand nor a per-unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insured if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

APPENDIX II  
HIV ANTIBODY TEST  
INFORMATION FORM FOR INSURANCE APPLICANT

AIDS

Acquired Immunodeficiency Syndrome (AIDS) is a life-threatening disorder of the immune system, caused by a virus, HIV. The virus is transmitted by sexual contact with an infected person, from an infected mother to her newborn infant, or by exposure to infected blood (as in needle sharing during IV drug use). Persons at high risk of contracting AIDS include males who have had sexual contact with another man, intravenous drug users, hemophiliacs, and persons who have had sexual contact with any of these persons. AIDS does not typically develop until a person has been infected with HIV for several years. A person may remain free of symptoms for years after becoming infected. Infected persons have a 25 percent to 50 percent chance of developing AIDS over the next ten years.

The HIV antibody test:

Before consenting to testing, please read the following important information:



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1. Purpose. This test is being run to determine whether you may have been infected with HIV. If you are infected, you are probably not insurable. This test is not a test for AIDS; AIDS can only be diagnosed by medical evaluation.
2. Positive test results. If you test positive, you should seek medical follow-up with your personal physician. If your test is positive, you may be infected with HIV.
3. Accuracy. An HIV test will be considered positive only after confirmation by a laboratory procedure that the state health officer has determined to be highly accurate. Nonetheless, the HIV antibody test is not 100 percent accurate. Possible errors include:
  - a. False positives: This test gives a positive result, even though you are not infected. This happens rarely and is more common in persons who have not engaged in high-risk behavior. Retesting should be done to help confirm the validity of a positive test.
  - b. False negatives: The test gives a negative result, even though you are infected with HIV. This happens most commonly in recently infected persons; it takes at least 4 to 12 weeks for a positive test result to develop after a person is infected.
4. Side effects. A positive test result may cause you significant anxiety. A positive test may result in uninsurability for life, health, or disability insurance policies for which you may apply in the future. Although prohibited by law, discrimination in housing, employment, or public accommodations may result if your test results become known to others. A negative result may create a false sense of security.
5. Disclosure of results. A positive test result will be reported to you in one of the following ways. You may choose to have information about a positive test result communicated to you through your physician or through the alternative testing site. If you do not designate a physician or an alternative testing site to receive the information, the information about a positive test result will be reported to the Iowa Department of Health and Human Services, and the Iowa Department of Health and Human Services will contact you.
6. Confidentiality. Like all medical information, HIV test results are confidential. An insurer, insurance agent, or insurance-support organization is required to maintain the confidentiality of HIV test results. However, certain disclosures of your test results may occur, including those authorized by consent forms that you may have signed as part of your overall application. Your test results may be provided to the Medical Information Bureau, a national insurance data bank. Your insurance agent will provide you with additional written information about this subject at your request.
7. Prevention. Persons who have a history of high-risk behavior should change these behaviors to prevent getting or giving AIDS, regardless of whether they are tested. Specific important changes in behavior include safe sex practices (including condom use for sexual contact with someone other than a long-term monogamous partner) and not sharing needles.
8. Information. Further information about HIV testing and AIDS can be obtained by contacting the CDC national health information hotline, 1-800-CDC-INFO (1-800-232-4636); TTY 1-888-232-6348; [www.cdc.gov/info](http://www.cdc.gov/info).



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APPENDIX III  
COMPLAINT RECORD

Column A	Column B		Column C	Column D	Column E	Column F	Column G	Column H
Company Identification Number	Function Code	Reason Code	Line Type	Company Disposition after Complaint Received	Date Received	Date Closed	Insurance Division Complaint	State of Origin

(Producer's  
Number)

Explanation

- A. Company Identification Number. As noted, this refers to the identification number of the complaint and shall also include the license number, name, or other means of identifying any licensee of the Insurance Division, such as a producer that may have been involved in the complaint.
- B. Function Code. Complaints are to be classified by function(s) of the company involved. Separate classifications are to be maintained for underwriting, marketing and sales, claims, policyholder service and miscellaneous.
- Reason Code. Complaints are also to be classified by the nature of the complaint. The following is the classification required for each function specified above.
- 1) Underwriting
    - a) Premium and rating
    - b) Refusal to insure
    - c) Cancellation/renewal
    - d) Delays
    - e) Unfair discrimination
    - f) Endorsement/rider
    - g) Group conversion
    - h) Medicare supplement violation
    - i) Miscellaneous (not covered by above)
  - 2) Marketing and Sales
    - a) General advertising
    - b) Misrepresentation
    - c) Producer handling
    - d) Replacement
    - e) Delays
    - f) Miscellaneous (not covered by above)
  - 3) Claims
    - a) Post claim underwriting
    - b) Delays
    - c) Unsatisfactory settlement/offer
    - d) Coordination of benefits
    - e) Cost containment
    - f) Denial of claim
    - g) Miscellaneous (not covered by above)
  - 4) Policyholder service
    - a) Premium notice/billing
    - b) Cash value
    - c) Delays/no response
    - d) Premium refund
    - e) Coverage question
    - f) Miscellaneous (not covered by above)
  - 5) Miscellaneous

## INSURANCE DIVISION[191](cont'd)

- C. Line Type. Complaints are to be classified according to the line of insurance involved as follows:
- 1) Automobile
  - 2) Fire
  - 3) Homeowners-Farmowners
  - 4) Crop
  - 5) Life and Annuity
  - 6) Accident and Health
  - 7) Miscellaneous (not covered by above)
- D. Company Disposition After Receipt. The complaint record shall note the disposition of the complaint.  
The following examples illustrate the type of information called for, but are not intended to be required language nor to exhaust the possibilities:
1. Policy issued/restored.
  2. Refund.
  3. Claim settled.
  4. Delay resolved.
  5. Question of fact.
  6. Contract provision/legal issue.
  7. No jurisdiction.
- E. Date Received. This refers to the date the complaint was received.
- F. Date Closed. This refers to the date on which the complaint was disposed of whether by one action or a series of actions as may be present in connection with some complaints.
- G. Insurance Department Complaint. Complaints are to be classified so as to indicate if the complaint was from an insurance department.
- H. State of Origin. The complaint record should note the state from which the complaint originated. Ordinarily this will be the state of residence of the complainant.

## APPENDIX IV

## DISCLOSURE FORM FOR SMALL FACE AMOUNT LIFE INSURANCE POLICIES

**Important Information About Your Policy**

The premiums you'll pay for your policy may be more than the amount of your coverage (the face amount). You can find both the face amount and the annual premium in your policy. Look for the page labeled [use the label the company uses for that information, such as "Statement of Policy Cost and Benefit Information"].

- Usually, you can figure out how many years it will take until the premiums paid will be greater than the face amount. For an estimate, divide the face amount by the annual premium. Several factors may affect how many years this might take for *your* policy. These include not paying premiums when due, taking out a policy loan, surrendering your policy for cash, policy riders, payment of dividends, if applicable, and changes in the face amount.
- Many factors will affect how much your life insurance costs. Some are your age and health, the face amount of the policy, and the cost of a policy rider. You may be able to pay less for your insurance if you answer health questions. You may also pay less if you pay your premiums less often.
- Ask your insurance agent or your insurance company if you have any questions about your premiums, your coverage, or anything else about your policy.

**If You Change Your Mind . . .**

- You can get a full refund of premiums you've paid if you return your policy and cancel your coverage. You *must* do this within the number of days stated on your policy's front page. To return the policy for a full refund, send it back to the agent or the company.
- If you stop paying premiums or cancel your policy *after* the time that a full refund is available, you have specific rights. Ask your insurance agent or your insurance company about your rights.

**Contact Information**

If you have questions about your insurance policy, ask your agent or your company. If your agent isn't available, contact your insurance company at [provide telephone number (including toll-free number if available), address and website (if available)].

APPENDIX V

**Annuity Illustration Example**

[The following illustration is an example only and does not reflect specific characteristics of any actual product for sale by any company]

**ABC Life Insurance Company**

*Company Product Name*

Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)

An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy

(Contact us at [Policyownerservice@ABCLife.com](mailto:Policyownerservice@ABCLife.com) or 555-555-5555.)

Sex: Male	Initial Premium Payment: \$100,000.00
Age at Issue: 54	Planned Annual Premium Payments: None
Annuitant: John Doe	Tax Status: Nonqualified
Oldest Age at Which Annuity Payments Can Begin: 95	Withdrawals: None Illustrated

<b>Initial Interest Guarantee Period</b>	5 Years
<b>Initial Guaranteed Interest Crediting Rates</b>	
First Year (reflects first year only interest bonus credit of 0.75%):	4.15%
Remainder of Initial Interest Guarantee Period:	3.40%
<b>Market Value Adjustment Period:</b>	5 Years
<b>Minimum Guaranteed Interest Rate After Initial Interest Guarantee Period*:</b>	3%

\*After the Initial Interest Guarantee Period, a new interest rate will be declared annually. This rate cannot be lower than the Minimum Guaranteed Interest Rate.

**Annuity Income Options and Illustrated Monthly Income Values**

This annuity is designed to pay an income that is guaranteed to last as long as the Annuitant lives. When annuity income payments are to begin, the income payment amounts will be determined by applying an annuity income rate to the annuity Account Value.

**Annuity income options include the following:**

- Periodic payments for Annuitant's life
- Periodic payments for Annuitant's life with payments guaranteed for a certain number of years
- Periodic payments for Annuitant's life with payments continuing for the life of a survivor annuitant

**Illustrated Annuity Income Option:** Monthly payments for Annuitant's life with payments guaranteed for 10-year period.

**Assumed Age When Payments Start:** 70

	Account Value	Monthly Annuity Income Rate/\$1,000 of Account Value*	Monthly Annuity Income
Based on Rates Guaranteed in the Contract	\$164,798	\$5.00	\$823.99
Based on Rates Currently Offered by the Company	\$171,976	\$6.50	\$1,117.84

\*If, at the time of annuitization, the annuity income rates currently offered by the company are higher than the annuity income rates guaranteed in the contract, the current rates will apply.



INSURANCE DIVISION[191](cont'd)

**ABC Life Insurance Company***Company Product Name*

Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)

An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy

(Contact us at [Policyownerservice@ABCLife.com](mailto:Policyownerservice@ABCLife.com) or 555-555-5555.)

Contract Year/Age	Premium Payment	Values Based on Guaranteed Rates				Values Based on Assumption That Initial Guaranteed Rates Continue		
		Interest Crediting Rate	Account Value	Cash Surrender Value Before MVA	Minimum Cash Surrender Value After MVA	Interest Crediting Rate	Account Value	Cash Surrender Value Before and After MVA
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1 / 55	\$ 100,000	4.15%	\$ 104,150	\$ 95,818	\$ 92,000	4.15%	\$ 104,150	\$ 95,818
2 / 56	0	3.40%	107,691	100,153	93,000	3.40%	107,691	100,513
3 / 57	0	3.40%	111,353	104,671	95,614	3.40%	111,353	104,671
4 / 58	0	3.40%	115,139	109,382	98,482	3.40%	115,139	109,382
5 / 59	0	3.40%	119,053	114,291	114,291	3.40%	119,053	114,291
6 / 60	0	3.00%	122,625	118,946	118,946	3.40%	123,101	119,408
7 / 61	0	3.00%	126,304	123,778	123,778	3.40%	127,287	124,741
8 / 62	0	3.00%	130,093	130,093	130,093	3.40%	131,614	131,614
9 / 63	0	3.00%	133,996	133,996	133,996	3.40%	136,089	136,089
10 / 64	0	3.00%	138,015	138,015	138,015	3.40%	140,716	140,716
11 / 65	0	3.00%	142,156	142,156	142,156	3.40%	145,501	145,501
16 / 70	0	3.00%	164,798	164,798	164,798	3.40%	171,976	171,976
21 / 75	0	3.00%	191,046	191,046	191,046	3.40%	203,268	203,268
26 / 80	0	3.00%	221,474	221,474	221,474	3.40%	240,255	240,255
31 / 85	0	3.00%	256,749	256,749	256,749	3.40%	283,972	283,972
36 / 90	0	3.00%	297,643	297,643	297,643	3.40%	335,643	335,643
41 / 95	0	3.00%	345,050	345,050	345,050	3.40%	396,717	396,717

For column descriptions, turn to page 3

INSURANCE DIVISION[191](cont'd)

Column Descriptions

- (1) **Ages** shown are measured from the Annuitant's age at issue.
- (2) **Premium Payments** are assumed to be made at the beginning of the Contract Year shown.

**Values Based on Guaranteed Rates**

- (3) **Interest Crediting Rates** shown are annual rates; however, interest is credited daily. During the Initial Interest Guarantee Period, values developed from the Initial Premium Payment are illustrated using the Initial Guaranteed Interest Rate(s) declared by the insurance company, which include an additional first year only interest bonus credit of 0.75%. The interest rates will be guaranteed for the Initial Interest Guarantee Period, subject to an MVA. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually, but can never be less than the Minimum Guaranteed Interest Rate shown.
- (4) **Account Value** is the amount you have at the end of each year if you leave your money in the contract until you start receiving annuity payments. It is also the amount available upon the Annuitant's death if it occurs before annuity payments begin. The death benefit is not affected by surrender charges or the MVA.
- (5) **Cash Surrender Value Before MVA** is the amount available at the end of each year if you surrender the contract (after deduction of any Surrender Charge) but before the application of any MVA. Surrender charges are applied to the Account Value according to the schedule below until the surrender charge period ends, which may be after the Initial Interest Guarantee Period has ended.

<b>Years Measured from Premium Payment:</b>	1	2	3	4	5	6	7	8+
<b>Surrender Charges:</b>	8%	7%	6%	5%	4%	3%	2%	0%

- (6) **Minimum Cash Surrender Value After MVA** is the minimum amount available at the end of each year if you surrender your contract before the end of five years, no matter what the MVA is. The minimum is set by law. The amount you receive may be higher or lower than the cash surrender value due to the application of the MVA, but never lower than this minimum. Otherwise the MVA works as follows: If the interest rate available on new contracts offered by the company is LOWER than your Initial Guaranteed Interest Rate, the MVA will INCREASE the amount you receive. If the interest rate available on new contracts offered by the company is HIGHER than your Initial Guaranteed Interest Rate, the MVA will DECREASE the amount you receive. Page 4 of this illustration provides additional information concerning the MVA.

**Values Based on Assumption That Initial Guaranteed Rates Continue**

- (7) **Interest Crediting Rates** are the same as in Column (3) for the Initial Interest Guarantee Period. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually. For the purposes of calculating the values in this column, it is assumed that the Initial Guaranteed Interest Rate (without the bonus) will continue as the new renewal interest rate in all years. The actual renewal interest rates are not subject to an MVA and will very likely NOT be the same as the illustrated renewal interest rates.
- (8) **Account Value** is calculated the same way as Column (4).
- (9) **Cash Surrender Value Before and After MVA** is the Cash Surrender Value at the end of each year assuming that Initial Guaranteed Interest Rates continue, and that the continuing rates are the rates offered by the company on new contracts. In this case, the MVA would be zero, and Cash Surrender Values before and after the MVA would be the same.

**Important Note:** This illustration assumes you will take **no** withdrawals from your annuity before you begin to receive periodic income payments. **Withdrawals will reduce both the annuity Account Value and the Cash Surrender Value.** You may make partial withdrawals of up to 10% of your account value each contract year without paying surrender charges. Excess withdrawals (above 10%) and full withdrawals will be subject to surrender charges.

**This illustration assumes the annuity's current interest crediting rates will not change. It is likely that they will change and actual values may be higher or lower than those in the illustration.**

**The values in this illustration are not guarantees or even estimates of the amounts you can expect from your annuity. For more information, read the annuity disclosure and annuity buyer's guide.**



INSURANCE DIVISION[191](cont'd)

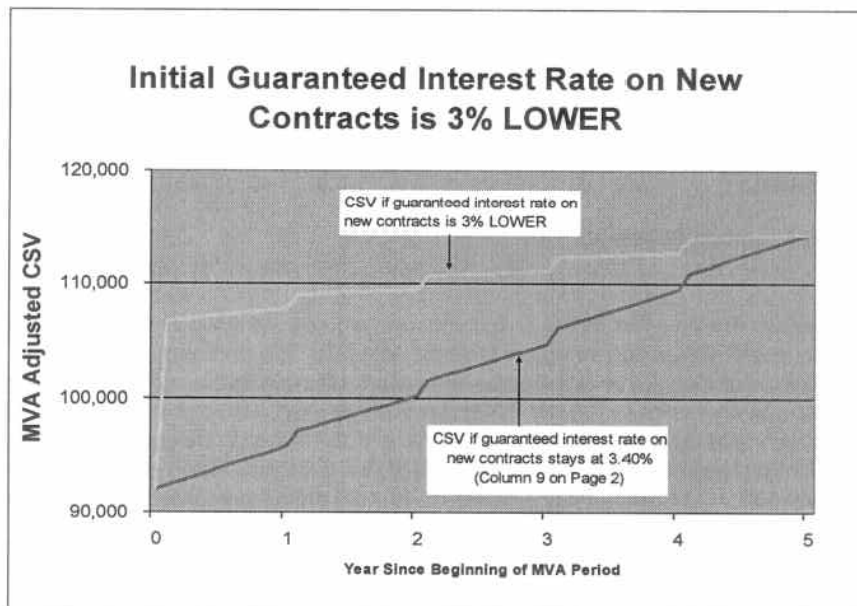
## MVA-Adjusted Cash Surrender Values (CSVs) Under Sample Scenarios

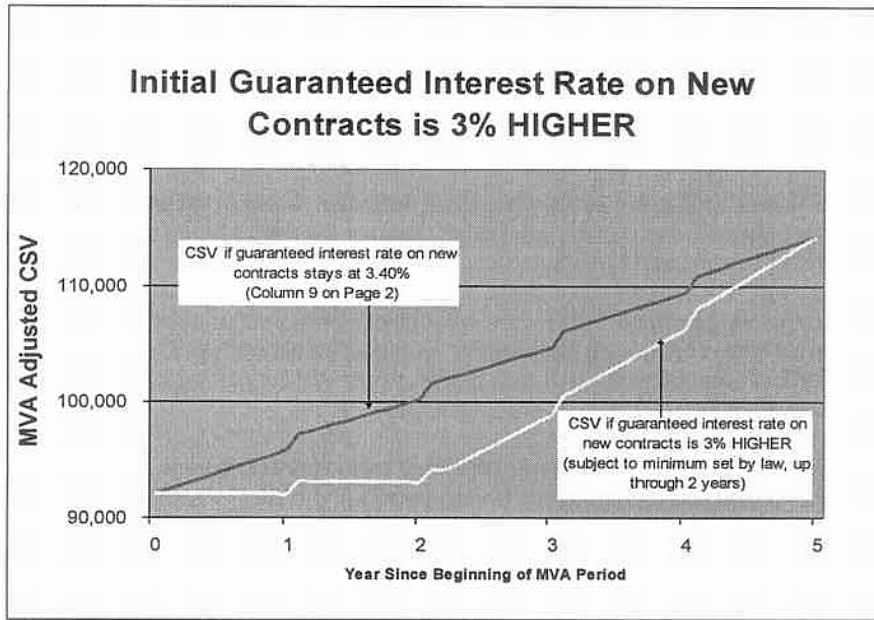
The graphs below\* show MVA-adjusted Cash Surrender Values (CSVs) during the first five years of the contract, as illustrated on page 2 (\$100,000 single premium, a 5-year MVA Period) under two sample scenarios, as described below.

**Graph #1** shows if the interest rate on new contracts is 3% LOWER than your Initial Guaranteed Interest Rate, the MVA will increase the amount you receive (green line). The pink line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on Page 2).

**Graph #2** shows if the interest rate on new contracts is 3% HIGHER than your Initial Guaranteed Interest Rate, the MVA will decrease the amount you receive, but not below the minimum set by law (Column (6) on Page 2), which in this scenario limits the decrease for the first 2 years (yellow line). The pink line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on Page 2).

These graphs and the sample guaranteed interest rates on new contracts used are for demonstration purposes only and are not intended to be a projection of how guaranteed interest rates on new contracts are likely to behave.





\*Color not reproducible in the Iowa Administrative Code.  
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**APPENDIX VI  
INSURANCE AGENT (PRODUCER) DISCLOSURE FOR ANNUITIES**

**Do Not Sign Unless You Have Read and Understand the Information in this Form**

Date: \_\_\_\_\_

**INSURANCE AGENT (PRODUCER) INFORMATION (“Me”, “I”, “My”)**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Business/Agency Name: \_\_\_\_\_ Website: \_\_\_\_\_

Business Mailing Address: \_\_\_\_\_

Business Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

National Producer Number in [state]: \_\_\_\_\_

**CUSTOMER INFORMATION (“You”, “Your”)**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

**What Types of Products Can I Sell You?**

I am licensed to sell annuities to you in accordance with state law. If I recommend that You buy an annuity, it means I believe that it effectively meets Your financial situation, insurance needs, and financial objectives. Other financial products, such as life insurance or stocks, bonds and mutual funds, also may meet Your needs.

I offer the following products:

- Fixed or Fixed Indexed Annuities
- Variable Annuities
- Life Insurance

I need a separate license to provide advice about or to sell non-insurance financial products. I have checked below any non-insurance financial products that I am licensed and authorized to provide advice about or to sell.

INSURANCE DIVISION[191](cont'd)

- Mutual Funds
- Stocks/Bonds
- Certificates of Deposits

**Whose Annuities Can I Sell to You?**

I am authorized to sell:

<input type="checkbox"/> Annuities from Only One (1) Insurer	<input type="checkbox"/> Annuities from Two or More Insurers
<input type="checkbox"/> Annuities from Two or More Insurers although I primarily sell annuities from:	

**How I'm Paid for My Work:**

It's important for You to understand how I'm paid for my work. Depending on the particular annuity You purchase, I may be paid a commission or a fee. Commissions are generally paid to Me by the insurance company while fees are generally paid to Me by the consumer. If You have questions about how I'm paid, please ask Me.

Depending on the particular annuity You buy, I will or may be paid cash compensation as follows:

- Commission, which is usually paid by the insurance company or other sources. If other sources, describe: \_\_\_\_\_.
- Fees (such as a fixed amount, an hourly rate, or a percentage of your payment), which are usually paid directly by the customer.
- Other (Describe): \_\_\_\_\_.

*If you have questions about the above compensation I will be paid for this transaction, please ask me.*

I may also receive other indirect compensation resulting from this transaction (sometimes called "noncash" compensation), such as health or retirement benefits, office rent and support, or other incentives from the insurance company or other sources.

**Drafting Note:** *This disclosure may be adapted to fit the particular business model of the producer. As an example, if the producer only receives commission or only receives a fee from the consumer, the disclosure may be refined to fit that particular situation. This form is intended to provide an example of how to communicate producer compensation, but compliance with the regulation may also be achieved with more precise disclosure, including a written consulting, advising or financial planning agreement.*

**Drafting Note:** *The acknowledgment and signature should be in immediate proximity to the disclosure language.*

By signing below, you acknowledge that you have read and understand the information provided to you in this document.

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agent (Producer) Signature

\_\_\_\_\_  
Date

APPENDIX VII

**CONSUMER REFUSAL TO PROVIDE INFORMATION**

**Do Not Sign Unless You Have Read and Understand the Information in this Form**

**Why are you being given this form?**

You're buying a financial product – an annuity.

INSURANCE DIVISION[191](cont'd)

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company needs information about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you have not given the agent, broker, or company some or all the information needed to decide if the annuity effectively meets your needs, objectives and situation. You may lose protections under the Insurance Code of [this state] if you sign this form or provide inaccurate information.

Statement of Purchaser:

- I **REFUSE** to provide this information at this time.
- I have chosen to provide LIMITED information at this time.

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Date

APPENDIX VIII

**Consumer Decision to Purchase an Annuity NOT Based on a Recommendation**

**Do Not Sign This Form Unless You Have Read and Understand It.**

**Why are you being given this form?**

You are buying a financial product – an annuity.

To recommend a product that effectively meets your needs, objectives and situation, the agent, broker, or company has the responsibility to learn about you, your financial situation, insurance needs and financial objectives.

If you sign this form, it means you know that you're buying an annuity that was not recommended.

Statement of Purchaser:

I understand that I am buying an annuity, but the agent, broker or company did not recommend that I buy it. If I buy it **without a recommendation**, I understand I may lose protections under the Insurance Code of [this state].

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agent/Producer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
These rules are intended to implement Iowa Code chapters 507B and 522B.

**ARC 7350C****INSURANCE DIVISION[191]****Notice of Intended Action****Proposing rulemaking related to replacement of life insurance and annuities  
and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 16, “Replacement of Life Insurance and Annuities,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 507B.12.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 507B.

*Purpose and Summary*

The proposed chapter regulates the activities of insurance producers and establishes minimum standards of conduct with respect to the replacement of existing life insurance and annuities.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024  
10 to 11 a.m.

1963 Bell Avenue, Suite 100  
Des Moines, Iowa

February 15, 2024  
3 to 4 p.m.

1963 Bell Avenue, Suite 100  
Des Moines, Iowa

INSURANCE DIVISION[191](cont'd)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16  
REPLACEMENT OF LIFE INSURANCE AND ANNUITIES

DIVISION I

**191—16.1 to 16.20** Reserved.

DIVISION II

(Effective July 1, 2000)

**191—16.21(507B) Purpose.**

**16.21(1)** The purpose of these rules is:

*a.* To regulate the activities of insurers and producers with respect to the replacement of existing life insurance and annuities.

*b.* To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions by:

(1) Ensuring that purchasers receive information with which a decision can be made in the purchaser's own best interest;

(2) Reducing the opportunity for misrepresentation and incomplete disclosure; and

(3) Establishing penalties for failure to comply with requirements of these rules.

**16.21(2)** These rules are authorized by Iowa Code section 507B.12 and are intended to implement Iowa Code section 507B.4.

**191—16.22(507B) Definitions.**

*"Commissioner"* means the Iowa insurance commissioner.

*"Contract"* means an individual annuity contract.

*"Direct-response solicitation"* means a solicitation through a sponsoring or endorsing entity or individually solely through mails, telephone, the Internet or other mass communication media.

*"Existing insurer"* means the insurance company whose policy or contract is or will be changed or affected in a manner described within the definition of "replacement."

*"Existing policy or contract"* means an individual life insurance policy (policy) or annuity contract (contract) in force, including a policy under a binding or conditional receipt or a policy or contract that is within an unconditional refund period.

*"Financed purchase"* means the purchase of a new policy involving the actual or intended use of funds obtained by the withdrawal or surrender of, or by borrowing from, values of an existing policy to

## INSURANCE DIVISION[191](cont'd)

pay all or part of any premium due on a new policy. For purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender, or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same company, within 4 months before or 13 months after the effective date of the new policy, it will be deemed prima facie evidence of the policyholder's intent to purchase the new policy with existing policy values. This prima facie standard is not intended to increase or decrease the monitoring obligations contained in paragraph 16.25(1)"e."

"*Illustration*" means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years as defined in 191—Chapter 14.

"*Policy*" means an individual life insurance policy.

"*Policy summary*," for the purposes of these rules, means:

1. For policies or contracts other than universal life policies, a written statement regarding a policy or contract that shall contain to the extent applicable, but need not be limited to, the following information: current death benefit; annual contract premium; current cash surrender value; current dividend; application of current dividend; and amount of outstanding loan.

2. For universal life policies, a written statement that shall contain at least the following information: the beginning and end date of the current report period; the policy value at the end of the previous report period and at the end of the current report period; the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders); the current death benefit at the end of the current report period on each life covered by the policy; the net cash surrender value of the policy as of the end of the current report period; and the amount of outstanding loans, if any, as of the end of the current report period.

"*Producer*" means a person licensed under Iowa Code chapter 522B.

"*Registered contract*" means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

"*Replacement*" means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be:

1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;

2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

3. Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

4. Reissued with any reduction in cash value; or

5. Used in a financed purchase.

"*Replacing insurer*" means the insurance company that issues or proposes to issue a new policy or contract that replaces an existing policy or contract or is a financed purchase.

"*Sales material*" means a sales illustration and any other written, printed or electronically presented information created, completed or provided by the company or producer that is used in the presentation to the policy or contract owner related to the policy or contract that is purchased.

### **191—16.23(507B) Exemptions.**

**16.23(1)** Unless otherwise specifically included, these rules shall not apply to transactions involving:

a. Credit life insurance.

b. Group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct-response solicitation shall be subject to the provisions of rule 191—16.28(507B).

c. Group life insurance and annuities used to fund formal prepaid funeral contracts.

## INSURANCE DIVISION[191](cont'd)

*d.* An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner.

*e.* Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company.

*f.* Except as noted below, policies or contracts used to fund:

(1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(2) A plan described by Section 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

(3) A governmental or church plan defined in Section 414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the Internal Revenue Code; or

(4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

These rules shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pretax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two or more annuity providers or policy providers and there is a direct solicitation of an individual employee by an insurance producer for the purchase of a contract or policy.

*g.* New coverage provided under a life insurance policy or contract where the cost is borne wholly by the insured's employer or by an association of which the insured is a member.

*h.* Existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed.

*i.* Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this chapter.

*j.* Structured settlement annuities.

**16.23(2)** Registered contracts shall be exempt from the requirements of paragraph 16.26(1) "b" and subrule 16.27(2) with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

**191—16.24(507B) Duties of producers.**

**16.24(1)** A producer who initiates an application for a policy or a contract shall submit to the insurer, with or as part of the application, a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts. If the applicant does not have an existing policy or contract, the producer's duties with respect to replacement are complete.

**16.24(2)** If the applicant does have an existing policy or contract, the producer shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements in the form as described in Appendix A or other substantially similar form approved by the commissioner.

*a.* The notice shall be signed by both the applicant and the producer attesting that the notice has been read aloud by the producer or that the applicant did not wish the notice to be read aloud (in which case the producer need not have read the notice aloud) and that a copy of the notice was left with the applicant.

*b.* The notice shall list all life insurance policies or annuities proposed to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available; and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

**16.24(3)** In connection with a replacement transaction, the producer shall leave with the applicant at the time an application for a new policy or contract is completed the original or a copy of all sales



## INSURANCE DIVISION[191](cont'd)

material. A copy of any electronically presented sales material shall be provided to the policyholder in printed form no later than at the time of policy or contract delivery.

**16.24(4)** Except as provided in subrule 16.26(3), in connection with a replacement transaction, the producer shall submit to the insurer to which an application for a policy or contract is presented a copy of each document required by this subrule, a statement identifying any preprinted or electronically presented insurer-approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

**191—16.25(507B) Duties of all insurers that use producers on or after January 1, 2001.**

**16.25(1)** Each insurer that uses producers shall maintain a system of supervision and control to ensure compliance with the requirements of these rules that shall include at least the following:

*a.* Informing its producers of the requirements of these rules and incorporating the requirements of these rules into all relevant producer training manuals prepared by the insurer;

*b.* Providing to each producer a written statement of the insurer's position with respect to the acceptability of replacements including providing guidance to its producer as to the appropriateness of these transactions;

*c.* Reviewing the appropriateness of each replacement transaction that the producer does not indicate is in accord with paragraph 16.25(1) "b";

*d.* Confirming that the requirements of these rules have been met; and

*e.* Detecting transactions that are replacements of existing policies or contracts by the existing insurer but that have not been reported as such by the applicant or producer. Compliance with this subrule may include, but shall not be limited to, systematic customer surveys, interviews, confirmation letters or programs of internal monitoring.

**16.25(2)** Each insurer that uses producers shall have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer and shall, upon request, make such records available to the insurance division. The capacity to monitor shall include the ability to produce records for each producer's:

*a.* Life replacements, including financed purchases, as a percentage of the producer's total annual sales for life insurance;

*b.* Number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance;

*c.* Annuity contract replacements as a percentage of the producer's total annual annuity contract sales;

*d.* Number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the insurer's monitoring system as required by paragraph 16.25(1) "e"; and

*e.* Replacements, indexed by replacing producer and existing insurer.

**16.25(3)** Each insurer that uses producers shall require with or as a part of each application for life insurance or for an annuity a statement signed by both the applicant and the producer as to whether the applicant has existing policies or contracts.

**16.25(4)** Each insurer that uses producers shall require with each application for life insurance or for an annuity that indicates an existing policy or contract a completed notice regarding replacements as contained in Appendix A.

**16.25(5)** When the applicant has existing policies or contracts, each replacing insurer that uses producers shall be able to produce completed and signed copies of the notice regarding replacements for at least five years after the termination or expiration of the proposed policy or contract.

**16.25(6)** In connection with a replacement transaction, each replacing insurer that uses producers shall be able to produce copies of any sales material required by subrule 16.24(4), the basic illustration and any supplemental illustrations related to the specific policy or contract that is purchased and the producer's and applicant's signed statements with respect to financing and replacement for at least five years after the termination or expiration of the proposed policy or contract.

INSURANCE DIVISION[191](cont'd)

**16.25(7)** Each insurer that uses producers shall ascertain that the sales material and illustrations required by subrule 16.24(4) meet the requirements of these rules and are complete and accurate for the proposed policy or contract.

**16.25(8)** If an application does not meet the requirements of these rules, each insurer that uses producers shall notify the producer and applicant and fulfill the outstanding requirements.

**16.25(9)** Records required to be retained by this rule may be maintained by any process that accurately reproduces the actual document.

**191—16.26(507B) Duties of replacing insurers that use producers.**

**16.26(1)** Where a replacement is involved in the transaction, the replacing insurer that uses producers shall:

- a. Verify that the required forms are received and are in compliance with these rules;
- b. Notify any other existing insurer that may be affected by the proposed replacement within five business days of receipt of a completed application indicating replacement or when the replacement is identified if not indicated on the application, and mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract within five business days of a request from an existing insurer;
- c. Be able to produce copies of the notification regarding replacement required in subrule 16.24(2), indexed by producer, for at least five years or until the next regular examination by the insurance department of an insurer's state of domicile, whichever is later; and
- d. Provide to the policy or contract owner notice of the right to return the policy or contract within 30 days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid on it including any policy fees or charges or, in the case of a variable or market value adjustment policy or contract, a payment of the cash surrender value provided under the policy or contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under such policy or contract. The notice may be included in Appendix A or C.

**16.26(2)** Where a replacement is involved in the transaction and where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, the replacing insurer shall allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face amount of the existing policy or contract.

**16.26(3)** Where a replacement is involved in the transaction and where an insurer prohibits the use of sales material other than that approved by the insurer, the insurer may, as an alternative to the requirements of subrule 16.24(4) do all of the following:

- a. Require of and obtain from the producer a signed statement with each application that:
  - (1) Represents that the producer used only insurer-approved sales material; and
  - (2) Represents that copies of all sales material were left with the applicant in accordance with subrule 16.24(3).
- b. Provide to the applicant a letter or by verbal communication by a person whose duties are separate from the marketing area of the insurer, within ten days of the issuance of the policy or contract, which shall include:
  - (1) Information that the producer has represented that copies of all sales material have been left with the applicant in accordance with subrule 16.24(3);
  - (2) The toll-free number by which the applicant can contact company personnel involved in the compliance function if copies of all sales material were not left with the applicant; and
  - (3) Information regarding the importance of retaining copies of the sales material for future reference.
- c. Be able to produce a copy of the letter or other verification obtained pursuant to this subrule in the policy file for at least five years after the termination or expiration of the policy or contract.

**191—16.27(507B) Duties of the existing insurer.** Where a replacement is involved in the transaction, the existing insurer shall:

## INSURANCE DIVISION[191](cont'd)

**16.27(1)** Retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least five years or until the conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later.

**16.27(2)** Send a letter to the policy or contract owner notifying the owner of the right to receive information regarding the existing policy or contract values including, if available, an in-force illustration or policy summary if an in-force illustration cannot be produced within five business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within five business days of receipt of the request from the policy or contract owner.

**16.27(3)** Upon receipt of a request to borrow, surrender or withdraw any policy values, send to the applicant a notice, advising the policyowner that the release of policy values may affect the guaranteed elements, nonguaranteed elements, face amount or surrender value of the policy from which the values are released. The notice shall be sent separate from the check if the check is sent to anyone other than the policyowner.

**191—16.28(507B) Duties of insurers with respect to direct-response solicitations.**

**16.28(1)** In the case of an application that is initiated as a result of a direct-response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, the notice regarding replacement in Appendix B, or other substantially similar form approved by the commissioner.

**16.28(2)** If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall:

*a.* Provide to applicants or prospective applicants with the policy or contract a notice, as described in Appendix C, or other substantially similar form approved by the commissioner. In these instances the insurer may delete the references to the producer, including the producer's signature, and references not applicable to the product being sold or replaced, without having to obtain approval of the form from the commissioner. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the notice referred to in this paragraph. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed, postage prepaid envelope with instructions for the return of the signed notice referred to in this subrule; and

*b.* Comply with the requirements of paragraph 16.26(1) "b," if the applicant furnishes the names of the existing insurers, and the requirements of paragraphs 16.26(1) "c" and "d" and subrule 16.26(2).

**191—16.29(507B) Violations and penalties.**

**16.29(1)** Any failure to comply with these rules shall be considered a violation of rules 191—15.7(507B) and 191—15.8(507B). Examples of violations include but are not limited to:

- a.* Any deceptive or misleading information set forth in sales material;
- b.* Failing to ask the applicant in completing the application the pertinent questions regarding the possibility of financing or replacement;
- c.* The intentional incorrect recording of an answer;
- d.* Advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer; or
- e.* Advising a policy or contract owner to write directly to the insurer in such a way as to attempt to obscure the identity of the replacing producer or insurer.

**16.29(2)** Policy and contract owners have the right to replace existing life insurance policies or annuity contracts after indicating in or as a part of applications for new coverage that replacement is not their intention; however, patterns of such action by policy or contract owners of the same producer shall be deemed prima facie evidence of the producer's knowledge that replacement was intended in

INSURANCE DIVISION[191](cont'd)

connection with the identified transactions, and these patterns of action shall be deemed prima facie evidence of the producer's intent to violate these rules.

**16.29(3)** Where it is determined that the requirements of these rules have not been met, the replacing insurer shall provide to the policy owner an in-force illustration if available or policy summary for the replacement policy or available disclosure document for the replacement contract and the appropriate notice regarding replacements in Appendix A or C.

**16.29(4)** Violations of these rules shall subject the violators to penalties that may include the revocation or suspension of a producer's or insurer's license, monetary fines, the forfeiture of any commissions or compensation paid to a producer as a result of the transaction in connection with which the violations occurred, or any other penalties authorized by Iowa Code chapter 507B or 191—Chapter 15.

**191—16.30(507B) Severability.** If any rule or portion of a rule of this division, or its applicability to any person or circumstances, is held invalid by a court, the remainder of this division, or the applicability of its provisions to other persons, shall not be affected.

These rules are intended to implement Iowa Code chapter 507B.

## APPENDIX A

### IMPORTANT NOTICE: REPLACEMENT OF LIFE INSURANCE OR ANNUITIES

This document must be signed by the applicant and the producer, if there is one,  
and a copy left with the applicant.

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract?  YES  NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract?  YES  NO

INSURANCE DIVISION[191](cont'd)

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the contract number if available) and whether each policy will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED	REPLACED (R) OR FINANCING (F)
1.			
2.			
3.			

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. [If you request one, an in-force illustration, policy summary or available disclosure document must be sent to you by the existing insurer.] Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because \_\_\_\_\_.

I certify that the responses herein are, to the best of my knowledge, accurate:

_____	_____
Applicant's Signature and Printed Name	Date
_____	_____
Producer's Signature and Printed Name	Date

I do not want this notice read aloud to me. \_\_\_\_\_ (Applicants must initial only if they do not want the notice read aloud.)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

- PREMIUMS: Are they affordable?  
 Could they change?  
 You're older—are premiums higher for the proposed new policy?  
 How long will you have to pay premiums on the new policy? On the old policy?
- POLICY VALUES: New policies usually take longer to build cash values and to pay dividends.  
 Acquisition costs for the old policy may have been paid; you will incur costs for the new one.  
 What surrender charges do the policies have?  
 What expense and sales charges will you pay on the new policy?  
 Does the new policy provide more insurance coverage?
- INSURABILITY: If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.  
 You may need a medical exam for a new policy.

INSURANCE DIVISION[191](cont'd)

[Claims on most new policies for up to the first two years can be denied based on inaccurate statements. Suicide limitations may begin anew on the new coverage.]

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

- How are premiums for both policies being paid?
- How will the premiums on your existing policy be affected?
- Will a loan be deducted from death benefits?
- What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:

- Will you pay surrender charges on your old contract?
- What are the interest rate guarantees for the new contract?
- Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

- What are the tax consequences of buying the new policy?
- Is this a tax-free exchange? (See your tax advisor.)
- Is there a benefit from favorable “grandfathered” treatment of the old policy under the federal tax code?
- Will the existing insurer be willing to modify the old policy?
- How does the quality and financial stability of the new company compare with your existing company?

## **APPENDIX B**

### **NOTICE REGARDING REPLACEMENT REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?**

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one—or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed policy or contract’s benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy or contract to give you information about it.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

## **APPENDIX C**

### **IMPORTANT NOTICE: REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

INSURANCE DIVISION[191](cont'd)

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interest. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract?  YES  NO

2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract?  YES  NO

Please list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the contract number if available) and whether each policy will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED	REPLACED (R) OR FINANCING (F)
1.			
2.			
3.			

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. [If you request one, an in-force illustration, policy summary or available disclosure document must be sent to you by the existing insurer.] Ask for and retain all sales material used by the agent in the sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

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Applicant's Signature and Printed Name Date

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

## INSURANCE DIVISION[191](cont'd)

- PREMIUMS:** Are they affordable?  
 Could they change?  
 You're older—are premiums higher for the proposed new policy?  
 How long will you have to pay premiums on the new policy? On the old policy?
- POLICY VALUES:** New policies usually take longer to build cash values and to pay dividends. Acquisition costs for the old policy may have been paid; you will incur costs for the new one.  
 What surrender charges do the policies have?  
 What expense and sales charges will you pay on the new policy?  
 Does the new policy provide more insurance coverage?
- INSURABILITY:** If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.  
 You may need a medical exam for a new policy.  
 [Claims on most new policies for up to the first two years can be denied based on inaccurate statements. Suicide limitations may begin anew on the new coverage.]

**IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:**

- How are premiums for both policies being paid?
- How will the premiums on your existing policy be affected?
- Will a loan be deducted from death benefits?
- What values from the old policy are being used to pay premiums?

**IF YOU ARE SURRENDERING AN ANNUITY OR INTEREST SENSITIVE LIFE PRODUCT:**

- Will you pay surrender charges on your old contract?
- What are the interest rate guarantees for the new contract?
- Have you compared the contract charges or other policy expenses?

**OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:**

- What are the tax consequences of buying the new policy?
- Is this a tax-free exchange? (See your tax advisor.)
- Is there a benefit from favorable “grandfathered” treatment of the old policy under the federal tax code?
- Will the existing insurer be willing to modify the old policy?
- How does the quality and financial stability of the new company compare with your existing company?

**ARC 7351C****INSURANCE DIVISION[191]****Notice of Intended Action****Proposing rulemaking related to property and casualty insurance  
and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 20, “Property and Casualty Insurance,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 515F.37.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 515, 515A and 515F.



INSURANCE DIVISION[191](cont'd)

*Purpose and Summary*

The proposed chapter sets forth the form and rate requirements and rules governing the Iowa Fair Access to Insurance Requirements (FAIR) Plan.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024 10 to 11 a.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa
February 15, 2024 3 to 4 p.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

INSURANCE DIVISION[191](cont'd)

ITEM 1. Rescind 191—Chapter 20 and adopt the following **new** chapter in lieu thereof:

*PROPERTY AND CASUALTY INSURANCE*  
CHAPTER 20  
PROPERTY AND CASUALTY INSURANCE

DIVISION I  
FORM AND RATE REQUIREMENTS

**191—20.1(505,509,514A,515,515A,515F) General requirements for filing rates and forms.**

**20.1(1)** Insurers required to file rates or forms with the division shall submit required rate and form filings and any fees required for the filings electronically using the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF). Insurers must comply with the division's requirements for submissions, including both the Iowa general instructions and the specific submission requirements for the type of insurance for which the companies are submitting forms or rates, as set out on the SERFF website at [serff.com](http://serff.com).

**20.1(2)** No rate filing shall include any adjustment designed to recover underwriting or operating losses incurred out of state. Upon request by the commissioner, insurers doing business in Iowa shall segregate in their rate filings data from any state identified by the commissioner, and the filings shall include a certification that no portion of any rate increase is designed to recover underwriting or operating losses incurred in another state.

**191—20.2(505) Objection to form filing.**

**20.2(1)** Any insured or established organization with one or more insureds among its members that has an objection to a form filing may submit to the insurance commissioner a written request for a hearing on the filing. A request for a hearing must be filed within 20 days after the filing has been received by the commissioner.

**20.2(2)** Within 20 days after receipt of the request for a hearing, the commissioner will hold a hearing to consider the objection to the filing. The commissioner will provide not less than ten days' written notice of the time and place of the hearing to the person or association filing the request, to the filing insurer or organization, and to any other person requesting notice. The commissioner may suspend or postpone the effective date of the filing pending the hearing. Upon consideration of the information received at the hearing, the commissioner may determine whether or not to approve the filing.

**191—20.3** Reserved.

**191—20.4(505,509,514A,515,515A,515F) Policy form filing.**

**20.4(1)** Each policy form, endorsement, application and agreement modifying the provisions of policies must bear an identification form number. This form number must be in the lower left-hand corner unless uniform or authentic forms are used.

**20.4(2)** Reserved.

**20.4(3)** A form filing that has not been previously approved, disapproved or questioned shall be deemed approved on or after 30 days from the date that all necessary requirements are submitted to SERFF.

**191—20.5(515A) Rate or manual rule filing.**

**20.5(1)** Every insurer shall determine and file its final rates with the commissioner pursuant to provisions of Iowa Code chapter 515F, except for insurers of workers' compensation who are specifically excluded by Iowa Code section 515F.3(2) and residual market mechanisms.

*a.* Advisory organizations, defined in Iowa Code section 515F.2 and licensed pursuant to Iowa Code section 515F.8, may file on behalf of their member and subscriber companies prospective loss costs, supplementary rating information and supporting information as defined in Iowa Code section 515F.2. Advisory organization filings shall be filed and made effective in accordance with the provisions of Iowa

## INSURANCE DIVISION[191](cont'd)

Code sections 515F.4 through 515F.6 or 515F.23 through 515F.25 that apply to the filing and approval of rates and supplementary rating information.

*b.* An insurer may satisfy its obligation to make rate filings and supplementary rating information by becoming a participating insurer of a licensed advisory organization that makes reference filings of advisory prospective loss costs and by authorizing the commissioner to accept such filings on its behalf, subject to any modifications filed by the insurer. The insurer's rates shall be the prospective loss costs filed by the advisory organization that have been put into effect in accordance with paragraph 20.5(1) "a," combined with the loss cost adjustments that are filed in accordance with paragraph 20.5(1) "a."

*c.* If an insurer has previously filed forms modifying coverage provided by the applicable advisory organization forms, such fact should be noted in the rate filing.

**20.5(2)** Rate filings shall reflect that due consideration has been given to the factors enumerated in Iowa Code section 515F.4(1), and shall be accompanied by supporting statistical exhibits. In addition, each filing shall note the date of the last revision of rates affecting this coverage and briefly describe the nature of that revision. Such filings shall identify each page filed by placing their own name thereon.

**20.5(3)** If a company filing rates used the manuals of an advisory organization in its filings, any portion of the manuals of the advisory organization that will not be followed by the filing must be clearly shown as deleted or amended by use of an appropriately numbered exception page.

**20.5(4)** For residual market mechanisms, insurers making filings on their own behalf shall identify the submission as an independent filing or a deviation from the previously filed form, rate, or rule. A deviation filing is a submission which represents modification of a form or rate or rule previously filed by an authorized rating organization or advisory organization on behalf of its member and subscriber companies. An insurer shall note in its filing if it has previously filed forms modifying coverage provided by the applicable standard forms.

**191—20.6(515A) Exemption from rate filing requirement.**

**20.6(1)** An insurer requesting, pursuant to Iowa Code section 515F.5(4), suspension or modification of the requirement of filing of a rate shall provide the commissioner with a full explanation for the proposed exemption from the filing requirement together with any actuarial data available and shall furnish the commissioner with any additional material the commissioner may desire.

**20.6(2)** If the commissioner finds that a proposed rate represents a classification for which credible and homogeneous statistical experience does not exist and cannot be analyzed using standard actuarial techniques to produce a statistically significant average rate for the individual risks within the classification, the commissioner may exempt the insurer from the filing requirement for that proposed rate.

**20.6(3)** An insurer shall maintain statistical records of the experience and expenses attendant upon the risks covered by any rate exempted by the commissioner from the filing requirement. The insurer may supplement statistical information filed with the commissioner with information by an advisory organization licensed pursuant to Iowa Code section 515F.8.

This rule is intended to implement Iowa Code section 515A.4(6).

**191—20.7** Reserved.

**191—20.8(515F) Rate filings for crop-hail insurance.** Rate filings for crop-hail insurance shall be submitted on or before January 31 of each calendar year. Each company may file one set of rates per policy plan per calendar year which shall remain in effect throughout the current crop year. In the absence of a new filing, rates on file from the previous year will remain in effect. Each filing shall be accompanied by a cover letter, synopsis sheet and supporting data which justify the filed rate.

**191—20.9 and 20.10** Reserved.

**191—20.11(515) Exemption from form and rate filing requirements.**

**20.11(1)** The following lines of insurance shall be exempt from the form filing requirements of Iowa Code section 515.102:

## INSURANCE DIVISION[191](cont'd)

- a. Aircraft hull and aviation liability.
- b. Difference-in-conditions.
- c. Kidnap-ransom.
- d. Manuscript policies and endorsements issued to not more than two insureds in Iowa.
- e. Political risk.
- f. Reinsurance.
- g. Terrorism.
- h. War risk.
- i. Weather insurance.

**20.11(2)** An insurer shall, within 30 days of the commissioner's request, provide the commissioner with any of the information that is exempted from form and rate filing requirements.

These rules are intended to implement Iowa Code chapter 515F and section 515.109.

**191—20.12 to 20.40** Reserved.

DIVISION II  
IOWA FAIR PLAN ACT

**191—20.41(515,515F) Purpose.** This division is intended to implement and interpret Iowa Code sections 515F.30 through 515F.38 for the purpose of establishing procedures and requirements for a mandatory risk-sharing facility for basic property insurance coverage. This division is also intended to encourage improvement of and reasonable loss prevention measures for properties located in Iowa and to further orderly community development.

**191—20.42(515,515F) Scope.** This division shall apply to all insurers licensed to write property insurance in Iowa.

**191—20.43(515,515F) Definitions.** In addition to the definitions in Iowa Code sections 514F.2 and 515F.32 and rule 191—20.1(505,509,514A,515,515A,515F), the following definitions apply:

*"Location"* means a single building and its contents, or contiguous buildings and their contents, under one ownership.

*"Manufacturing risks"* means those risks eligible to be written under the customary manufacturing business interruption policy forms approved by the commissioner. The following are not considered manufacturing risks:

1. Dry cleaning and laundering—Carpet, rug, furniture, or upholstery cleaning; diaper service or infants' apparel laundries; dry cleaning; laundries; linen supply.
2. Installation, servicing and repair—Electrical equipment; electronic equipment; glazing; household furnishings and appliances; office machines; plumbing, heating and air conditioning; protective systems for premises, vaults and safes.
3. Laboratories—Blood banks; dental laboratories; medical or X-ray laboratories.
4. Duplicating or similar services—Blueprinting and photocopying services; bookbinding; electrotyping; engraving; letter service (mailing or addressing companies); linotype or hand composition; lithographing; photo engraving; photo finishing; photographers (commercial).
5. Warehousing—Cold storage (locker establishments); cold storage warehouse; furniture or general merchandise warehouse.
6. Miscellaneous—Barber shops; beauty parlors; cemeteries; dog kennels; electroplating; equipment rental (not contractors' equipment); film and tape rental; funeral directors; galvanizing, tinning, and detinning; radio broadcasting, commercial wireless and television broadcasting; taxidermists; telephone or telegraph companies; textiles (bleaching, dyeing, mercerizing or finishing of property of others); veterinarians and veterinary hospitals.

*"Motor vehicles"* means vehicles that are self-propelled.

*"Weighted premiums written"* means:

## INSURANCE DIVISION[191](cont'd)

1. Gross direct premiums less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits, with respect to property in this state excluding premiums on risks insured under the Iowa FAIR Plan association, for basic property insurance, for homeowners multiple peril policies, for farm dwelling policies and for the basic property insurance premium components of all other multiple peril policies.

2. In addition, 100 percent of the premiums obtained for homeowners multiple peril policies shall be added to 100 percent of the premiums obtained for basic property insurance and the basic property insurance premium components of all other multiple peril policies. The basic year for the computation shall be the first preceding calendar year.

**191—20.44(515,515F) Eligible risks.** All risks at a fixed location shall be eligible for inspection and considered for insurance under the Plan except motor vehicles, inland marine risks, and manufacturing risks as defined above.

**191—20.45(515,515F) Membership.** Every insurer licensed to write one or more components of basic property insurance shall be considered a member of the Plan. Any other insurer may, upon application to and approval by the governing committee, become a member.

**191—20.46(515,515F) Administration.**

**20.46(1)** The Plan shall be administered by the governing committee, subject to supervision of the commissioner, and operated by a manager appointed by the governing committee.

**20.46(2)** The governing committee shall consist of seven members, each of whom shall serve for a period of one year or until a successor is elected or designated. Each member shall have one vote.

**191—20.47(515,515F) Duties of the governing committee.**

**20.47(1)** The governing committee shall meet as often as may be required to perform the general duties of the administration of the Plan, or on the call of the commissioner. Four members of the committee present or by proxy shall constitute a quorum. Members of the committee who choose to appoint a proxy shall give a written proxy to the person elected to act as proxy. The written proxy shall then be filed with the governing committee, thus ensuring the validity of the proxy's actions as the governing committee performs its duties.

**20.47(2)** The governing committee shall be empowered to appoint a manager, who shall serve at the pleasure of the committee, to budget expenses, levy assessments, disburse funds, and perform all other duties of the Plan. The adoption of or substantive changes in pension plans or employee benefit programs for the manager and staff shall be subject to approval of the governing committee.

**20.47(3)** The governing committee may designate an independent inspection firm to make inspections as required under the Plan and to perform such other duties as may be authorized by the governing committee.

**20.47(4)** The governing committee shall submit to the commissioner periodic reports setting forth information as the commissioner may request. On or before April 1 of each year, the governing committee shall submit a report summarizing any new programs or reforms in operation undertaken during the preceding calendar year in order to comply with any new legislation, regulations or directives affecting the Plan. This report shall contain a statistical tabulation on business written in accordance with the Plan.

**20.47(5)** The governing committee shall separately code all policies written by the Plan so that appropriate records may be compiled for purposes of performing loss prevention and other studies of the operation of the Plan.

**20.47(6)** The governing committee shall authorize the manager to file rates, surcharge schedules and forms for prior approval by the commissioner.

**20.47(7)** The governing committee shall prepare such agreements and contracts as may be necessary for the execution of this division consistent with its provisions.

**191—20.48(515,515F) Annual and special meetings.**

## INSURANCE DIVISION[191](cont'd)

**20.48(1)** There shall be an annual meeting of the insurers on a date fixed by the governing committee at which time members may be chosen.

**20.48(2)** A special meeting shall be called by the governing committee within 40 days after receipt of written request from any ten insurers, not more than one of which may be in a group under the same management or ownership.

**20.48(3)** The time and place of all meetings shall be reasonable. Twenty days' notice of an annual or special meeting shall be given in writing by the governing committee to all insurers defined above. Four members present in person or by proxy shall constitute a quorum. Voting by proxy shall be permitted.

**20.48(4)** Any matter not inconsistent with the law or this division may be proposed and voted upon at any special meeting of the committee. Notice of any such proposal shall be mailed to each insurer not less than 20 days prior to the final date fixed by the committee for voting thereon.

**191—20.49(515,515F) Application for insurance.**

**20.49(1)** Any person who has an insurable interest in an eligible risk in property permitted to be written in the Plan and who has received within the last six months a notice of rejection, nonrenewal or cancellation from an insurer may apply for insurance by the Plan.

**20.49(2)** An inspection need not be made if the governing committee determines that insurance can be provided for specified classes of risks on the basis of representations of the applicant or insurance producer.

**20.49(3)** The Plan may bind coverage. The Plan may wait until receipt of the inspection report or receipt of additional underwriting information before determining whether to bind coverage. Coverage will be bound by the Plan by acknowledgement to the producer.

**191—20.50(515,515F) Inspection procedure.**

**20.50(1)** The inspection by the Plan shall be without cost to the applicant.

**20.50(2)** The manner and scope of the inspection shall be prescribed by the Plan with the approval of the commissioner.

**20.50(3)** An inspection report shall be made for each property inspected covering pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. Representative photographs may be taken during the inspection to indicate the pertinent features of building, construction, maintenance, occupancy, and surrounding property.

**20.50(4)** After the inspection, a copy of the completed inspection report and any relevant photographs shall be kept on file by the Plan. The report shall include a description of any deficient physical condition changes proposed by the inspector. A copy of the inspection report shall be made available to the applicant or producer upon request.

**191—20.51(515,515F) Procedure after inspection and receipt of application.**

**20.51(1)** After receipt of the application, the inspection report, and any additional underwriting information requested from the applicant, the Plan shall within five business days complete and send to the applicant an action report advising the applicant of one of the following:

*a.* That the risk is acceptable. If the inspection reveals substandard conditions, appropriate charges may be imposed, but the report shall specify the improvements necessary for removal of each such charge.

*b.* That the risk is declined unless reasonable improvements noted in the action report are made by the applicant and confirmed by reinspection.

*c.* That the risk is declined because it fails to meet reasonable underwriting standards as set forth in rule 191—20.52(515,515F). Reasonable underwriting standards as set forth in rule 191—20.52(515,515F) shall not include neighborhood or area location or any environment hazard beyond the control of the property owner.

**20.51(2)** If the risk is accepted, the action report shall advise the applicant of:

*a.* The amount of coverage the Plan agrees to write.

*b.* The amount of coverage the Plan agrees to write if specified improvements are made.

## INSURANCE DIVISION[191](cont'd)

*c.* The amount of coverage the Plan agrees to write only if a large or special deductible is agreed to by the applicant.

**20.51(3)** If the risk is accepted, the Plan, upon receipt of the premium, shall deliver the policy to the applicant or to the licensed producer designated by the applicant for delivery to the applicant. The Plan shall remit the commissions to the licensed producer designated by the applicant.

**191—20.52(515,515F) Reasonable underwriting standards for property coverage.**

**20.52(1)** The following characteristics may be used in determining whether a risk is acceptable for property coverage. Where there is more than one cause for declination, all causes shall be listed and complied with before the property may be accepted for insurance purposes.

*a.* Physical condition of property; however, the mere fact that a property does not satisfy all current building code specifications will not, of itself, suffice as a reason for declination.

*b.* The property's present use as extended vacancy or extended unoccupancy of the property for 60 consecutive days. Properties that are vacant or unoccupied for more than 60 days may be insured while rehabilitation or reconstruction work is actively in process, meaning that the insured or owner should make monthly progress in order to complete the rehabilitation or reconstruction within a one-year time frame.

*c.* Other specific characteristics of ownership, condition, occupancy or maintenance that violate the law and that result in substantial increased exposure to loss. Any circumstance considered under this paragraph must relate to the peril insured against.

*d.* Physical condition of buildings that results in an outstanding order to vacate, in an outstanding demolition order or in being declared unsafe in accordance with the applicable law.

*e.* One or more of the conditions for nonrenewal as listed in rule 191—20.54(515,515F) currently exist. The Plan shall upon notice that conditions at the buildings have changed consider new application for coverage.

*f.* Previous loss history or matters of public record concerning the applicant or any person defined as an insured under the policy.

*g.* Any other guidelines that have been approved by the commissioner.

**20.52(2)** Reserved.

**191—20.53(515,515F) Reasonable underwriting standards for liability coverage.**

**20.53(1)** The following characteristics may be used in determining whether a risk is acceptable for liability insurance on homeowner policies:

*a.* Broken, cracked, uneven or otherwise faulty steps, porches, decks, sidewalks, patios and similar areas.

*b.* Downspouts or drains that discharge onto sidewalks or driveways.

*c.* Unsafe conditions including inadequate lighting of stairways.

*d.* Animals known to be vicious or animals that have caused a liability claim.

*e.* Swimming pools or private ponds not fenced in accordance with local regulations.

*f.* Unsafe, or the absence of, handrails.

*g.* Junk cars, empty refrigerators, trampolines or other potentially dangerous objects in the yard that are an attraction to children.

*h.* Previous loss history or matters of public record concerning the applicant or any person defined as an insured under the policy.

*i.* Any other guidelines that have been approved by the commissioner.

**20.53(2)** Liability insurance shall only be provided as contained in the Iowa FAIR Plan homeowners policy.

**20.53(3)** Liability insurance shall not be provided for risks with any of the deficiencies set forth in paragraphs 20.53(1) "a" through "g," as disclosed by the application or inspection, until the deficiencies have been corrected.

**191—20.54(515,515F) Cancellation; nonrenewal and limitations; review of eligibility.**

## INSURANCE DIVISION[191](cont'd)

**20.54(1)** The Plan shall not cancel or refuse to renew a policy issued by the Plan except for the following reasons:

*a.* Facts as confirmed by inspection or investigation that would have been grounds for nonacceptance of the risk by the Plan had they been known to the Plan at the time of acceptance.

*b.* Changes in the physical condition of the property or other changed conditions as confirmed by inspection or investigation that make the risk uninsurable pursuant to paragraph 20.54(1) “*i.*”

*c.* Nonpayment of premiums.

*d.* At least 65 percent of the rental units in the building are unoccupied, and the insured has not received prior approval from the Plan of a rehabilitation program that necessitates a high degree of unoccupancy.

*e.* Unrepaired damage exists and the insured has stated that repairs will not be made, or such time has elapsed as clearly indicates that the damage will not be repaired.

*f.* After a loss, permanent repairs have not been commenced within 60 days following payment of the claim, unless there are known to be extenuating circumstances. The 60-day period starts upon acceptance of payment of the claim.

*g.* There is good cause to believe, based on reliable information, that the building will be burned for the purpose of collecting the insurance on the property. The removal of damaged salvageable items, such as normally permanent fixtures, from the building shall be considered under this paragraph when the insured can provide no reasonable explanation for such removal.

*h.* A named insured or loss payee or other person having a financial interest in the property being convicted of the crime of arson or a crime involving a purpose to defraud an insurance company. The fact that an appeal has been entered shall not negate the use of this paragraph.

*i.* The property has been subject to more than two losses, each loss amounting to at least \$500 or 1 percent of the insurance in force, whichever is greater, in the immediately preceding 12-month period, or more than three such losses in the immediately preceding 24-month period, provided that the cause of such losses is due to the conditions that are the responsibility of the owner named insured or due to the actions of any person defined as an insured under the policy.

*j.* Material misrepresentation in any statement to the Plan.

*k.* On homeowners policies, excessive theft or liability losses.

**20.54(2)** The Plan shall terminate all insurance contracts in accordance with Iowa Code sections 515.125, 515.127, and 515.128.

**20.54(3)** At the completion of 36 months of coverage and prior to the completion of 48 months, each risk shall be reviewed for its eligibility for coverage in the voluntary market. The risk shall be submitted by the Plan to the producer of record, if any, for a search of the voluntary market. If the producer resubmits the risk to the Plan, the risk must be resubmitted with a new application and a written statement from the producer that a search of the voluntary market was performed.

**191—20.55(515,515F) Assessments.**

**20.55(1)** Participation and assessments by and upon each insurer in the Plan for losses and expenses in connection with Plan business shall be levied and assessed by the governing committee of the Plan on the basis of participation factors determined annually, giving effect to the proportion that such insurer’s weighted premiums written bears to the aggregate weighted premiums written by all insurers in the Plan.

**20.55(2)** De minimis assessments. Any assessment of less than \$100 shall not be billed to an insurer.

**20.55(3)** Late payment fee. Assessments shall be due and payable when billed. If any member fails to pay an assessment within 60 days after it is due, the insurer shall pay interest from the billing date at the rate of 1.5 percent per month. In the event that an insurer fails to pay any applicable late payment fee with an assessment, the amount of such unpaid late payment fee will be included in the amount of the insurer’s next assessment.

**20.55(4)** Credits for voluntary writings. The Plan may develop a voluntary writing credit policy, subject to approval by the commissioner. Credits may be used as offsets to member company assessments made by the Plan.



INSURANCE DIVISION[191](cont'd)

**191—20.56(515,515F) Commission.**

**20.56(1)** Commission to the licensed producer designated by the applicant shall be 10 percent of all policy premiums. The Plan shall not license or appoint producers.

**20.56(2)** In the event of cancellation of a policy, or if an endorsement is issued that requires the premium to be returned to the insured, the producer shall refund proportionally to the Plan commissions on the return premium at the same rate at which such commissions were originally paid.

**191—20.57(515,515F) Public education.** In cooperation with the insurance commissioner, the Plan shall undertake a continuing education program with insurers, producers and consumers about the Plan's insurance program and its availability. All insurers and producers shall cooperate fully in the continuing education program. Such continuing education program will include the publication and distribution of literature:

1. Describing the Plan and its general operation;
2. Explaining the possible cost savings of obtaining insurance in the voluntary market; and
3. Advising of the availability of rate comparison charts.

**191—20.58(515,515F) Cooperation and authority of producers.**

**20.58(1)** Each insurer shall require its licensed producers to cooperate fully in the accomplishment of the intents and purposes of the Plan.

**20.58(2)** Licensed insurance producers shall not act as agents for the Plan.

**20.58(3)** Licensed insurance producers shall not do any of the following:

- a. Bind coverage for the Plan.
- b. Alter or change policies issued by the Plan.
- c. Settle losses of the Plan.
- d. Act on behalf of the Plan or commit the Plan to any course of action.

**20.58(4)** Licensed insurance producers shall assist applicants who need to apply for coverage under the Plan, and shall submit applications that meet the requirements under rule 191—20.49(515,515F). Producers shall follow the rules and procedures of the Plan.

**191—20.59(515,515F) Review by commissioner.** The governing committee shall report to the commissioner the name of any insurer or producer that fails to comply with the provisions of the Plan or with any rules prescribed thereunder by the governing committee or to pay within 30 days any assessment levied.

**191—20.60(515,515F) Indemnification.** Each person serving on the governing committee or any of its subcommittees, each member of the Plan, and the manager and each officer and employee of the Plan shall be indemnified by the Plan against all cost, settlement, judgment, and expense actually and necessarily incurred by that person in connection with the defense of any action, suit, or proceeding in which that person is made a party by reason of that person's being or having been a member of the governing committee or a member or manager or officer or employee of the Plan, except in relation to matters as to which that person has been judged in an action, suit, or proceeding to be liable by reason of willful misconduct in the performance of that person's duties as a member of the governing committee or as a member, manager, officer or employee of the Plan. This indemnification shall not apply to any loss, cost or expense on insurance policy claims under the Plan. Indemnification under this rule shall not be exclusive of other rights to which the member, manager, officer, or employee may be entitled as a matter of law.

These rules are intended to implement 2003 Iowa Acts, chapter 119.

**191—20.61 to 20.69** Reserved.

INSURANCE DIVISION[191](cont'd)

DIVISION III  
CERTIFICATES OF INSURANCE FOR COMMERCIAL LENDING TRANSACTIONS

**191—20.70(515) Purpose.** The purpose of division III is to clarify what information an insurance company regulated by the division may provide its customer in connection with a commercial real estate transaction between the customer and a lender.

**191—20.71(515) Definitions.** For purposes of division III, the following definitions shall apply:

“*ACORD*” means the Association for Cooperative Operations Research and Development.

“*Commercial real estate transaction*” means a non-recourse commercial lending transaction in which the underlying property serves as the primary collateral securing the borrower’s repayment of the loan and neither the borrower nor any of its members, partners, or shareholders, nor any related person to any of the aforementioned persons, bears the economic risk of loss in the event of a payment default under the terms of the lending transaction.

“*Division*” means the insurance division.

“*ISO*” means the Insurance Services Office, Inc.

**191—20.72(515) Evidence of insurance.**

**20.72(1)** Prior to the issuance of an insurance policy by an insurer, an insured who has entered into a commercial real estate transaction may request that the relevant insurer or a producer acting on behalf of the insurer provide the following items as evidence of insurance:

*a.* An ACORD Form 75, a successor ACORD form, an ISO binder form, or a substantially similar binder form approved by the division; and

*b.* An ACORD Form 28, a successor ACORD form, an ISO certificate form, or a substantially similar certificate of insurance form approved by the division.

The insurer or the producer acting on behalf of an insurer has the sole discretion to determine which division-approved binder form or certificate of insurance form the insurer or producer uses to comply with this rule.

**20.72(2)** An insurer or a producer acting on behalf of an insurer shall comply with a request made pursuant to this rule within 20 business days of the receipt of the request. The requirements of this rule shall not apply to an insurance producer who:

*a.* Is unauthorized to provide the documents described in this rule; and

*b.* Informs the insured of this fact within 20 business days of the receipt of the request.

**20.72(3)** Delivery of a binder along with a certificate of insurance requested pursuant to this rule may be accomplished by regular mail, overnight delivery, facsimile, physical delivery, electronic means, or other appropriate means.

**20.72(4)** Notwithstanding any language on a form provided pursuant to subrule 20.72(1) which language states that the form is for “information only,” a binder together with a certificate of insurance delivered pursuant to this rule shall be valid and may be relied upon by the borrower or by the borrower’s lender as evidence of insurance, including in any private civil action or administrative proceeding, until the delivery of the insurance policy to the borrower or the cancellation of the binder pursuant to Iowa Code sections 515.125 through 515.127.

**20.72(5)** An insurer or producer acting on behalf of an insurer that produces or delivers a binder and certificate of insurance to its customer pursuant to this rule may charge a reasonable fee for the production and delivery of the documents.

**20.72(6)** All insurers and all producers subject to this rule shall comply with the terms hereof within 90 days from May 9, 2012.

These rules are intended to implement Iowa Code chapter 515.

**191—20.73 to 20.79** Reserved.

INSURANCE DIVISION[191](cont'd)

DIVISION IV  
CANCELLATIONS, NONRENEWALS AND TERMINATIONS

**191—20.80(505B,515,515D,518,518A,519) Notice of cancellation, nonrenewal or termination of property and casualty insurance.**

**20.80(1) Purpose and definitions.**

*a. Purpose.* The purpose of this rule is to implement the policyholder protections of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 and chapter 505B by clarifying the authorized methods of delivery for notices of cancellation, nonrenewal or termination by an insurer.

*b. Definitions.* As used in Iowa Code section 505B.1 and this rule:

“*Commissioner*” means the Iowa insurance commissioner or insurance division.

“*Notice of cancellation, nonrenewal or termination*” means:

1. Notice of an insurance company’s termination of an insurance policy at the end of a term or before the termination date;
2. Notice of an insurance company’s decision or intention not to renew a policy; and
3. For purposes of notices required by Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8, “notice of cancellation, nonrenewal or termination” includes but is not limited to an insurance company’s notice of cancellation, forfeiture, suspension, exclusion, nonrenewal, intention not to renew, or failure to renew.

**20.80(2) Scope.** This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapters 508, 515, 518, and 518A.

**20.80(3) Delivery.** For any notice of cancellation, nonrenewal or termination by an insurer under Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 to be effective, an insurer must, within the time frame established by law, deliver the notice to the person to whom notice is required to be provided either in person or by mail through the U.S. Postal Service to the last-known address of the person to whom notice is required to be provided. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in the Iowa Code sections cited in this subrule for certified mail or certificate of mailing as proof of mailing.

**20.80(4) Electronic transmissions.** Notwithstanding the requirements of subrule 20.80(3), if an insurer receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the notice requirements of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 and chapter 505B.

This rule is intended to implement Iowa Code chapter 505B.

**ARC 7352C**

**INSURANCE DIVISION[191]**

**Notice of Intended Action**

**Proposing rulemaking related to surplus lines, risk retention groups, and purchasing groups and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 21, “Requirements for Surplus Lines, Risk Retention Groups and Purchasing Groups,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 515I.15.

INSURANCE DIVISION[191](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 515 and 2023 Iowa Acts, Senate File 549.

*Purpose and Summary*

The proposed chapter provides duties and procedures for insurance producers and nonadmitted insurers in order to provide excess and surplus lines insurance in Iowa.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024 10 to 11 a.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa
February 15, 2024 3 to 4 p.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's

## INSURANCE DIVISION[191](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 21 and adopt the following **new** chapter in lieu thereof:

CHAPTER 21  
REQUIREMENTS FOR SURPLUS LINES,  
RISK RETENTION GROUPS AND PURCHASING GROUPS

**191—21.1(515E,515I) Definitions.** In addition to the definitions provided in Iowa Code chapters 515E and 515I, the following definitions apply to this chapter, unless the context clearly requires otherwise:

“*Division*” means the Iowa insurance division, supervised by the commissioner pursuant to Iowa Code section 505.8, in the division’s performance of the duties of the commissioner under Iowa Code chapters 515E and 515I.

“*Division’s website*” means the website of the Iowa insurance division, [iid.iowa.gov](http://iid.iowa.gov).

“*Place*” means obtaining insurance for an insured with a specific insurer.

**191—21.2(515I) Eligible surplus lines insurer’s duties.**

**21.2(1) Premium tax payment.** Where, pursuant to Iowa Code chapter 515I, coverage is placed with an eligible surplus lines insurer, but the surplus lines insurance producer fails to pay to the division the premium tax required by Iowa Code section 515I.3(2) and rule 191—21.3(515I), the eligible surplus lines insurer must pay the premium tax required by Iowa Code chapter 515I and this chapter.

**21.2(2) How premium tax quoted.** An eligible surplus lines insurer or a surplus lines producer for an eligible surplus lines insurer is authorized to quote a premium that includes tax as is required by Iowa Code chapter 515I, and thereafter no additional tax amount may be charged or collected. Premium tax may be stated in the contract of insurance as a separate component of the total premium only when the premium is not based upon rates or premiums that included a premium tax component. Any fees collected from residents of this state are considered part of the premium and thus are subject to taxation.

**191—21.3(515I) Surplus lines insurance producer’s duties.**

**21.3(1) Surplus lines insurance producer’s collection of tax.** A surplus lines insurance producer who places insurance with an eligible surplus lines insurer must collect premium tax from the eligible surplus lines insurer by withholding the applicable percentage of premiums pursuant to Iowa Code section 432.1(3) and 432.1(4).

**21.3(2) Electronic reporting of premium tax.** A surplus lines insurance producer who places insurance with an eligible surplus lines insurer must file electronically the premium tax information with the division, as instructed on the division’s website, on or before March 1 for policies issued during the preceding calendar year.

**21.3(3) Annual report.** On or before March 1 of each year, every surplus lines insurance producer who has placed insurance with an eligible surplus lines insurer when the policies have been issued during the preceding calendar year must file electronically with the division, or as otherwise directed by the division, a sworn report and supporting documentation, as instructed on the division’s website, which may include evidence of a diligent search required pursuant to Iowa Code section 515I.3, of all such business written during the preceding calendar year and must submit the amount to cover the taxes due on all such business. The manner of filing electronically and the content of the report and required supporting documentation are listed on the division’s website. If no business was issued during the preceding calendar year, no report is required. Failure to file an annual report or pay the taxes imposed by Iowa Code chapter 515I will be deemed grounds for the revocation of a surplus lines insurance producer’s license by the division, and failure to file an annual report or pay taxes within the time requirements of this rule will subject the surplus lines insurance producer to the penalties of Iowa Code section 515I.12.

## INSURANCE DIVISION[191](cont'd)

**191—21.4(515I) Surplus lines insurance producer's duty to insured.** A surplus lines insurance producer who places coverage with an eligible surplus lines insurer must deliver to the insured, within 30 days of the date the policy is issued, a notice that states the following: "This policy is issued, pursuant to Iowa Code chapter 515I, by an eligible surplus lines insurer in Iowa and as such is not covered by the Iowa Insurance Guaranty Association." A surplus lines insurance producer may comply with this rule by verifying disclosure of this language in a clear and conspicuous position on the policy or by electronic delivery authorized by Iowa Code chapter 505B, if the method of delivery of the notice allows the division, the surplus lines insurance producer and the intended recipient to verify receipt of the specific notice.

**191—21.5(515I) Procedures for qualification and renewal as an eligible surplus lines insurer.**

**21.5(1) Application and procedures for initial qualification as an eligible surplus lines insurer.**

a. Any nonadmitted insurer or domestic surplus lines insurer who wishes to qualify under Iowa Code chapter 515I as an eligible surplus lines insurer must make an application with the division in a format prescribed by the division, as instructed on the division's website.

b. The application must include:

- (1) The name of an Iowa resident surplus lines insurance producer whom the insurer is designating as the person to accept inquiries and notices on behalf of the insurer.
- (2) Payment of the greater of a \$100 filing fee or a retaliatory fee, and an examination fee for all new applicants.
- (3) Demonstrated maintenance of the capital and surplus required pursuant to Iowa Code chapter 515I.

**21.5(2) Procedures for renewal of an insurer as an eligible surplus lines insurer.** An eligible surplus lines insurer that was approved by the division as an eligible surplus lines insurer, except for an alien insurer under Iowa Code section 515I.2(8)"b," must by March 1 of each year following the year of approval:

- a. Be in compliance with subparagraph 21.5(1)"b"(3);
- b. Pay the greater of a \$100 renewal fee or a retaliatory fee; and
- c. Submit to the division the documents and materials listed on the division's website.

**21.5(3) Periodic reporting.** An eligible surplus lines insurer, except for an alien insurer under Iowa Code section 515I.2(8)"b," must submit annual and quarterly financial statements to the division as instructed on the division's website.

**21.5(4) Failure to comply with renewal procedures.** An eligible surplus lines insurer that fails to timely file an application for renewal as an eligible surplus lines insurer or fails to provide requested information shall pay a late fee of \$500.

**21.5(5) Failure to timely file financial statements.** An eligible surplus lines insurer that fails to file a financial statement, as instructed on the division's website, shall pay a late fee of \$500. The commissioner may give notice to an insurer that fails to timely file that the insurer is in violation of this subrule. If the insurer fails to file the required financial statements within ten days of the date of the notice, the insurer shall pay an additional late fee of \$100 for each day the failure continues.

**21.5(6) Failure to comply with this rule.** An eligible surplus lines insurer's authority to transact new business in this state shall immediately cease until the insurer has fully complied with this rule, including paying all applicable late fees.

**21.5(7) Suspension.** The commissioner may order the suspension of an eligible surplus lines insurer's authority to transact the business of insurance within the state, after notice and hearing pursuant to Iowa Code chapter 17A, if the eligible surplus lines insurer fails to fully comply with this rule within 90 days, including paying all applicable late fees.

**191—21.6(515E) Procedures for qualification as a risk retention group.**

**21.6(1)** Any insurer who wishes to register under Iowa Code chapter 515E as a risk retention group must:

## INSURANCE DIVISION[191](cont'd)

- a. File with the division an application that contains information required by Iowa Code section 515E.4, which also is listed on the division's website; and
- b. Pay the greater of a \$100 filing fee or a retaliatory fee and, for all new applicants, an examination fee.

**21.6(2)** A risk retention group must pay a \$100 renewal fee by March 1 of each year following the year of registration. The risk retention group must annually provide information requested by the division for determination of continued registration.

**191—21.7(515E) Risk retention groups.** A risk retention group may utilize its producers to report and pay premium taxes or may pay the taxes directly. If producers are utilized, the producers must file the premium tax information electronically with the division through the division's website on or before March 1 for policies issued during the preceding calendar year.

**191—21.8(515E) Procedures for registration as a purchasing group.**

**21.8(1)** Prior to doing business in this state, a purchasing group must furnish to the division notice that includes:

- a. The information set forth in Iowa Code section 515E.8, which also is listed on the division's website;
- b. Designation of the commissioner for service of process, as set forth in Iowa Code section 515E.8(3); and
- c. Remittance of a \$100 filing fee.

**21.8(2)** A registered purchasing group must pay a \$100 renewal fee by March 1 of each year following the year of registration. The purchasing group must provide information requested by the division for determination of continued registration.

**191—21.9(515E,515I) Failure to comply; penalties.** Failure of a producer, surplus lines insurance producer, insurer, risk retention group or purchasing group to comply with this chapter or with Iowa Code chapters 515E and 515I may subject the producer, surplus lines insurance producer, insurer, risk retention group or purchasing group to penalties set forth in Iowa Code chapters 507B, 515E and 515I.

These rules are intended to implement Iowa Code chapters 515I and 515E.

**ARC 7353C**

**INSURANCE DIVISION[191]**

**Notice of Intended Action**

**Proposing rulemaking related to military sales practices  
and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 25, "Military Sales Practices," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 505.27A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 505.

*Purpose and Summary*

The proposed chapter shields members of the United States Armed Forces from abusive and misleading sales practices and protects them from certain life insurance products that are improperly marketed as investment products pursuant to the Military Personnel Financial Services Protection Act.

INSURANCE DIVISION[191](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024 10 to 11 a.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa
February 15, 2024 3 to 4 p.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 25 and adopt the following **new** chapter in lieu thereof:

CHAPTER 25  
MILITARY SALES PRACTICES



INSURANCE DIVISION[191](cont'd)

**191—25.1(505) Purpose and authority.**

**25.1(1)** The purpose of this chapter is to set forth standards to protect active duty service members of the United States armed forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

**25.1(2)** Nothing herein shall be construed to create or imply a private cause of action for a violation of this chapter.

**25.1(3)** This chapter is issued under the authority of Iowa Code section 505.27A.

**25.1(4)** This chapter shall apply to acts or practices committed on or after January 1, 2008.

**191—25.2(505) Scope.** This chapter shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to a service member of the United States armed forces.

**191—25.3(505) Exemptions.**

**25.3(1)** This chapter shall not apply to solicitations or sales involving:

*a.* Credit insurance;

*b.* Group life insurance or group annuities where in-person, face-to-face solicitation of individuals by an insurance producer does not occur or where the contract or certificate does not include a side fund;

*c.* An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner, or when a term conversion privilege is exercised among corporate affiliates;

*d.* Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 et seq.;

*e.* Life insurance contracts offered through or by a nonprofit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or

*f.* Contracts used to fund:

(1) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(2) A plan described by Section 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, if established or maintained by an employer;

(3) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC; or

(5) Settlements of or assumptions of liabilities associated with personal injury litigation or of any dispute or claim resolution process.

**25.3(2)** Nothing in this rule shall be construed to abrogate the ability of nonprofit or other organizations to educate members of the United States armed forces in accordance with Department of Defense DoD Instruction 1344.07, Personal Commercial Solicitation on DoD Installations or successor directive.

**25.3(3)** For purposes of this chapter, general advertisements, direct mail and Internet marketing shall not constitute solicitation. Telephone marketing shall not constitute solicitation, provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the telephone communication. However, nothing in this rule shall be construed to exempt an insurer or insurance producer from the requirements of this chapter in any in-person, face-to-face meeting established as a result of the solicitation exemptions identified in this rule.

**191—25.4(505) Definitions.** For purposes of this chapter, the following definitions shall apply.

“*Active duty*” means full-time duty in the active military service of the United States and includes members of the reserve component (national guard and reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who

## INSURANCE DIVISION[191](cont'd)

are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

*“Department of Defense personnel”* or *“DoD personnel”* means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

*“Door to door”* means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

*“General advertisement”* means an advertisement having as its sole purpose the promotion of the reader’s or viewer’s interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

*“Insurance producer”* means the same as defined in Iowa Code section 522B.1.

*“Insurer”* means the same as defined in Iowa Code section 522B.1.

*“Known”* or *“knowingly”* means, depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

1. Is a service member; or
2. Is a service member with a pay grade of E-4 or below.

*“Life insurance”* means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and, unless otherwise specifically excluded, includes individually issued annuities.

*“Military installation”* means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

*“MyPay”* is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

*“Service member”* means any active duty officer (commissioned and warrant) or enlisted member of the United States armed forces.

*“Side fund”* means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism that accumulates premium or deposits with interest or by other means. The term does not include:

1. Accumulated value or cash value or secondary guarantees provided by a universal life policy;
2. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
3. A premium deposit fund which:
  - Contains only premiums paid in advance that accumulate at interest;
  - Imposes no penalty for withdrawal;
  - Does not permit funding beyond future required premiums;
  - Is not marketed or intended as an investment; and
  - Does not carry a commission, either paid or calculated.

*“Specific appointment”* means a prearranged appointment agreed upon by both parties and definite as to place and time.

*“United States armed forces”* means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

**191—25.5(505) Practices declared false, misleading, deceptive or unfair on a military installation.**

**25.5(1)** The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive or unfair:

- a. Knowingly soliciting the purchase of any life insurance product door to door or without first establishing a specific appointment for each meeting with the prospective purchaser.

## INSURANCE DIVISION[191](cont'd)

- b.* Soliciting service members in a group or mass audience or in a captive audience where attendance is not voluntary.
- c.* Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.
- d.* Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.
- e.* Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.
- f.* Posting unauthorized bulletins, notices or advertisements.
- g.* Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.
- h.* Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States armed forces without first obtaining for the insurer's files a completed copy of any required form that confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DoD or any branch of the United States armed forces.

**25.5(2)** The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

- a.* Using DoD personnel, directly or indirectly, as representatives or agents in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.
- b.* Using an insurance producer to participate in any United States armed forces-sponsored education or orientation program.

**191—25.6(505) Practices declared false, misleading, deceptive or unfair regardless of location.**

**25.6(1)** The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

- a.* Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States armed forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's MyPay account or other similar Internet or electronic medium for such purposes. This subrule does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.
- b.* Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this rule, a formal banking relationship is established when the depository institution:
  - (1) Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. §4301 et seq. and the regulations promulgated thereunder; and
  - (2) Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.
- c.* Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "savings" or "checking" and where the service member has no formal banking relationship as defined in paragraph 25.6(1) "b."
- d.* Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

## INSURANCE DIVISION[191](cont'd)

*e.* Using DoD personnel, directly or indirectly, as representatives or agents in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel.

*f.* Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.

*g.* Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for the service member's attendance at any event where an application for life insurance is solicited.

*h.* Advising a service member with a pay grade of E-4 or below to change the service member's income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

**25.6(2)** The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair:

*a.* Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States armed forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor."

Nothing in this subrule shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science in Financial Services (MSFS), or Masters of Science Financial Planning (MS).

*b.* Soliciting the purchase of any life insurance product through the use of or in conjunction with any third-party organization that promotes the welfare of or assists a member of the United States armed forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government or the United States armed forces.

**25.6(3)** The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair:

*a.* Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

*b.* Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product costs nothing or is free.

**25.6(4)** The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair:

*a.* Making any representation regarding the availability, suitability, amount or cost of or exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI that is false, misleading or deceptive.

*b.* Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers that is false, misleading or deceptive.

*c.* Suggesting, recommending or encouraging a service member to cancel or terminate the service member's SGLI policy, or issuing a life insurance policy that replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States armed forces.

## INSURANCE DIVISION[191](cont'd)

**25.6(5)** The following acts or practices by an insurer or insurance producer regarding disclosure are declared to be false, misleading, deceptive or unfair:

*a.* Deploying, using or contracting for any lead-generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

*b.* Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

*c.* Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.

*d.* Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290, p.16.

*e.* Excluding individually issued annuities, when an in-person, face-to-face sale is conducted with an individual known to be a service member, failing at the time the application is taken to provide the applicant:

(1) An explanation of any free-look period with instructions on how to cancel if a policy is issued; and

(2) Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance and the death benefit applied for and its expected first-year cost. A basic illustration that meets the requirements of 191—Chapter 15 and Iowa Code chapter 507B shall be deemed sufficient to meet this requirement for a written disclosure.

**25.6(6)** The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair:

*a.* Excluding individually issued annuities, recommending the purchase of any life insurance product that includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

*b.* Offering for sale or selling a life insurance product that includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

(1) "Insurable needs" means the risks associated with premature death, taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and survivors or dependents.

(2) "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE health care benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

*c.* Excluding individually issued annuities, offering for sale or selling any life insurance contract that includes a side fund:

(1) Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

(2) Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one to ten and for every fifth policy year thereafter ending at the insured's age 100, the policy's maturity date or the policy's final expiration date; and

(3) That by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premium due.

## INSURANCE DIVISION[191](cont'd)

*d.* Excluding individually issued annuities, offering for sale or selling any life insurance contract that after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

*e.* Selling to an individual known to be a service member any life insurance product that excludes coverage if the insured's death is related to war, declared or undeclared, or to any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

**191—25.7(505) Reporting requirements.** No insurer may participate in any military sales unless that insurer has implemented a system to report to the Iowa insurance commissioner in a manner prescribed by the commissioner any military sales disciplinary actions about which the insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the action, and unless the insurer also has reported such action to the commissioner. Failure to comply with this rule shall be a violation of this chapter and shall subject the insurer to penalties set forth in rule 191—25.8(505).

**191—25.8(505) Violation and penalties.**

**25.8(1)** Any insurance producer or insurer found after hearing to have violated a provision of this chapter shall be deemed to have committed an unfair trade practice under Iowa Code chapter 507B and shall be subject to the penalties set forth in Iowa Code chapters 505 and 507B.

**25.8(2)** Any insurance producer or insurer found after hearing to have violated a provision of this chapter will be reported by the commissioner pursuant to, and may be subject to, the penalties set forth in Section 10(d) of the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290 (2006).

**191—25.9(505) Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules that can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

These rules are intended to implement Iowa Code section 505.27A.

**ARC 7355C**

**INSURANCE DIVISION[191]**

**Notice of Intended Action**

**Proposing rulemaking related to workers' compensation insurance rate filing and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 60, "Workers' Compensation Insurance Rate Filing Procedures," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 515A.7.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 515A.

*Purpose and Summary*

The proposed chapter clarifies and guides insurers regarding the deviations in workers' compensation filings as permitted under Iowa Code section 515A.7.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

INSURANCE DIVISION[191](cont'd)

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024 10 to 11 a.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa
February 15, 2024 3 to 4 p.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 60 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 60

## WORKERS' COMPENSATION INSURANCE RATE FILING PROCEDURES

**191—60.1(515A) Purpose.**

**60.1(1)** The purpose of this chapter is to set forth filing procedures and parameters for rates as required by Iowa Code chapter 515A.

## INSURANCE DIVISION[191](cont'd)

**60.1(2)** Nothing herein shall be construed to create or imply a private cause of action for a violation of this chapter.

**191—60.2(515A) Definitions, scope, authority.**

**60.2(1)** The definitions of Iowa Code section 515A.2 are incorporated into this chapter by this reference. In addition, the following definitions shall apply:

“*Division*” means the Iowa insurance division.

“*SERFF*” means the National Association of Insurance Commissioners’ System for Electronic Rate and Form Filing.

**60.2(2)** This chapter shall apply only to workers’ compensation liability insurance.

**60.2(3)** This chapter is issued under the authority of Iowa Code section 505.8 and chapter 515A.

**191—60.3(515A) General filing requirements.**

**60.3(1)** Insurers required to file rates with the division shall submit required rate filings and any fees required for the filings electronically using SERFF. Insurers must comply with the division’s requirements, including both the Iowa general instructions and the specific submission requirements for the type of insurance for which the companies are submitting forms or rates, as set out on the SERFF website at [serff.com](http://serff.com).

**60.3(2)** No rate filing shall include any adjustment designed to recover underwriting or operating losses incurred out of state. Upon request by the division, insurers doing business in Iowa shall segregate in their rate filings data from any state identified by the division, and the filings shall include a certification that no portion of any rate increase is designed to recover underwriting or operating losses incurred in another state.

**191—60.4(515A) Rate or manual rule filing.**

**60.4(1)** Every insurer, either on its own or via a licensed rating organization, shall file with the division, pursuant to provisions of Iowa Code chapter 515A, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing that it proposes to use.

Every insurer shall adhere to the filings made on its behalf by a rating organization except that any such insurer may file a deviation from the class rates, schedules, rating plans, or rules, or a combination thereof, at any time during the year and, once approved, the deviation need only be refiled to propose changes to any filing.

**60.4(2)** An insurer may file for approval by the division a uniform percentage rate deviation to be applied to the class rates of the rating organization’s filing.

*a.* A rate deviation from the approved class rates of a rating organization shall not exceed 15 percent nor shall it cause the rate charged a policyholder to exceed the approved assigned risk rates but must state whether or not the proposed deviation is to be applied to minimum premiums.

*b.* In the event that an insurer has an existing approved filing for which the deviation results in rates above those approved for the assigned risk, the insurer must use the same deviation as approved for the assigned risk effective the same date as the approval of the assigned risk rates. A filing must be made confirming use of the new deviation on that date.

**60.4(3)** Schedule rating may be used by any company, regardless of whether that company has an approved deviation. The maximum modification allowed for schedule rating is 15 percent for individual policies.

**191—60.5(515A) Violation and penalties.** Any insurer found after hearing to have violated a provision of this chapter shall be deemed to have committed an unfair trade practice under Iowa Code chapter 507B and shall be subject to the penalties set forth in Iowa Code chapter 507B.

**191—60.6(515A) Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any



INSURANCE DIVISION[191](cont'd)

other application of these rules that can be given effect without the invalid provisions or application. To this end, all provisions of these rules are declared to be severable.

**191—60.7(515A) Effective date.** These rules are effective as of [effective date of the rulemaking] and apply to acts or practices committed on or after January 1, 2009.

These rules are intended to implement Iowa Code section 515A.7.

**ARC 7356C**

## **INSURANCE DIVISION[191]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to financial and health information regulation and providing an opportunity for public comment**

The Insurance Division hereby proposes to rescind Chapter 90, “Financial and Health Information Regulation,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 505.8.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 505 and 12 CFR Part 1016, Regulation P (Privacy of Consumer Financial Information).

#### *Purpose and Summary*

The proposed chapter provides for sample privacy notices to be consistent with the privacy model notice form issued by federal regulatory agencies for use by financial institutions as a safe harbor of compliance with the privacy notification requirements of the federal Gramm-Leach-Bliley Act (GLBA).

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

#### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Division no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

INSURANCE DIVISION[191](cont'd)

Angela Burke Boston  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6543  
Fax: 515.654.6500  
Email: [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 15, 2024 10 to 11 a.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa
February 15, 2024 3 to 4 p.m.	1963 Bell Avenue, Suite 100 Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov) or by telephone at 515.654.6543 and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 191—Chapter 90 and adopt the following **new** chapter in lieu thereof:

CHAPTER 90  
FINANCIAL AND HEALTH INFORMATION REGULATION

**191—90.1(505) Purpose and scope.**

**90.1(1)** This chapter governs the treatment of nonpublic personal financial information and nonpublic personal health information about individuals by all licensees of the insurance division.

**90.1(2)** This chapter also applies to nonpublic personal financial information and nonpublic personal health information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. This chapter does not apply to information about individuals or companies that obtain products or services for business, commercial or agricultural purposes.

**90.1(3)** A licensee domiciled in this state that is in compliance with this chapter shall be deemed to be in compliance with Title V of P.L. 106-102 in a state that has not enacted laws or regulations that meet the requirements of Title V.

**191—90.2(505) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Affiliate*” means any company that controls, is controlled by or is under common control with another company.

“*Clear and conspicuous*” means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

## INSURANCE DIVISION[191](cont'd)

“*Collect*” means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying article assigned to the individual, irrespective of the source of the underlying information.

“*Commissioner*” means the insurance commissioner.

“*Company*” means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

“*Consumer*” means an individual, or that individual’s legal representative, who seeks to obtain, obtains or has obtained from a licensee an insurance product or service that is to be used primarily for personal, family or household purposes and about whom the licensee has nonpublic personal information. “Consumer” includes any of the following:

1. An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

2. An applicant for insurance prior to the inception of insurance coverage is a licensee’s consumer.

3. An individual is a licensee’s consumer if:

- The individual is a beneficiary of a life insurance policy underwritten by the licensee;
- The individual is a claimant under an insurance policy issued by the licensee;
- The individual is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

- The individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and
- The licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under rules 191—90.12(505), 191—90.13(505) and 191—90.14(505) of this chapter.

An individual who is a consumer of another financial institution is not a licensee’s consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

An individual is not the consumer of the licensee provided that the licensee provides the initial, annual and revised notices required under rules 191—90.3(505), 191—90.4(505), and 191—90.7(505) to the plan sponsor, group or blanket insurance policyholder or group annuity contract holder, workers’ compensation plan participant, or further, provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under rules 191—90.12(505), 191—90.13(505), and 191—90.14(505) and solely due to any of the following:

*a.* The consumer is a participant in or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary,

*b.* The consumer is covered under a group or blanket insurance policy or group annuity contract issued by the licensee, or

*c.* The consumer is a beneficiary in a workers’ compensation plan.

However, an individual described in “*a*” through “*c*” is a consumer of a licensee if the licensee does not meet all the above conditions. In no event shall an individual solely by virtue of the status described in “*a*” through “*c*” above be deemed a customer for purposes of this chapter.

An individual is not a licensee’s consumer solely because the individual is a beneficiary of a trust for which the licensee is a trustee or because the individual has designated the licensee as trustee for a trust.

“*Consumer reporting agency*” means “consumer reporting agency” as defined in Section 603(f) of the federal Fair Credit Reporting Act.

“*Control*” means any of the following:

1. Ownership, control or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

2. Control in any manner over the election of a majority of the directors, trustees or general partners or individuals exercising similar functions of the company; or

## INSURANCE DIVISION[191](cont'd)

3. The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

*“Customer”* means a consumer who has a customer relationship with a licensee.

*“Customer information”* means nonpublic personal information about a customer, whether the information is in paper, electronic or other form, that is maintained by or on behalf of the licensee.

*“Customer information systems”* means the electronic or physical methods used to access, collect, store, use, transmit, protect or dispose of customer information.

*“Customer relationship”* means a continuing relationship between a consumer and a licensee under which the licensee provides to the consumer one or more insurance products or services that are to be used primarily for personal, family or household purposes.

A consumer has a continuing relationship with a licensee if the consumer is a current policyholder of an insurance product issued by or through the licensee or if the consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.

A consumer does not have a continuing relationship with a licensee under the following examples:

1. The consumer applies for insurance but does not purchase the insurance;
2. The licensee sells the consumer airline travel insurance in an isolated transaction;
3. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;
4. The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;
5. The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;
6. The customer’s policy is lapsed, expired, or otherwise inactive or dormant under the licensee’s business practices and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;
7. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or
8. For the purposes of these rules, the individual’s last-known address according to the licensee’s record is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

*“Designed to call attention”* means a licensee designs to call attention to the nature and significance of the information in a notice if the licensee does the following:

1. Uses a plain-language heading to call attention to the notice;
2. Uses a typeface and type size that are easy to read;
3. Provides wide margins and ample line spacing;
4. Uses boldface or italics for key words; and
5. Is in a form that combines the licensee’s notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

*“Financial institution”* means any institution the business of which is engaging in activities that are financial in nature or incidental to the financial activities described in Section 4(k) of the Bank Holding Company Act of 1956. “Financial institution” does not include the following:

1. Any person or entity with respect to any financial activity that is subject to the jurisdiction of the commodity futures trading commissioner under the Commodity Exchange Act.
2. The Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971.
3. Institutions chartered by Congress specifically to engage in securitizations, secondary market sales including sales of servicing rights, or similar transactions related to a transaction of a consumer as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

## INSURANCE DIVISION[191](cont'd)

*“Financial product or service”* means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956. Financial service includes a financial institution’s evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

*“Health care”* means preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures, tests or counseling that relates to the physical, mental or behavioral condition of an individual or affects the structure or function of the human body or any part of the human body including the banking of blood, sperm, organs or any other tissues. “Health care” also means prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

*“Health care provider”* means a physician or health care practitioner licensed, accredited or certified to perform specified health services consistent with state law, or a health care facility.

*“Health information”* means any information or data except age, gender or nonmedical identifying information, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to the following:

1. The past, present or future physical, mental or behavioral health or condition of an individual;
2. The provision of health care to an individual; or
3. Payment for the provision of health care to an individual.

*“Insurance product or service”* means any product or service that is offered by a licensee pursuant to the insurance laws of Iowa. “Insurance service” includes a licensee’s evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

*“Licensee”* means all licensed carriers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the insurance laws of the state or by the department of health and human services. “Licensee” shall also include an unauthorized insurer that accepts business placed through a licensed excess lines broker but only in regard to the excess lines placements pursuant to state rules.

*“Nonaffiliated third party”* means any person except a licensee’s affiliate or a person employed jointly by a licensee and any company that is not a licensee’s affiliate. “Nonaffiliated third party” includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) of the federal Bank Holding Company Act or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act.

*“Nonpublic personal health information”* means health information that identifies an individual who is the subject of the information or with respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

*“Nonpublic personal information”* or *“nonpublic personal financial information”* means personally identifiable financial information and any list, description or other groupings of consumers and publicly available information pertaining to them that is derived using any personally identifiable financial information that is not publicly available.

“Nonpublic personal financial information” does not include health information, publicly available information, except as included on a list as described above or any list or description pertaining to consumers that is derived without using any personally identifiable financial information that is not publicly available.

*“Opt out”* means a direction by the consumer that the licensee not disclose nonpublic personal financial information about the consumer to a nonaffiliated third party other than as permitted by rules 191—90.12(505), 191—90.13(505), and 191—90.14(505).

*“Personally identifiable financial information”* means any information a consumer provides to a licensee to obtain an insurance product or service from the licensee, information about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer,

## INSURANCE DIVISION[191](cont'd)

or information the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

Examples of “personally identifiable financial information” include:

- Information a consumer provides to a licensee on an application to obtain an insurance product or service;
- Account balance information and payment history;
- The fact that an individual is or has been one of the licensee’s customers or has obtained an insurance product or service from the licensee;
- Any information about the licensee’s consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee’s consumer;
- Any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;
- Any information the licensee collects through an Internet cookie (an information-collecting device from a web server); and
- Information from a consumer report.

“Personally identifiable financial information” does not include health information, a list of names and addresses of customers of an entity that is not a financial institution and information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, and addresses.

“*Publicly available information*” means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state, or local government records; widely distributed media sources; or disclosures to the general public that are required to be made by federal, state or local law.

A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine that the information is the type that is available to the general public and whether an individual can direct that the information not be made available to the general public and, if so, that the licensee’s consumer has not done so.

Examples of “publicly available information” include:

- Publicly available information in government records, which includes information in government real estate records and security interest filings.
- Publicly available information from widely distributed media, which includes information from a telephone book, a television or radio program, a newspaper or a website that is available to the general public on an unrestricted basis. A website is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.
- A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

“*Reasonably understandable*” means the licensee’s notice is presented in the following form:

1. Uses clear, concise sentences, paragraphs, and sections;
2. Uses short explanatory sentences or bullet lists whenever possible;
3. Uses definite, concrete, plain language and active voice whenever possible;
4. Avoids multiple negatives;
5. Avoids legal or highly technical business terminology whenever possible; and
6. Avoids explanations that are imprecise and readily subject to different interpretations.

“*Service provider*” means a person that maintains, processes or otherwise is permitted access to customer information through the person’s provision of services directly to the licensee.

DIVISION I  
RULES FOR FINANCIAL INFORMATION

**191—90.3(505) Initial privacy notice to consumers required.**

## INSURANCE DIVISION[191](cont'd)

**90.3(1)** A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to the following persons and at the following times:

- a.* An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subrule 90.3(5); and
- b.* A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by rules 191—90.13(505) and 191—90.14(505).

**90.3(2)** A licensee is not required to provide an initial notice to a consumer under subrule 90.3(1) if:

- a.* The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party other than as authorized by rules 191—90.13(505) and 191—90.14(505) and the licensee does not have a customer relationship with the consumer; or
- b.* A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.
- c.* The licensee has a customer relationship with the consumer and the consumer consents to the licensee's searching for insurance coverage to replace existing coverage or the licensee is selling the agency expiration lists or the agency contract is canceled and the licensee is required to move the existing coverage to a new carrier.

**90.3(3)** A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.

A licensee establishes a customer relationship when the consumer does either of the following:

- a.* Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer or, in the case of a licensee that is an insurance producer or insurance broker, obtains insurance through that licensee; or
- b.* Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.

**90.3(4)** When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of subrule 90.3(1) as follows:

- a.* The licensee provides a revised policy notice under rule 191—90.7(505) that covers the customer's new insurance product or service; or
- b.* If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under subrule 90.3(1).

**90.3(5)** A licensee may provide the initial notice required by paragraph 90.3(1) "a" within a reasonable time after the licensee establishes a customer relationship if:

- a.* Establishing the customer relationship is not at the customer's election; or
- b.* Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

Examples of notice within a reasonable time are as follows:

- The establishment of the customer relationship is not at the customer's election. Establishing the customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment.
- There is substantial delay in the customer's transaction. Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service.
- Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a website.

## INSURANCE DIVISION[191](cont'd)

**90.3(6)** When a licensee is required by this rule to deliver an initial privacy notice, the licensee shall deliver it according to rule 191—90.8(505). If the licensee uses a short-form initial notice for noncustomers according to subrule 90.5(6), the licensee may deliver its privacy notice according to subrule 90.5(6).

**191—90.4(505) Annual privacy notice to customers required.**

**90.4(1)** A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. “Annually” means at least once in any period of 12 consecutive months during which that relationship exists. A licensee may define the 12-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis.

A licensee provides a notice annually if it defines the 12-consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year 1, the licensee shall provide an annual notice to that customer by December 31 of year 2.

**90.4(2)** A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.

A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

A licensee no longer has a continuing relationship with an individual if the individual’s policy lapsed, expired or is otherwise inactive or dormant under the licensee’s business practices, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than to provide annual notices, material required by law or regulation, or promotional materials.

For purposes of this rule, a licensee no longer has a continuing relationship with an individual if the individual’s last-known address according to the licensee’s records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

**90.4(3)** When a licensee is required by this rule to deliver an annual privacy notice, the licensee shall deliver it according to rule 191—90.8(505).

**90.4(4)** A licensee is not required to provide an annual privacy notice if both of the following are true: the licensee has not changed the privacy policies and practices that the licensee disclosed to the consumer in the privacy notice that the licensee most recently delivered to the consumer in accordance with rule 191—90.3(505) or this rule; and the licensee does not disclose any nonpublic personal information about the consumer to any nonaffiliated third party except as authorized by rules 191—90.12(505), 191—90.13(505) and 191—90.14(505). If a licensee at any time fails to comply with the criteria of this subrule, the licensee shall immediately provide to the consumer the annual privacy notice required under this chapter.

**191—90.5(505) Information to be included in privacy notices.**

**90.5(1)** The initial annual and revised privacy notices that a licensee provides under rules 191—90.3(505), 191—90.4(505) and 191—90.7(505) shall include each of the following items of information in addition to any other information the licensee wants to provide and that apply to the licensee and to the consumers to whom the licensee sends its privacy notice:

- a. The categories of nonpublic personal financial information that the licensee collects;
- b. The categories of nonpublic personal financial information that the licensee discloses;



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c. The categories of affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information, other than those parties to which the licensee discloses information under rules 191—90.13(505) and 191—90.14(505);

d. The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to which the licensee discloses information under rules 191—90.13(505) and 191—90.14(505);

e. A separate description of the categories of information the licensee discloses and the categories of third parties with which the licensee has contracted if a licensee discloses nonpublic personal financial information to a nonaffiliated third party under rule 191—90.12(505) and no other exception in rules 191—90.13(505) and 191—90.14(505) applies to that disclosure;

f. An explanation of the consumer's right under subrule 90.9(1) to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

g. Any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act;

h. The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information; and

i. Any disclosure that the licensee makes under subrule 90.5(2).

**90.5(2)** If a licensee discloses nonpublic personal financial information as authorized under rules 191—90.13(505) and 191—90.14(505), the licensee is not required to list those exceptions in the initial or annual privacy notices required by rules 191—90.3(505) and 191—90.4(505). When describing the categories of parties to which disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable and permitted by law.

**90.5(3)** Examples of nonpublic personal financial information are as follows:

a. *Categories of nonpublic personal financial information that the licensee collects.* A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable:

- (1) Information from the consumer;
- (2) Information about the consumer's transactions with the licensee or its affiliates;
- (3) Information about the consumer's transactions with nonaffiliated third parties; and
- (4) Information from a consumer reporting agency.

b. *Categories of nonpublic personal financial information a licensee discloses.* A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in paragraph "a," as applicable, and provides examples to illustrate the types of information in each category. These might include the following:

- (1) Information from the consumer, including application information, such as assets and income and identifying information such as name, address and social security number;
- (2) Transaction information, such as information about balances, payment history and parties to the transaction; and
- (3) Information from consumer reports, such as a consumer's creditworthiness and credit history.

A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms, such as transaction information about the consumer.

If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

c. *Categories of affiliates and nonaffiliated third parties to which the licensee discloses.* A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which the affiliate and nonaffiliated third parties engage.

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Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term “financial products or services” if it includes appropriate examples of significant lines of business, such as life insurer, automobile insurer, consumer banking or securities brokerage.

A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

**90.5(4)** If a licensee discloses nonpublic personal financial information under the exception in rule 191—90.12(505) to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of paragraph 90.5(1) “e” if it does the following:

*a.* Lists the categories of nonpublic personal financial information it discloses using the same categories and examples the licensee used to meet the requirements of paragraph 90.5(1) “b” as applicable; and

*b.* States whether the third party is a service provider that performs marketing services on the licensee’s behalf or on behalf of the licensee and another financial institution or a financial institution with which the licensee has a joint marketing agreement.

**90.5(5)** If a licensee does not disclose and does not wish to reserve the right to disclose nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under rules 191—90.13(505) and 191—90.14(505), the licensee may simply state that fact, in addition to the information it shall provide under paragraphs 90.5(1) “a,” “h,” and “i” and subrule 90.5(2).

**90.5(6)** A licensee shall describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

*a.* Describes in general terms who is authorized to have access to the information; and

*b.* States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee’s policy. The licensee is not required to describe technical information about the safeguards it uses.

**90.5(7)** A licensee may satisfy the initial notice requirements in paragraph 90.3(1) “b” and subrule 90.6(4) for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt-out notice as required in rule 191—90.6(505).

*a.* The short-form initial notice shall be clear and conspicuous, state that the licensee’s privacy notice is available upon request and explain a reasonable means by which the consumer may obtain that notice.

*b.* The licensee shall deliver its short-form initial notice according to rule 191—90.8(505). The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee’s short-form notice requests the licensee’s privacy notice, the licensee shall deliver its privacy notice according to rule 191—90.8(505).

*c.* The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee provides a toll-free telephone number that the consumer may call to request the notice or, for a consumer who conducts business in person at the licensee’s office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

**90.5(8)** The licensee’s notice may include categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future but does not currently disclose and categories of affiliates or nonaffiliated third parties to which the licensee reserves the right in the future to disclose, but to which the licensee does not currently disclose, nonpublic personal financial information. Sample clauses are found in Appendix A.

**191—90.6(505) Form of opt-out notice to consumers and opt-out methods.**

**90.6(1)** A licensee required to provide an opt-out notice under subrule 90.9(1) shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that rule. The notice shall state the following:

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- a. The licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;
- b. The consumer has the right to opt out of that disclosure; and
- c. A reasonable means by which the consumer may exercise the opt-out right.

**90.6(2)** Examples of the opt-out notice include the following:

a. *Adequate opt-out notice.* A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee does the following:

(1) Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in paragraphs 90.5(1) “b” and “c,” and states that the consumer can opt out of the disclosure of that information; and

(2) Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt-out direction applies.

b. *Reasonable opt out.* A licensee provides a reasonable means to exercise an opt-out right if it provides the following:

(1) Designates check-off boxes in a prominent position on the relevant forms with the opt-out notice;

(2) Includes a reply form together with the opt-out notice;

(3) Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee’s website, if the consumer agrees to the electronic delivery of information; or

(4) Provides a toll-free telephone number that consumers may call to opt out.

c. *Unreasonable opt out.* A licensee does not provide a reasonable means of opting out in the following circumstances:

(1) The only means of opting out is for the consumer to write the consumer’s own letter to exercise that opt-out right; or

(2) The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.

d. *Specific opt out.* A licensee may require each consumer to opt out through a specific means as long as that means is reasonable for that consumer.

**90.6(3)** A licensee may provide the opt-out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with rule 191—90.3(505).

**90.6(4)** If a licensee provides the opt-out notice later than required for the initial notice in accordance with rule 191—90.3(505), the licensee shall also include in writing or, if the consumer agrees, electronically a copy of the initial notice with the opt-out notice.

**90.6(5)** If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt-out notice. The licensee’s opt-out notice shall explain how the licensee will treat an opt-out direction by a joint consumer.

a. Any of the joint consumers may exercise the right to opt out. The licensee may do either of the following:

(1) Treat an opt-out direction by a joint consumer as applying to all of the associated joint consumers; or

(2) Permit each joint consumer to opt out separately.

b. The licensee shall permit one of the joint consumers to opt out on behalf of all the joint consumers if a licensee permits each joint consumer to opt out separately.

c. A licensee may not require all joint consumers to opt out before it implements any opt-out direction.

d. Examples of opt-out notice requirements for joint consumers. If John and Mary are both names of policyholders on a homeowner’s insurance policy issued by a licensee and the licensee sends policy statements to John’s address, the licensee may do any of the following, but it shall explain in its opt-out notice which of the following opt-out policies the licensee will follow:

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(1) Send a single opt-out notice to John's address, but the licensee shall accept an opt-out direction from either John or Mary.

(2) Treat an opt-out direction by either John or Mary as applying to the entire policy. If the licensee does so and John opts out, the licensee may not require Mary to opt out as well before implementing John's opt-out direction.

(3) Permit John and Mary to make different opt-out directions. If the licensee does so, it shall provide for the following:

1. Permit John and Mary to opt out for each other;

2. Permit both of them to notify the licensee in a single response such as on a form or through a telephone call if both opt out; and

3. Allow the licensee to disclose nonpublic personal financial information about one of them such as Mary but not about John if John opts out and Mary does not and not about John and Mary jointly.

**90.6(6)** A licensee shall comply with a consumer's opt-out direction as soon as reasonably practicable after the licensee receives it.

**90.6(7)** A consumer may exercise the right to opt out at any time.

**90.6(8)** A consumer's direction to opt out under this rule is effective until the consumer revokes it in writing or electronically, if the consumer agrees to revoke electronically.

**90.6(9)** When a customer relationship terminates, the customer's opt-out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt-out direction that applied to the former relationship does not apply to the new relationship.

**90.6(10)** When a licensee is required to deliver an opt-out notice by this rule, the licensee shall deliver it according to rule 191—90.8(505).

**191—90.7(505) Revised privacy notices.**

**90.7(1)** Except as otherwise authorized in this rule, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under rule 191—90.3(505) unless the following occur:

*a.* The licensee has provided to the consumer a clear and conspicuous revised privacy notice that accurately describes its policies and practices;

*b.* The licensee has provided to the consumer a new opt-out notice;

*c.* The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

*d.* The consumer does not opt out.

Except as permitted by rules 191—90.12(505), 191—90.13(505), and 191—90.14(505), a licensee shall provide a revised notice before the licensee does any of the following:

- Discloses a new category of nonpublic personal financial information to any nonaffiliated third party;

- Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or

- Discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt-out right regarding that disclosure.

**90.7(2)** A revised privacy notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

**90.7(3)** When a licensee is required to deliver a revised privacy notice by this rule, the licensee shall deliver it according to rule 191—90.8(505).

**191—90.8(505) Delivery of notice.**

**90.8(1)** A licensee shall provide any notices that these rules require so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

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*a.* Examples of reasonable expectation of actual notice by a licensee are as follows:

- (1) Hand delivery of a printed copy of the notice to the consumer;
- (2) Mailing a printed copy of the notice to the last-known address of the consumer separately or in a policy, billing or other written communication;
- (3) For a consumer who conducts transactions electronically, posting the notice on the website and requiring the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service;
- (4) For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posting the notice and requiring the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

*b.* Examples of unreasonable expectation of actual notice by a licensee are as follows:

- (1) Only posting a sign in its office or generally publishing advertisements of its privacy policies and practices; or
- (2) Sending the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

**90.8(2)** A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if one of the following occurs:

*a.* The customer uses the licensee's website to access insurance products and services electronically and agrees to receive notices at the website and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the website; or

*b.* The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

**90.8(3)** A licensee may not provide any notice required by this rule solely by orally explaining the notice, either in person or over the telephone.

**90.8(4)** For customers only, a licensee shall provide the initial notice required by paragraph 90.3(1) "a," the annual notice required by subrule 90.4(1) and the revised notice required by rule 191—90.7(505) so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

A licensee provides a privacy notice to the customer so that the customer can retain the notice or obtain the notice later if the licensee does any of the following:

- a.* Hand delivers a printed copy of the notice to the customer;
- b.* Mails a printed copy of the notice to the last-known address of the customer; or
- c.* Makes its current privacy notice available on a website or a link to another website for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the website.

**90.8(5)** A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee may also provide a notice on behalf of another financial institution.

**90.8(6)** If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of subrules 90.3(1), 90.4(1) and 90.7(1), respectively, by providing one notice to those consumers jointly.

**191—90.9(505) Limits on disclosure of nonpublic personal financial information to nonaffiliated third parties.**

**90.9(1)** A licensee may not directly or through any affiliate disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party except as otherwise authorized in these rules unless the following occur:

- a.* The licensee has provided to the consumer an initial notice as required under rule 191—90.3(505);
- b.* The licensee has provided to the consumer an opt-out notice as required in rule 191—90.6(505);

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*c.* The licensee has given the consumer a reasonable opportunity to opt out of the disclosure before the licensee discloses the information to the nonaffiliated third party; and

*d.* The consumer does not opt out.

**90.9(2)** A licensee provides a consumer with a reasonable opportunity to opt out under the following methods:

*a.* The licensee mails the notices required in subrule 90.9(1) to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within 30 days from the date the licensee mailed the notices.

*b.* A customer opens an online account with a licensee and agrees to receive the notices required in subrule 90.9(1) electronically, and the licensee allows the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

*c.* For an isolated transaction such as providing the customer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notice required in subrule 90.9(1) at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

**90.9(3)** A licensee shall comply with this rule regardless of whether the licensee and the consumer have established a customer relationship.

**90.9(4)** Unless a licensee complies with this rule, the licensee may not directly or through any affiliate disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

**90.9(5)** A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

**191—90.10(505) Limits on redisclosure and reuse of nonpublic personal financial information.**

**90.10(1)** In the event a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception to rules 191—90.13(505) and 191—90.14(505), the licensee's disclosure and use of that information is limited as follows:

*a.* The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

*b.* The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

*c.* The licensee may disclose and use the information pursuant to an exception in rule 191—90.13(505) or 191—90.14(505) in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee may disclose the information for fraud prevention or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

**90.10(2)** In the event a licensee received nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in rules 191—90.13(505) and 191—90.14(505), the licensee may disclose the information only as follows:

*a.* To the affiliates of the financial institution from which the licensee received the information;

*b.* To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

*c.* To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

In the event a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in rule 191—90.13(505) or 191—90.14(505), the licensee may use that list for its own purposes and the licensee may disclose that list to another nonaffiliated third party only if the financial

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institution from which the licensee purchased the list could have lawfully disclosed the list to that third party.

The licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list as limited by the opt-out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose and the licensee may disclose the list in accordance with an exception in rule 191—90.13(505) or 191—90.14(505), such as to the licensee's attorneys or accountants.

**90.10(3)** In the event a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in rules 191—90.13(505) and 191—90.14(505), the third party may disclose and use that information only as follows:

- a. The third party may disclose the information to the licensee's affiliates;
- b. The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and
- c. The third party may disclose and use the information pursuant to an exception in rules 191—90.13(505) and 191—90.14(505) in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

**90.10(4)** In the event a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in rules 191—90.13(505) and 191—90.14(505), the third party may disclose the information only to the following:

- a. The licensee's affiliates;
- b. The third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and
- c. Any other person, if the disclosure would be lawful if the licensee made it directly to that person.

**191—90.11(505) Limits on sharing account number information for marketing purposes.**

**90.11(1)** A licensee shall not directly or through an affiliate disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct-mail marketing or marketing through electronic mail to the consumer.

**90.11(2)** The above subrule does not apply if a licensee discloses a policy number or similar form of access number or access code to any of the following:

- a. A licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;
- b. A licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or
- c. A participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

A policy number or similar form of access number or access code does not include a number or code in encrypted form as long as the licensee does not provide the recipient with a means to decode the number or code.

For purposes of this subrule, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

**191—90.12(505) Exception to opt-out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing.**

**90.12(1)** The opt-out requirements in rules 191—90.6(505) and 191—90.9(505) do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions for the licensee on the licensee's behalf, if the licensee does the following:

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- a. Provides the initial notice in accordance with rule 191—90.3(505); and
- b. Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in rules 191—90.13(505) and 191—90.14(505) in the ordinary course of business to carry out those purposes.

For example, if a licensee discloses nonpublic personal financial information under this rule to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution meets the requirements of paragraph "b" of this subrule if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in rules 191—90.13(505) and 191—90.14(505) in the ordinary course of business to carry out that joint marketing.

**90.12(2)** The services a nonaffiliated third party performs for a licensee under subrule 90.12(1) may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

**90.12(3)** For purposes of this rule, "joint agreement" means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

**191—90.13(505) Exceptions to notice and opt-out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions.**

**90.13(1)** The requirements for initial notice in paragraph 90.3(1)"b," for the opt out in rules 191—90.6(505) and 191—90.9(505), and for service providers and joint marketing in rule 191—90.12(505) do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with the following:

- a. Servicing or processing an insurance product or service that a consumer requests or authorizes;
- b. Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private-label credit card program or other extension of credit on behalf of such entity;
- c. A proposed or actual securitization, secondary market sale including sales of servicing rights, or similar transaction related to a transaction of the consumer; or
- d. Reinsurance or stop loss or excess loss insurance.

**90.13(2)** For purposes of this rule, "necessary to effect, administer or enforce a transaction" means that the disclosure is as follows:

- a. Required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or
- b. Required, or is a usual, appropriate or acceptable method, for the following transactions:
  - (1) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the insurance product or service;
  - (2) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;
  - (3) To provide a confirmation, statement or other record of the transaction or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;
  - (4) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;
  - (5) To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits including utilization review activities, participating in research projects or as otherwise required or specifically permitted by federal or state law; or
  - (6) To disclose in connection with the following:



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1. The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;
2. The transfer of receivables, accounts or interests therein; or
3. The audit of debit, credit or other payment information.

**191—90.14(505) Other exceptions to notice and opt-out requirements for disclosure of nonpublic personal financial information.**

**90.14(1)** The requirements for initial notice to consumers in paragraph 90.3(1) “b,” for the opt out in rules 191—90.6(505) and 191—90.9(505), and for service providers and joint marketing in rule 191—90.12(505) do not apply when a licensee discloses nonpublic personal financial information as follows:

- a. With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;
- b. To protect the confidentiality or security of a licensee’s records pertaining to the consumer, service, product, or transaction;
- c. To protect against or prevent actual or potential fraud or unauthorized transactions;
- d. For required institutional risk control or for resolving consumer disputes or inquiries;
- e. To persons holding a legal or beneficial interest relating to the consumer;
- f. To persons acting in a fiduciary or representative capacity on behalf of the consumer;
- g. To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee’s compliance with industry standards, and the licensee’s attorneys, accountants and auditors;
- h. To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978, to law enforcement agencies including the Federal Reserve Board; Office of the Comptroller of the Currency; Federal Deposit Insurance Corporation; Office of Thrift Supervision; National Credit Union Administration; the Securities and Exchange Commission; the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II, and 12 U.S.C. Chapter 21, a state insurance authority, and the Federal Trade Commission, self-regulatory organizations or for an investigation on a matter related to public safety;
- i. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act;
- j. From a consumer report reported by a consumer reporting agency;
- k. In connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business unit;
- l. To comply with federal, state, or local laws, rules and other applicable legal requirements;
- m. To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities;
- n. To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law;
- o. For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers’ compensation plan.

**90.14(2)** A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal financial information as permitted under subrule 90.6(7).

**191—90.15(505) Notice through a website.** If a licensee provides a notice on a website, the licensee shall comply with the above requirements if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the website such as text, graphics, hyperlinks or sound do not distract attention from the notice. In addition, the licensee shall either place the notice on a screen that consumers frequently access, such as a page on which transactions are conducted, or place a link on a screen that consumers frequently access that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

INSURANCE DIVISION[191](cont'd)

**191—90.16(505) Licensee exception to notice requirement.**

**90.16(1)** A licensee is not subject to the notice and opt-out requirements for nonpublic personal financial information as follows:

- a.* The licensee is an employee, agent or other representative of another licensee; and
- b.* The other licensee otherwise complies with, and provides the notices required by, the provisions of the rules and the licensee does not disclose any nonpublic personal financial information to any person other than the other licensee or its affiliates in a manner permitted by these rules.

**90.16(2)** An excess lines broker or excess lines insurer shall be deemed to be in compliance with the notice and opt-out requirements for nonpublic personal financial information in these rules provided the following:

- a.* The broker or insurer does not disclose nonpublic personal financial information of a consumer or a customer to nonaffiliated third parties for any purpose including joint servicing or marketing under rule 191—90.12(505) except as permitted by rule 191—90.13(505) or 191—90.14(505); and
- b.* The broker or insurer delivers to the consumer at the time a customer relationship is established a notice on which the following is printed in 16-point type:

PRIVACY NOTICE

NEITHER THE U.S. BROKER THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

DIVISION II  
RULES FOR HEALTH INFORMATION

**191—90.17(505) Disclosure of nonpublic personal health information.**

**90.17(1)** A licensee shall not disclose nonpublic personal health information about a consumer or customer unless an authorization is obtained from the consumer or customer whose nonpublic personal health information is sought to be disclosed.

**90.17(2)** Nothing in this rule shall prohibit, restrict or require an authorization for the disclosure of nonpublic personal health information by a licensee or the licensee's insurance affiliate for the performance of the following insurance functions by or on behalf of the licensee: claims administration; claims adjustment and management; detection, investigation or reporting of actual or potential fraud, misrepresentation or criminal activity; underwriting; policy placement or issuance; loss control; rate-making and guaranty fund functions; reinsurance and excess loss insurance; risk management; case management; disease management; quality assurance; quality improvement; performance evaluation; provider credentialing verification; utilization review; peer review activities; actuarial, scientific, medical or public policy research; grievance procedures; internal administration of compliance, managerial, and information systems; policyholder service functions; auditing; reporting; database security; administration of consumer disputes and inquiries; external accreditation standards; the replacement of a group benefit plan or workers' compensation policy or program; activities in connection with a sale, merger, transfer or exchange of all or part of a business or operating unit; any activity that permits disclosure without authorization pursuant to the federal Health Insurance Portability and Accountability Act privacy rules promulgated by the U.S. Department of Health and Human Services; disclosure that is required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out a transaction or providing a product or service that a consumer requests or authorizes; and any activity otherwise permitted by law, required pursuant to governmental reporting authority, or to comply with legal process. Additional insurance functions may be added with the approval of the commissioner to the extent they are necessary for appropriate performance of insurance functions and are fair and reasonable to the interest of consumers.

**191—90.18(505) Authorizations.**

INSURANCE DIVISION[191](cont'd)

**90.18(1)** A valid authorization to disclose nonpublic personal health information pursuant to the health information rules as required under subrule 90.17(1) shall be in written or electronic form and shall contain all of the following:

- a. The identity of the consumer or customer who is the subject of the nonpublic personal health information;
- b. A general description of the types of nonpublic personal health information to be disclosed;
- c. General descriptions of the parties to whom the licensee discloses nonpublic personal health information, the purpose of the disclosure and how the information will be used;
- d. The signature of the consumer or customer who is the subject of the nonpublic personal health information or the individual who is legally empowered to grant authority and the date signed; and
- e. Notice of the length of time for which the authorization is valid, the fact that the consumer or customer may revoke the authorization at any time, and the procedure for making a revocation.

**90.18(2)** An authorization for the purposes of these health information rules shall specify a length of time for which the authorization shall remain valid, which in no event shall be for more than 24 months.

**90.18(3)** A consumer or customer who is the subject of nonpublic personal health information may revoke an authorization provided pursuant to these health information rules at any time, subject to the rights of an individual who acted in reliance on the authorization prior to notice of the revocation.

**90.18(4)** A licensee shall retain the authorization or a copy in the record of the individual who is the subject of nonpublic personal health information.

**191—90.19(505) Delivery of authorization request.** A request for authorization and an authorization form may be delivered to a consumer or a customer as part of an opt-out notice pursuant to rule 191—90.8(505), provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or customer or included in any other notices unless the licensee intends to disclose protected health information pursuant to subrule 90.17(1).

**191—90.20(505) Relationship to federal rules.** Irrespective of whether a licensee is subject to the federal Health Insurance Portability and Accountability Act privacy rules promulgated by the U.S. Department of Health and Human Services, if a licensee complies with all requirements of the federal rules except for their effective date provision, the licensee shall not be subject to the provisions of these health information rules.

**191—90.21(505) Relationship to state laws.** Nothing in these health information rules shall preempt or supersede existing state law related to medical records, health or insurance information privacy.

**191—90.22(505) Protection of Fair Credit Reporting Act.** Nothing in these rules shall be construed to modify, limit or supersede the operations of the federal Fair Credit Reporting Act, and no inference shall be drawn on the basis of the provisions of these rules regarding whether information is transaction or experience information under Section 603 of that Act.

**191—90.23(505) Nondiscrimination.** A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of the consumer's or customer's nonpublic personal financial information pursuant to the provisions of this chapter.

**191—90.24(505) Severability.** If any rule or portion of a rule of this chapter or its applicability to any person or circumstance is held invalid by a court, the remainder of the rules or the applicability of the provision to other persons or circumstances shall not be affected.

**191—90.25(505) Penalties.** An insurer or producer or licensee that violates a requirement of these rules shall be found to have committed a violation of Iowa Code section 507B.4 in addition to any other penalties provided by the laws of this state.

**191—90.26(505) Effective dates.**

INSURANCE DIVISION[191](cont'd)

**90.26(1)** These rules became effective November 13, 2000. However, in order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of these rules, the commissioner extends the time for compliance until July 1, 2001.

**90.26(2)** A licensee shall provide by July 1, 2001, an initial notice as required by rule 191—90.3(505) to consumers who are the licensee's customers on July 1, 2001. A licensee provides an initial notice to consumers who are its customers on July 1, 2001, if, by that date, the licensee has established a system for providing an initial notice to all new customers and has mailed the initial notice to all the licensee's existing customers.

**90.26(3)** Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of paragraph 90.12(1) "a," even if the contract does not include a requirement that the third party maintain confidentiality of nonpublic personal financial information, provided that the licensee entered into the agreement on or before July 1, 2001.

**90.26(4)** The rules regarding health information are effective January 2, 2002, and no administrative action against noncompliance shall be taken until January 2, 2002.

**191—90.27 to 90.36** Reserved.

DIVISION III  
SAFEGUARDING CUSTOMER INFORMATION

**191—90.37(505) Information security program.**

**90.37(1)** Each licensee shall implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information. The administrative, technical and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of the licensee's activities.

**90.37(2)** A licensee's information security program shall be designed to:

- a. Ensure the security and confidentiality of customer information;
  - b. Protect against any anticipated threats or hazards to the security or integrity of the information;
- and
- c. Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

**191—90.38(505) Examples of methods of development and implementation.** The actions and procedures that follow are examples of methods a licensee may use to implement the requirements of rule 191—90.37(505) to assess, manage and control risks of disclosure:

1. Identify reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration or destruction of customer information or customer information systems.
2. Assess the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information.
3. Assess the sufficiency of policies, procedures, customer information systems and other safeguards in place to control risks.
4. Design an information security program to control the identified risks, commensurate with the sensitivity of the information as well as the complexity and scope of the licensee's activities.
5. Train staff, as appropriate, to implement the licensee's information security program.
6. Regularly test or otherwise regularly monitor the key controls, systems and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.
7. Exercise appropriate due diligence in selecting service providers.
8. Require service providers to implement appropriate measures designed to meet the objectives of rule 191—90.37(505) and, when indicated by the licensee's risk assessment, take appropriate steps to confirm that service providers have satisfied these obligations.

## INSURANCE DIVISION[191](cont'd)

9. Monitor, evaluate and adjust, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to customer information systems.

**191—90.39(505) Penalties.** An insurer, producer or licensee that violates a requirement of these rules shall be subject to the penalties imposed under Iowa Code chapter 507B in addition to any other penalties provided by the laws of this state.

**191—90.40(505) Effective date.** Each licensee shall establish and implement an information security program, including appropriate policies and systems, by June 30, 2003.

These rules are intended to implement Iowa Code section 505.8(6) and P.L. 106-102.

APPENDIX A  
SAMPLE CLAUSES

Licenses, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

**A-1 Categories of information a licensee collects (all institutions)**

A licensee may use this clause, as applicable, to meet the requirements of paragraph 90.5(1) "a" to describe the categories of nonpublic personal financial information the licensee collects.

Sample Clause A-1:

We collect nonpublic personal information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates or others; and
- Information we receive from a consumer reporting agency.

**A-2 Categories of information that a licensee discloses (institutions that disclose outside of the exceptions)**

A licensee may use one of these clauses, as applicable, to meet the requirements of paragraph 90.5(1) "b" to describe the categories of nonpublic personal information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal information other than as permitted by the exceptions in rules 191—90.14(505), 191—90.15(505), and 191—90.16(505).

Sample Clause A-2, Alternative 1:

We may disclose the following kinds of nonpublic personal information about you:

- Information we receive from you on applications or other forms, such as (provide illustrative examples, such as "your name, address, social security number, assets, income, and beneficiaries");
- Information about your transactions with us, our affiliates or others, such as (provide illustrative examples, such as "your policy coverage, premiums, and payment history"); and
- Information we receive from a consumer reporting agency, such as (provide illustrative examples, such as "your creditworthiness and credit history").

Sample Clause A-2, Alternative 2:

We may disclose all of the information that we collect as described (describe location in the notice, such as "above" or "below").

**A-3 Categories of information that a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)**

A licensee may use this clause, as applicable, to meet the requirements of paragraphs 90.5(1) "b," "c," and "d" to describe the categories of nonpublic personal information about customers and former

## INSURANCE DIVISION[191](cont'd)

customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal information to any party, other than as permitted by the exceptions in rules 191—90.13(505) and 191—90.14(505).

Sample Clause A-3:

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

**A-4 Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)**

A licensee may use this clause, as applicable, to meet the requirements of paragraph 90.5(1)“c” to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal information. This clause may be used if the licensee discloses nonpublic personal information other than as permitted by exceptions to rules 191—90.12(505), 191—90.13(505), and 191—90.14(505), as well as when permitted by the exceptions in rules 191—90.13(505) and 191—90.14(505).

Sample Clause A-4:

We may disclose nonpublic personal information about you to the following types of third parties:

- Financial service providers, such as (provide illustrative examples, such as “life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents”);
- Nonfinancial companies, such as (provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”); and
- Others, such as (provide illustrative examples, such as “nonprofit organizations”).

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

**A-5 Service provider/joint marketing exception**

A licensee may use one of these clauses, as applicable, to meet the requirements of paragraph 90.5(1)“e” related to the exception for service providers and joint marketers in rule 191—90.12(505). If a licensee discloses nonpublic personal information under this exception, the licensee shall describe the categories of nonpublic personal information the licensee discloses and the categories of third parties with which the licensee has contracted.

Sample Clause A-5, Alternative 1:

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as (provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”);
- Information about your transactions with us, our affiliates or others, such as (provide illustrative examples, such as “your policy coverage, premium, and pay history”); and
- Information we receive from a consumer reporting agency, such as (provide illustrative examples, such as “your creditworthiness and credit history”).

Sample Clause A-5, Alternative 2:

We may disclose all of the information we collect, as described (describe location in the notice, such as “above” or “below”), to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

**A-6 Explanation of opt-out right (institutions that disclose outside of the exception)**

A licensee may use this clause, as applicable, to meet the requirement of paragraph 90.5(1)“f” to provide an explanation of the consumer’s right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the methods by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal information other than as permitted by the exceptions in rules 191—90.12(505), 191—90.13(505), and 191—90.14(505).

INSURANCE DIVISION[191](cont'd)

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may (describe a reasonable means of opting out, such as “call the following toll-free number: (insert number)”).

**A-7 Confidentiality and security (all institutions)**

A licensee may use this clause, as applicable, to meet the requirement of paragraph 90.5(1) “h” to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A-7:

We restrict access to nonpublic personal information about you to (provide an appropriate description, such as “those employees who need to know that information to provide products or services to you”). We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

**ARC 7510C**

**INTERIOR DESIGN EXAMINING BOARD[193G]**

**Notice of Intended Action**

**Proposing rulemaking related to professional conduct  
and providing an opportunity for public comment**

The Interior Design Examining Board hereby proposes to rescind Chapter 4, “Professional Conduct,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 272C and section 544C.3.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 544C and 2023 Iowa Acts, Senate File 135.

*Purpose and Summary*

The proposed rulemaking provides registrants and Iowans with the rules of conduct for registered interior designers who are practicing interior design to protect the public health, safety, and welfare by ensuring safe interiors.

The Board and Commissions Review Committee recommended this Board be eliminated; however, a new law was enacted to allow registered interior designers to stamp/seal technical documents. This rulemaking provides information to registrants as well as building code officials about the stamp regulations.

The proposed amendments were approved by the Board on December 4, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@iowa.gov](mailto:lori.schraderbachar@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 12:10 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 12:10 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193G—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
PROFESSIONAL CONDUCT

**193G—4.1(544C) Rules of conduct.** A registered interior designer shall maintain a high standard of integrity and professional responsibility within the profession of registered interior design to protect the public health, life, safety, and welfare. Failure by a registrant to adhere to the provisions of Iowa Code section 272C.10 and chapter 544C and the following rules of conduct may be grounds for disciplinary action.

**4.1(1) Competence.**



## INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

a. A registered interior designer shall act with reasonable care and competence and apply the technical knowledge and skill ordinarily applied by a registered interior designer of good standing providing interior design services in the same locality.

b. The board may initiate discipline against a registered interior designer or may, when appropriate, refer a registered interior designer to the board's impaired practitioner review committee based on habitual intoxication or addiction to the use of drugs or other impairment that adversely affects the registrant's ability to practice in a safe and competent manner.

**4.1(2) Conflict of interest.** A registered interior designer may accept compensation for interior design services from more than one party on a project if circumstances are fully disclosed and agreed to in writing by all interested parties.

**4.1(3) Full disclosure.**

a. A registered interior designer shall not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with application for registration or renewal of registration.

b. A registered interior designer shall not assist in the application for registration of a person known by the registered interior designer to be unqualified with respect to education, training, experience or character.

c. A registered interior designer engaged in the practice of interior design must act in the best interest of the client and shall not allow integrity, objectivity or professional judgment to be impaired.

d. A registered interior designer with knowledge of a violation of these rules by another registered interior designer shall report such knowledge to the board.

**4.1(4) Professional conduct.**

a. A registered interior designer shall respect the confidentiality of sensitive information obtained in the course of the interior designer's professional activities.

b. A registered interior designer shall not engage in conduct involving fraud, deceit, misrepresentation or dishonesty in the practice of interior design.

c. A registered interior designer shall neither attempt to obtain a contract to provide interior design services through any unlawful means nor assist others in such an attempt.

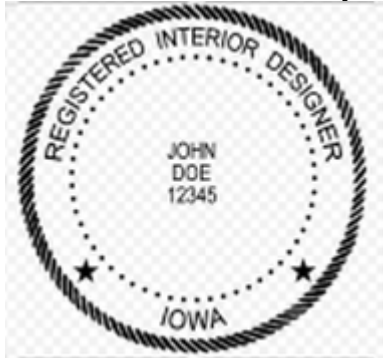
d. A registered interior designer shall neither offer nor make any payment to a governmental official with the intent of influencing the official's judgment in connection with a prospective or existing project in which the interior designer has an interest.

**4.1(5) Seal and certificate of responsibility.**

a. The seal under Iowa Code section 544C.14 shall include:

- (1) An outside circle with a diameter of approximately 1 ¾ inches.
- (2) The name of the registered interior designer and the words "Registered Interior Designer."
- (3) The Iowa registration number and the word "Iowa."

b. The seal will substantially conform to the sample shown below:



c. A legible rubber stamp, electronic image or other facsimile of the seal may be used.

d. Each technical submission submitted to a client or any public agency, hereinafter referred to as the official copy, shall contain an information block on its first page or on an attached cover sheet with application of a seal by the registered interior designer in responsible charge and an information

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

block with application of a seal by each professional consultant contributing to the technical submission. The seal and original signature shall be applied only to a final technical submission. Each official copy of a technical submission shall be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the technical submission. Each information block shall display the seal of the individual responsible for that portion of the technical submission. The area of responsibility for each sealing professional shall be designated in the area provided in the information block, so that responsibility for the entire technical submission is clearly established by the combination of the stated seal responsibilities. The information block will substantially conform to the sample shown below:

S E A L	<p>I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and responsible charge. I am a duly registered interior designer under the laws of the state of Iowa.</p> <hr/> <p style="text-align: center;">Signature <span style="float: right;">Date</span></p> <p>Printed or typed name _____</p> <p>Registration number _____</p> <p>My registration renewal date is June 30, _____.</p> <p>Pages or sheets covered by this seal: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>
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e. The information requested in each information block must be typed or legibly printed in permanent ink or a secure electronic signature. An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the registrant’s responsibility to ensure, prior to affixing an electronic signature to a technical submission, that security procedures are adequate to:

(1) Verify that the signature is that of a specific person, and

(2) Detect any changes that may be made or attempted after the signature of the specific person is affixed. The seal implies responsibility for the entire technical submission unless the area of responsibility is clearly identified in the information accompanying the seal.

f. It is the responsibility of the registered interior designer who signed the original submission to forward copies of all changes and amendments to the technical submission, which becomes a part of the official copy of the technical submission, to the public official charged with the enforcement of the state, county, or municipal building code.

g. A registered interior designer is responsible for the custody and proper use of the seal. Improper use of the seal may be grounds for disciplinary action.

h. The seal appearing on any technical submission establishes prima facie evidence that said technical submission was prepared by or under the responsible charge of the individual named on that seal.

This rule is intended to implement Iowa Code chapter 544C.

**ARC 7509C****NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action****Proposing rulemaking related to state parks, recreation areas, and state forest camping  
and providing an opportunity for public comment**

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 61, “State Parks, Recreation Areas, and State Forest Camping,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 through 461A.51, 461A.57, and 723.4 and chapter 724.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 through 461A.51, 461A.57, and 723.4 and chapter 724.

*Purpose and Summary*

Chapter 61 provides guidance and definitions for citizens of Iowa and other visitors who use state parks, recreation areas, and state forests for camping, facility rentals, and other recreational uses.

Consistent with Executive Order 10 and the five-year review of rules required by Iowa Code section 17A.7(2), this chapter is proposed to be edited for length and clarity. Specifically, there are lists of state parks, preserves, and areas managed by other governmental agencies that are proposed to be removed from this chapter. Also, the proposed rulemaking removes the word “possession” from the Mines of Spain firearm limitations consistent with Iowa law, adds protected nesting periods to access parameters for hunting areas or training areas for dogs, and bases damage deposit refunds on an hourly fee instead of an hourly wage of employees.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

This rulemaking is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department of Natural Resources no later than 4:30 p.m. on February 15, 2024. Comments should be directed to:

## NATURAL RESOURCE COMMISSION[571](cont'd)

Jessica Manken  
 Iowa Department of Natural Resources  
 Wallace State Office Building  
 502 East Ninth Street  
 Des Moines, Iowa 50319  
 Email: [jessica.manken@dnr.iowa.gov](mailto:jessica.manken@dnr.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 12 noon to 1 p.m.	Conference Room 4E Wallace State Office Building Des Moines, Iowa
February 15, 2024 4 to 5 p.m.	Conference Room 4E Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

The hearing will also be available online. Persons who wish to attend the conference call or Google Meet virtual meeting should contact Jessica Manken via email.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 61 and adopt the following **new** chapter in lieu thereof:

TITLE VI  
 PARKS AND RECREATION AREAS

CHAPTER 61

STATE PARKS, RECREATION AREAS, AND STATE FOREST CAMPING

**571—61.1(461A) Definitions.**

“*Bank*” or “*shoreline*” means the zone of contact of a body of water with the land and an area within 25 feet of the water’s edge.

“*Basic unit*” or “*basic camping unit*” means the portable shelter used by one to six persons.

“*Beach*” means the same as defined in rule 571—64.1(461A).

“*Beach house open shelter*” means a building located on the beach that is open on two or more sides and that may or may not have a fireplace.

“*Cabin*” means a dwelling available for rental on a nightly or weekly basis. Cabins may or may not contain restroom and kitchen facilities.

“*Camping*” means erecting a tent, hammock, or shelter of natural or synthetic material; placing a sleeping bag or other bedding material on the ground; or parking a motor vehicle, motor home, or trailer for the apparent purpose of overnight occupancy.

## NATURAL RESOURCE COMMISSION[571](cont'd)

“*Centralized reservation system*” means a system that processes reservations using more than one method to accept reservations. Each method simultaneously communicates to a centralized database at a reservation contractor location to ensure that no campsite or rental facility is booked more than once.

“*Chaperoned, organized youth group*” means a group of persons 17 years of age and under, which is sponsored by and accompanied by adult representatives of a formal organization including, but not limited to, the Boy Scouts of America or Girl Scouts of America, a church, or Young Men’s or Young Women’s Christian Association. “Chaperoned, organized youth group” does not include family members of a formal organization.

“*Fishing*” means the same as described in Iowa Code sections 481A.72, 461A.42 and 481A.76.

“*Free climbing*” means climbing with the use of hands and feet only and without the use of ropes, pins and other devices normally associated with rappelling and rock climbing.

“*Group camp*” means the camping area at Lake Keomah State Park where organized groups (e.g., family groups or youth groups) may camp. Dining hall facilities are available.

“*Immediate family*” means spouses, parents or legal guardians, domestic partners, dependent children and grandparents.

“*Lodge*” means a day-use building that is enclosed on all four sides and may have kitchen facilities such as a stove or refrigerator and that is available for rent on a daily basis. “Lodge” does not include buildings that are open on two or more sides and that contain fireplaces only.

“*Modern area*” means a camping area that has showers and flush toilets.

“*Nonmodern area*” means a camping area in which no showers are provided and that contains only pit-type latrines or flush-type toilets. Potable water may or may not be available to campers.

“*Open shelter*” means a building that is open on two or more sides and that may or may not include a fireplace.

“*Open shelter with kitchenette*” means a building that is open on two or more sides and contains a lockable, enclosed kitchen area.

“*Organized youth group campsite*” means a designated camping area within or next to the main campground where chaperoned, organized youth groups may camp.

“*Person with a physical disability*” means any of the following: an individual, commonly termed a paraplegic or quadriplegic, with paralysis or a physical condition of the lower half of the body with the involvement of both legs, usually due to disease or injury to the spinal cord; a person who is a single or double amputee of the legs; or a person with any other physical affliction that makes it impossible to ambulate successfully in park or recreation area natural surroundings without the use of a wheeled conveyance.

“*Possession*” means the same as defined in Iowa Code section 481A.1(27).

“*Prohibited activity*” means any activity other than fishing as defined in this chapter including, but not limited to, picnicking and camping.

“*Property*” means personal property such as goods, money, or domestic animals.

“*Recreation areas*” means the following areas that have been designated by action of the commission:

Area	County
Badger Creek Recreation Area	Madison
Brushy Creek Recreation Area	Webster
Clair Wilson Park	Dickinson
Emerson Bay and Lighthouse	Dickinson
Fairport Recreation Area	Muscatine
Lower Gar Access	Dickinson

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Area	County
Marble Beach	Dickinson
Mines of Spain Recreation Area	Dubuque
Pleasant Creek Recreation Area	Linn
Templar Park	Dickinson
Volga River Recreation Area	Fayette
Wilson Island Recreation Area	Pottawattamie

“*Refuse*” means trash, garbage, rubbish, waste papers, bottles or cans, debris, litter, oil, solvents, liquid or solid waste or other discarded material.

“*Rental facilities*” means facilities that may be rented on a daily or nightly basis and includes open shelters, open shelters with kitchenettes, beach house open shelters, warming lodges, lodges, cabins, yurts and group camps.

“*Reservation window*” means a rolling period of time in which a person may reserve a campsite or rental facility.

“*Scuba diving*” means swimming with the aid of self-contained underwater breathing apparatus.

“*State park*” means areas managed by the state and designated by action of the commission and listed on the department’s website at [www.iowadnr.gov](http://www.iowadnr.gov).

“*State park managed by another governmental entity*” means areas designated by action of the commission and listed on the department’s website at [www.iowadnr.gov](http://www.iowadnr.gov).

“*State preserve*” means the areas or portions of the areas dedicated by actions pursuant to Iowa Code section 465C.10 and listed on the department’s website at [www.iowadnr.gov](http://www.iowadnr.gov).

“*Swim*” or “*swimming*” means to propel oneself in water by natural means, such as movement of limbs, and includes but is not limited to wading and the use of inner tubes or beach toy-type swimming aids.

“*Walk-in camper*” means a person arriving at a campground without a reservation and wishing to occupy a first-come, first-served campsite or unrented, reservable campsite.

“*Yurt*” means a one-room circular fabric structure built on a platform that is available for rental on a nightly or weekly basis.

**571—61.2(461A) Centralized reservation system.** The centralized reservation system of the department accepts and processes reservations for camping, rental facilities, and other special privileges in state parks, recreation areas, and state forests. The system is accessible through the department’s website at [www.iowadnr.gov](http://www.iowadnr.gov). The operating policies and procedures for the centralized reservation system are available upon request.

**571—61.3(461A) Camping in state parks and recreation areas.**

**61.3(1) Procedures for camping registration.**

*a.* Registration of walk-in campers occupying nonreservable campsites or unrented, reservable campsites will be on a first-come, first-served basis and will be handled by a self-registration process. Registration forms will be provided by the department. Campers shall, within one-half hour of arrival at the campground, complete the registration form, place the appropriate fee in the envelope and place the envelope in the depository provided by the department. One copy of the registration form must then be placed in the campsite holder provided at the campsite. The camping length of stay identified on the camping registration form must begin with the actual date the camper registers, pays and posts the registration at the campsite.

*b.* Campsites are considered occupied and registration for a campsite shall be considered complete when the requirements of paragraph 61.3(1)“*a*” have been met.

## NATURAL RESOURCE COMMISSION[571](cont'd)

c. Campsite registration must be in the name of a person 18 years of age or older who will occupy the camping unit on that site for the full term of the registration.

**61.3(2) Organized youth group campsite registration.**

a. Registration procedures for organized youth group campsites shall be governed by paragraphs 61.3(1) "a," "b" and "c."

b. A chaperoned, organized youth group may choose to occupy campsites not designated as organized youth group campsites. However, the group is subject to subrules 61.3(1), 61.3(3) and 61.3(5) pertaining to the campsite the group wishes to occupy.

**61.3(3) Restrictions on campsite/campground use.** This subrule sets forth conditions of public use that apply to all state parks and recreation areas. Specific areas as listed in subrule 61.3(4), rule 571—61.10(461A) and rule 571—61.13(461A) are subject to additional restrictions or exceptions. The conditions in this subrule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

a. No more than six persons shall occupy a campsite except for the following:

(1) Families that exceed six persons may be allowed on one campsite if all members are immediate family and cannot logically be split to occupy two campsites.

(2) Campsites that are designated as chaperoned, organized youth group campsites.

b. Camping is restricted to one basic unit per site except that a small tent or hammock may be placed on a site with the basic unit.

c. Each camping group shall utilize only the electrical outlet fixture designated for its particular campsite.

d. Each camping group will be permitted to park one motor vehicle not being used for camping purposes at the campsite. Unless otherwise posted, one additional vehicle may be parked at the campsite.

e. All motor vehicles, excluding motorcycles, not covered by the provision in paragraph 61.3(3) "d" shall be parked in designated extra-vehicle parking areas.

f. Walk-in campers occupying nonreservable campsites or unrented, reservable campsites shall register as provided in subrule 61.3(1) within one-half hour of entering the campground.

g. Campers occupying nonreservable campsites shall vacate the campground or register for the night prior to 3 p.m. daily. Registration can be for more than 1 night at a time but not for more than 14 consecutive nights for nonreservable campsites. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of three nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department program.

h. Walk-in campers shall not occupy unrented, reservable campsites until 10 a.m. on the first camping day of their stay. Campers shall vacate the campground by 3 p.m. of the last day of their stay. Initial registration shall not exceed two nights. Campers may continue to register after the first 2 nights on a night-to-night basis up to a maximum of 14 consecutive nights, subject to campsite availability. All members of the camping party must vacate the state park, recreation area, or state forest campground after the fourteenth night and may not return to the state park, recreation area, or forest campground until a minimum of three nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department program.

i. Campers with reservations shall not occupy a campsite before 4 p.m. of the first day of their stay. Campers shall vacate the site by 3 p.m. of the last day of their stay. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of three nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department program.

j. Minimum stay requirements for camping reservations. From May 1 to October 31, a two-night minimum stay is required for weekends. The two nights shall be designated as Friday and Saturday nights. However, if October 31 is a Friday, the Friday and Saturday night stay shall not apply. If October

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31 is a Saturday, the Friday and Saturday night stay shall apply. The following additional exceptions apply:

(1) A Friday, Saturday, and Sunday night stay is required for the national Memorial Day holiday and national Labor Day holiday weekends.

(2) A Friday, Saturday, and Sunday night stay is required for the Fourth of July holiday when the Fourth of July occurs on a Monday.

(3) Exception to the paragraph 571—61.3(3) “j” stay requirement. For campgrounds that are 100 percent reservable, with no walk-in sites, customers can reserve a Saturday stay if the Friday/Saturday stay is not reserved before the booking cut-off time has passed to make a Friday/Saturday stay reservation.

(4) Exception to the subparagraphs 571—61.3(3) “j”(1) and (2) stay requirements. For campgrounds that are 100 percent reservable, with no walk-in sites, customers can reserve a Saturday or Sunday separately if the Friday/Saturday/Sunday is not reserved before the booking cut-off time has passed to make a three-night reservation.

*k.* Buddy campsite reservations. Buddy campsites are between two to four individual sites that are grouped together and can only be reserved and used collectively. Campers reserving buddy campsites through the centralized reservation system must reserve both or all four of the individual sites that make up the group buddy campsite or buddy campsite.

*l.* In designated campgrounds, equine animals and llamas must be stabled at a hitching rail, individual stall or corral if provided. Equine animals and llamas may be hitched to trailers for short periods of time to allow for grooming and saddling. These animals may be stabled inside trailers if no hitching facilities are provided. Portable stalls/pens and electric fences are not permitted.

*m.* Campers shall use only straps to secure hammocks to trees on campsites. Straps must be a minimum of one inch wide.

*n.* Special events. The department director or director’s authorized representative may authorize camping in areas outside designated campgrounds for certain special events as defined in rule 571—44.2(321G,321I,461A,462A,481A). Requests shall be reviewed on a case-by-case basis and permitted under the provisions of 571—Chapter 44.

**61.3(4)** *Area-specific restrictions on campground use.* In addition to the general conditions of public use set forth in this chapter, special conditions shall apply to specific areas listed as follows:

*a. Brushy Creek Recreation Area, Webster County.*

(1) In the designated equestrian campgrounds, the maximum number of equine animals to be tied to the hitching rails is six. Persons with a number of equine animals in excess of the number permitted on the hitching rail at their campsite shall be allowed to stable their additional animals in a trailer or register and pay for an additional campsite if available.

(2) In the designated equestrian campgrounds, equine animals may be tied to trailers for short periods of time to allow grooming or saddling; however, the tying of equine animals to the exterior of trailers for extended periods of time or for stabling is not permitted.

*b. Recreation area campgrounds.* Access into and out of designated campgrounds shall be permitted from 4 a.m. to 10:30 p.m. From 10:31 p.m. to 3:59 a.m., only registered campers are permitted in and out of the campgrounds.

*c. Lake Manawa State Park, Pottawattamie County.* Except for the following limitations on campground length of stay, campsite use restrictions as stated in subrule 61.3(3) shall apply to Lake Manawa. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. No person may camp at the Lake Manawa campground for more than 14 nights in any 30-day period.

*d. Walnut Woods State Park, Polk County.* Except for the following limitations on campground length of stay, campsite use restrictions as stated in subrule 61.3(3) shall apply to Walnut Woods. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. No person may camp at the Walnut Woods campground for more than 14 nights in any 30-day period.

**61.3(5)** *Campground fishing.* Rule 571—61.13(461A) is not intended to prohibit fishing by registered campers who fish from the shoreline within the camping area.



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**571—61.4(461A) State forest camping areas established and marked.**

**61.4(1)** Areas to be utilized for camping shall be established within the following state forests:

- a. Shimek State Forest in Lee and Van Buren Counties.
- b. Stephens State Forest in Appanoose, Clarke, Davis, Lucas and Monroe Counties.
- c. Yellow River State Forest in Allamakee County.

**61.4(2)** Signs designating the established camping areas shall be posted along the access roads into these areas and around the perimeter of the area designated for camping use.

**61.4(3)** Areas approved for backpack camping (no vehicular access) shall be marked with appropriate signs and shall contain fire rings.

**571—61.5(461A) Campground reservations.** Procedures and policies regarding camping reservations in established state forest campgrounds shall be the same as those cited in rule 571—61.2(461A). Reservations will not be accepted for backpack campsites.

**571—61.6(461A) Camping fees and registration.**

**61.6(1) Fees.**

- a. Backpack campsites. No fee will be charged for the use of the designated backpack campsites.
- b. The fees for camping in established state forest campgrounds shall be set by the department pursuant to 561—Chapter 16.

**61.6(2) Procedures for camping registration.**

- a. Backpack campsites. Persons using backpack campsites shall register at the forest area check station or other designated site.
- b. The procedures for camping registration in established state forest campgrounds shall be the same as those cited in paragraphs 61.3(1) “a,” “b,” and “c.”
- c. Organized youth group campsites. The procedures for camping registration for organized youth group campsites shall be the same as those cited in subrule 61.3(2).

**571—61.7(461A) State forest camping restrictions—area and use.**

**61.7(1)** Restrictions of campsite or campground use in established state forest campgrounds shall be the same as those cited in paragraphs 61.3(3) “a,” “b,” “d” through “j,” and “l” through “n.”

**61.7(2)** Hours. Access into and out of the established camping areas shall be permitted from 4 a.m. to 10:30 p.m. From 10:31 p.m. to 3:59 a.m., only registered campers are permitted in the campgrounds.

**61.7(3)** Firearms use prohibited. Except for peace officers acting in the scope of their employment, the use of firearms, fireworks, explosives, and weapons of all kinds by the public is prohibited within the established camping area as delineated by signs marking the area.

**571—61.8(461A) Rental facilities.**

**61.8(1) Procedures for rental facility registration.**

a. Registrations for all rental facilities must be in the name of a person 18 years of age or older who will be present at the facility for the full term of the reservation.

b. Rental stay requirements for cabins and yurts.

(1) Except as provided in subparagraphs 61.8(1) “b”(2) and 61.8(1) “b”(3), cabins and yurts may be reserved for a minimum of two nights throughout the entire season.

(2) Cabins and yurts must be reserved for a minimum of three nights (Friday, Saturday, and Sunday nights) for the national Memorial Day holiday weekend, the Fourth of July holiday weekend when the Fourth of July occurs on a Monday, and the national Labor Day holiday weekend.

(3) The department may require cabins with restroom and kitchen facilities to be reserved for a minimum stay of one week (Friday p.m. to Friday a.m.) during the time period beginning with the Friday of the national Memorial Day holiday weekend and ending with the Thursday after the national Labor Day holiday.

(4) All unreserved cabins, all unreserved yurts and the group camp must be rented for a minimum of two nights on a walk-in first-come, first-served basis. No walk-in rentals will be permitted after 6 p.m.

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(5) Reservations or walk-in rentals for more than a two-week stay will not be accepted for any facility.

c. Persons renting cabins, yurts or the group camp facility must check in at or after 4 p.m. on the first day of the rental period. Check-out time is 11 a.m. or earlier on the last day of the rental period.

d. Except by arrangement for late arrival with the park staff, no cabin, yurt or group camp reservation will be held past 6 p.m. on the first night of the reservation period if the person reserving the facility does not arrive. When arrangements for late arrival have been made, the person must appear prior to the park's closing time established by Iowa Code section 461A.46 or access will not be permitted to the facility until 8 a.m. the following day. Arrangements must be made with the park staff if next-day arrival is to be later than 9 a.m.

e. Except at parks or recreation areas with camping cabins or yurts, no tents or other camping units are permitted for overnight occupancy in the designated cabin area. One small tent shall be allowed at each cabin or yurt in the designated areas and is subject to the occupancy requirements of paragraph 61.3(3) "b."

f. Open shelters and beach house open shelters that are not reserved are available on a first-come, first-served basis. If the open shelters with kitchenettes are not reserved, the open shelter portions of these facilities are available on a first-come, first-served basis.

g. Except by arrangement with the park staff in charge of the area, persons renting a lodge, shelter, or beach house open shelter facility and all guests shall vacate the facility by 10 p.m.

**61.8(2) Damage deposits for cabins, lodges, open shelters with kitchenettes, and yurts.**

a. Renters shall pay in full a damage deposit equal to the weekend daily or nightly rental fee for the facility or \$50, whichever is greater, by the established deadline for the facility. If a gathering with keg beer takes place in a lodge or open shelter with kitchenette, the damage deposit shall be waived in lieu of a keg damage deposit as specified in 571—subrule 63.5(3) if the keg damage deposit is greater than the lodge or open shelter with kitchenette damage deposit.

b. Damage deposits will be refunded only after authorized personnel inspect the facility to ensure that the facility and furnishings are in satisfactory condition.

c. If it is necessary for department personnel to clean up the facility or repair any damage beyond ordinary wear and tear, a log of the time spent in such cleanup or repair shall be kept. The damage deposit refund shall be reduced by the applicable hourly fee for the time necessary to clean the area or repair the damage and by the cost of any repairs of furnishings.

d. The deposit is not to be construed as a limit of liability for damage to state property. The department may take legal action necessary to recover additional damages.

**571—61.9(461A) Wet and dry storage for vessels.** The department may provide limited temporary vessel storage for individuals who own vessels that are actively used on waters in state parks and recreation areas.

**61.9(1) Vessel storage fees.** A person who fails to pay a vessel storage fee by the established payment due date shall forfeit the slip assignment.

**61.9(2) Storage slip assignment.**

a. Slip assignments shall be made on a first-come, first-served basis. Park staff may establish a waiting list upon receiving more requests for storage slips than the number of slips available. The waiting list shall be maintained in chronological order of the requests received.

b. Slip assignments shall be valid for one year with the option to renew annually.

c. In the event a person on a waiting list refuses a specific slip assignment, the person's name will be removed from the waiting list.

**61.9(3) Storage slip requirements and conditions.**

a. Each storage slip is limited to no more than one vessel at any given time.

b. All vessels in a storage slip must have a current boat registration.

c. Slip assignments must be in the same name of the person to whom the vessel that will occupy the slip is registered.

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- d.* Dry storage slips shall be maintained in a clean and orderly manner. Failure to maintain the slip in a satisfactory condition will result in forfeiture of the slip assignment and any storage fees paid.
- e.* Slip assignments are not transferable.

**571—61.10(461A) Restrictions—area and use.** This rule sets forth conditions of public use that apply to all state parks and recreation areas. Specific areas as listed in subrule 61.3(4), rule 571—61.11(461A) and rule 571—61.14(461A) are subject to additional restrictions or exceptions. The conditions in this rule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

**61.10(1) Animals.**

- a.* The use of equine animals and llamas is limited to roadways or to trails designated for such use.
- b.* Animals are prohibited within designated beach areas.
- c.* Livestock are not permitted to graze or roam within state parks and recreation areas. The owner of the livestock shall remove the livestock immediately upon notification by department personnel in charge of the area.
- d.* Animals are prohibited in all park buildings, with the following exceptions:
  - (1) Service dogs and assistive animals.
  - (2) Dogs in designated cabins and yurts. A maximum of two dogs of any size shall be allowed in any designated cabin or yurt.
  - (3) Animals being used in education and interpretation programs.
- e.* Except for dogs being used in designated hunting areas during hunting season or in designated dog training areas outside of the nesting period closure from March 15 to July 15, pets such as dogs or cats shall not be allowed to run at large within state parks, recreation areas, or preserves. Such animals shall be on a leash or chain not to exceed six feet in length and shall be either led by or carried by the owner, attached to an anchor/tie-out or vehicle, or confined in a vehicle. Pets shall not be left unattended in campgrounds. Dogs shall be kenneled when left unattended in a cabin or yurt and shall not be left unattended if tied up outside of the cabin or yurt.

**61.10(2) Beach use/swimming.**

- a.* All swimming shall take place between sunrise and sunset. Swimming is prohibited between sunset and sunrise.
- b.* Except as provided in paragraphs 61.10(2) “*c*” and “*d*,” all swimming and scuba diving shall take place in the beach area within the boundaries marked by ropes, buoys, or signs within state parks and recreation areas. Inner tubes, air mattresses and other beach-type items shall be used only in designated beach areas.
- c.* Persons may scuba dive in areas other than the designated beach area provided they display the diver’s flag as specified in rule 571—41.10(462A).
- d.* Swimming outside beach area.
  - (1) Persons may swim outside the beach area under the following conditions:
    - 1. The swimmer must be accompanied by a person operating a vessel and must stay within 20 feet of the vessel at all times during the swim;
    - 2. The vessel accompanying the swimmer must display a flag, which is at least 12 inches square, is bright orange, and is visible all around the horizon; and
    - 3. The person swimming pursuant to this subparagraph must register with the park staff in charge of the area and sign a registration immediately prior to the swim.
  - (2) Unless swimming is otherwise posted as prohibited or limited to the designated beach area, a person may also swim outside the beach area provided that the person swims within ten feet of a vessel which is anchored not less than 100 yards from the shoreline or the marked boundary of a designated beach. Any vessel, except one being uprighted, must be attended at all times by at least one person remaining on board.
  - (3) A passenger on a sailboat or other vessel may enter the water to upright or repair the vessel and must remain within ten feet of that vessel.
- e.* The provisions of paragraph 61.10(2) “*a*” shall not be construed as prohibiting wading in areas other than the beach by persons actively engaged in shoreline fishing.

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*f.* Alcoholic liquor, beer, and wine, as each is defined in Iowa Code section 123.3, are prohibited on the beaches located within Lake Macbride State Park and Pleasant Creek State Recreation Area. This ban does not apply to rental facilities located within the 200-foot buffer of land surrounding the sand or fenced-in area that have been officially reserved through the department.

**61.10(3) Bottles.** Possession or use of breakable containers, the fragmented parts of which can injure a person, is prohibited in beach areas of state parks and recreation areas.

**61.10(4) Chainsaws.** Except by written permission of the director of the department, chainsaw use is prohibited in state parks and recreation areas. This provision is not applicable to employees of the department in the performance of their official duties.

**61.10(5) Firearms.** The use of firearms in state parks and recreation areas as defined in rule 571—61.1(461A) is limited to the following:

*a.* Lawful hunting as traditionally allowed at Badger Creek Recreation Area, Brushy Creek Recreation Area, Pleasant Creek Recreation Area, Mines of Spain Recreation Area (pursuant to rule 571—61.12(461A)), Volga River Recreation Area and Wilson Island Recreation Area.

*b.* Target and practice shooting in areas designated by the department.

*c.* Special events, festivals, and education programs sponsored or permitted by the department.

*d.* Special hunts authorized by the commission to control animal populations.

**61.10(6) Fishing off boat docks within state areas.** Persons may fish off all state-owned docks within state parks and recreation areas. Persons fishing off these docks must yield to boats and not interfere with boaters.

**61.10(7) Garbage.** Using government refuse receptacles for dumping household, commercial, or industrial refuse brought as such from private property is prohibited.

**61.10(8) Motor vehicle restrictions.**

*a.* Except as provided in these rules, motor vehicles are prohibited on state parks, recreation areas and preserves except on constructed and designated roads, parking lots and campgrounds.

*b.* Use of motorized vehicles by persons with a physical disability. Persons with a physical disability may use certain motorized vehicles to access specific areas in state parks, recreation areas and preserves, according to restrictions set out in this paragraph, or otherwise provided for by department other power-driven mobility device (OPDMD) processes, in order to enjoy the same recreational opportunities available to others.

(1) Reasonable accommodations. Each person with a physical disability or mobility impairment may request a reasonable accommodation to park or recreation area staff in order to use an OPDMD within state parks, recreation areas, and preserves. Reasonable accommodation requests are considered on a case-by-case basis based on the facts and circumstances and considering need, protection of the permit holder, protection of other users, and protection of natural resources consistent with relevant state and federal law.

(2) Permits. Except where areas or trails are preapproved for OPDMD use, persons with a physical disability or mobility impairment must have a permit issued by park or recreation area staff in order to use a motorized vehicle in specific, approved areas within state parks, recreation areas, and preserves.

(3) One companion may accompany the OPDMD user on the same vehicle if that vehicle is designed for more than one rider; otherwise, the companion must walk.

(4) Exclusive use. The issuance of a permit does not imply that the permittee has exclusive or indiscriminate use of an area. Permittees shall take reasonable care not to unduly interfere with the use of the area by others.

(5) Prohibited acts and restrictions.

1. Except as provided in paragraph 61.10(8) “*b*,” the use of a motorized vehicle on any park, recreation area or preserve by a person without a valid permit or at any site not approved on a signed map is prohibited. Permits and maps shall be carried by the permittee at any time the permittee is using a motorized vehicle in a park, recreation area or preserve and shall be exhibited to any department employee or law enforcement official upon request.

## NATURAL RESOURCE COMMISSION[571](cont'd)

2. The speed limit for an approved motorized vehicle off-road will be no more than 3 miles per hour, unless otherwise approved in writing. The permit of a person who is found exceeding the speed limit will be revoked.

3. The permit of any person who is found causing damage to cultural and natural features or abusing the privilege of riding off-road within the park will be revoked, and restitution for damages or other remedies available under the law may be sought.

**61.10(9) Noise.** Creating or sustaining any unreasonable noise in any portion of any state park or recreation area is prohibited at all times. The nature and purpose of a person's conduct, the impact on other area users, the time of day, location, and other factors that would govern the conduct of a reasonable, prudent person under the circumstances shall be used to determine whether the noise is unreasonable. Between the hours of 10:30 p.m. and 6 a.m., noise that can be heard at a distance of 120 feet or three campsites shall be considered unreasonable.

**61.10(10) Opening and closing times.** Except by arrangement or permission granted by the director or the director's authorized representative or as otherwise stated in this chapter, the following restrictions shall apply: All persons shall vacate all state parks and preserves before 10:30 p.m. each day, except authorized campers in accordance with Iowa Code section 461A.46, and no person shall enter into such parks and preserves until 4 a.m. the following day.

**61.10(11) Paintball guns.** The use of any item generally referred to as a paintball gun is prohibited in state parks, recreation areas and preserves.

**61.10(12) Rock climbing or rappelling.** The rock climbing practice known as free climbing and climbing or rappelling activities that utilize bolts, pitons, or similar permanent anchoring equipment or ropes, harnesses, or slings are prohibited in state parks and recreation areas, except by persons or groups registered with the park staff in charge of the area. Individual members of a group must each sign a registration. Climbing or rappelling will not be permitted at Elk Rock State Park, Marion County; Ledges State Park, Boone County; Dolliver Memorial State Park, Webster County; Stone State Park, Woodbury and Plymouth Counties; Maquoketa Caves State Park, Jackson County; Wildcat Den State Park, Muscatine County; or Mines of Spain Recreation Area, Dubuque County. Other sites may be closed to climbing or rappelling if environmental damage or safety problems occur or if an endangered or threatened species is present.

**61.10(13) Speech or conduct interfering with lawful use of an area by others.**

a. Speech commonly perceived as offensive or abusive is prohibited when such speech interferes with lawful use and enjoyment of the area by another member of the public.

b. Quarreling or fighting is prohibited when it interferes with the lawful use and enjoyment of the area by another member of the public.

**61.10(14) Animal population control hunts.** Animal hunting as allowed under Iowa Code section 461A.42(1) "c" shall be designated annually by the commission. During the dates of special hunts, only persons participating in special hunts shall use the area or portions thereof as designated by the department and signed as such.

**571—61.11(461A) Certain conditions of public use applicable to specific parks and recreation areas.** In addition to the general conditions of public use set forth in this chapter, special conditions shall apply to the specific areas listed as follows:

**61.11(1) Hattie Elston Access and Clair Wilson Park, Dickinson County.**

a. Parking of vehicles overnight on these areas is prohibited unless the vehicle operator and occupants are actively involved in boating or are fishing as allowed under rule 571—61.14(461A).

b. Overnight camping is prohibited.

**61.11(2) Mines of Spain Recreation Area, Dubuque County.** All persons shall vacate all portions of the Mines of Spain Recreation Area prior to 10:30 p.m. each day, and no person or persons shall enter into the area until 4 a.m. the following day.

**61.11(3) Pleasant Creek Recreation Area, Linn County.** Fishing access into and out of the north portion of the area between the east end of the dam to the campground shall be closed from 10:30 p.m. to 4 a.m., except that walk-in overnight fishing will be allowed along the dam. The area known as

## NATURAL RESOURCE COMMISSION[571](cont'd)

the dog trial area shall be closed from 10:30 p.m. to 4 a.m., except for those persons participating in a department-authorized field trial. From 10:30 p.m. to 4 a.m., only registered campers are permitted in the campground.

**61.11(4)** *Wapsipinicon State Park, Jones County.* The land adjacent to the park on the southeast corner and generally referred to as the “Ohler property” is closed to the public from 10:31 p.m. to 3:59 a.m.

**571—61.12(461A) Mines of Spain hunting, trapping and firearms use.**

**61.12(1)** The following described portions of the Mines of Spain Recreation Area are established and will be posted as wildlife refuges:

*a.* That portion within the city limits of the city of Dubuque located west of U.S. Highway 61 and north of Mar Jo Hills Road.

*b.* The tract leased by the department from the city of Dubuque upon which the E. B. Lyons Interpretive Center is located.

*c.* That portion located south of the north line of Section 8, Township 88 North, Range 3 East of the 5th P.M. between the west property boundary and the east line of said Section 8.

*d.* That portion located north of Catfish Creek, east of the Mines of Spain Road and south of the railroad tracks. This portion contains the Julien Dubuque Monument.

**61.12(2)** Trapping and archery hunting for all legal species are permitted in compliance with all open-season, license and possession limits on the Mines of Spain Recreation Area except in those areas designated as refuges by subrule 61.12(1).

**61.12(3)** Firearms use is prohibited in the following described areas:

*a.* The areas described in subrule 61.12(1).

*b.* The area north and west of Catfish Creek and west of Granger Creek.

**61.12(4)** Deer hunting and hunting for all other species are permitted using shotguns only and are permitted only during the regular gun season as established by 571—Chapter 106. Areas not described in subrule 61.10(3) are open for hunting. Hunting shall be in compliance with all other regulations.

**61.12(5)** Turkey hunting with shotguns is allowed only in compliance with the following regulations:

*a.* Only during the first shotgun hunting season established in 571—Chapter 98, which is typically four days in mid-April.

*b.* Only in that area of the Mines of Spain Recreation Area located east of the established roadway and south of the Horseshoe Bluff Quarry.

**61.12(6)** The use of a handgun or any type of rifle is prohibited on the entire Mines of Spain Recreation Area except as provided in subrule 61.12(4). Target and practice shooting with any type of firearm is prohibited.

**61.12(7)** All forms of hunting, trapping and firearms use not specifically permitted by rule 571—61.12(461A) are prohibited in the Mines of Spain Recreation Area.

**571—61.13(461A) After-hours fishing—exception to closing time.** Persons shall be allowed access to the areas designated in rule 571—61.14(461A) between the hours of 10:30 p.m. and 4 a.m. under the following conditions:

1. The person shall be actively engaged in fishing.
2. The person shall behave in a quiet, courteous manner so as not to disturb other users of the park.
3. Access to the fishing site from the parking area shall be by the shortest and most direct trail or access facility.
4. Vehicle parking shall be in the lots designated by signs posted in the area.
5. Activities other than fishing are allowed with permission of the director or an employee designated by the director.

**571—61.14(461A) Designated areas for after-hours fishing.** These areas are open from 10:30 p.m. to 4 a.m. for fishing only. The areas are described as follows:

## NATURAL RESOURCE COMMISSION[571](cont'd)

**61.14(1)** *Black Hawk Lake, Sac County.* The area of the state park between the road and the lake running from the marina at Drillings Point on the northeast end of the lake approximately three-fourths of a mile in a southwesterly direction to a point where the park boundary decreases to include only the roadway.

**61.14(2)** *Clair Wilson Park, Dickinson County.* The entire area including the parking lot, shoreline and fishing trestle facility.

**61.14(3)** *Clear Lake State Park, Ritz Unit, Cerro Gordo County.* The boat ramp, courtesy dock, fishing dock and parking lots.

**61.14(4)** *Elinor Bedell State Park, Dickinson County.* The entire length of the shoreline within state park boundaries.

**61.14(5)** *Elk Rock State Park, Marion County.* The Teeter Creek boat ramp area just east of State Highway 14, access to which is the first road to the left after the entrance to the park.

**61.14(6)** *Green Valley State Park, Union County.* The shoreline adjacent to Green Valley Road commencing at the intersection of Green Valley Road and 130th Street and continuing south along the shoreline to the parking lot on the east side of the dam, and then west along the dam embankment to the shoreline adjacent to the parking lot on the west side of the spillway.

**61.14(7)** *Hattie Elston Access, Dickinson County.* The entire area including the parking lot shoreline and boat ramp facilities.

**61.14(8)** *Honey Creek State Park, Appanoose County.* The boat ramp area located north of the park office, access to which is the first road to the left after the entrance to the park.

**61.14(9)** *Geode State Park, Des Moines County portion.* The area of the dam embankment that is parallel to County Road J20 and lies between the two parking lots located on each end of the embankment.

**61.14(10)** *Lake Keomah State Park, Mahaska County.*

a. The embankment of the dam between the crest of the dam and the lake.

b. The shoreline between the road and the lake from the south boat launch area west and north to the junction with the road leading to the group camp shelter.

**61.14(11)** *Lake Macbride State Park, Johnson County.* The shoreline of the south arm of the lake adjacent to the county road commencing at the intersection of Cottage Reserve Road at the north end of the north-south causeway proceeding across the causeway thence southeasterly along a foot trail to the east-west causeway, across the causeway to the parking area on the east end of that causeway.

**61.14(12)** *Lake Manawa State Park, Pottawattamie County.* The west shoreline including both sides of the main park road, commencing at the north park entrance and continuing south one and one-half miles to the parking lot immediately north of the picnic area located on the west side of the southwest arm of the lake.

**61.14(13)** *Lower Pine Lake, Hardin County.* West shoreline along Hardin County Road S56 from the beach southerly to the boat ramp access.

**61.14(14)** *Mini-Wakan State Park, Dickinson County.* The entire area.

**61.14(15)** *North Twin Lake State Park, Calhoun County.* The shoreline of the large day-use area containing the swimming beach on the east shore of the lake.

**61.14(16)** *Pikes Point State Park, Dickinson County.* The shoreline areas of Pikes Point State Park on the east side of West Okoboji Lake.

**61.14(17)** *Prairie Rose State Park, Shelby County.* The west side of the embankment of the causeway across the southeast arm of the lake including the shoreline west of the parking area located off County Road M47 and just north of the entrance leading to the park office.

**61.14(18)** *Rock Creek Lake, Jasper County.* Both sides of the County Road F27 causeway across the main north portion of the lake.

**61.14(19)** *Union Grove State Park, Tama County.*

a. The dam embankment from the spillway to the west end of the parking lot adjacent to the dam.

b. The area of state park that parallels BB Avenue, from the causeway on the north end of the lake southerly to a point approximately one-tenth of a mile southwest of the boat ramp.

**61.14(20)** *Upper Pine Lake, Hardin County.* Southwest shoreline extending from the boat launch ramp to the dam.

NATURAL RESOURCE COMMISSION[571](cont'd)

**61.14(21) *Viking Lake State Park, Montgomery County.*** The embankment of the dam from the parking area located southeast of the dam area northwesterly across the dam structure to its intersection with the natural shoreline of the lake.

**571—61.15(461A) *Vessels prohibited.*** Rule 571—61.14(461A) does not permit the use of vessels on the artificial lakes within state parks after the 10:30 p.m. park closing time. All fishing is to be done from the bank or shoreline of the permitted area.

**571—61.16(461A,463C) *Honey Creek Resort State Park.*** This chapter shall not apply to Honey Creek Resort State Park. Where permission is required to be obtained from the department, an authorized representative of the department's management company may provide such permission in accordance with policies established by the department.

These rules are intended to implement Iowa Code sections 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 to 461A.51, 461A.57, and 723.4 and chapters 463C and 724.

## ARC 7511C

### PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

#### Notice of Intended Action

#### Proposing rulemaking related to organization and operation and providing an opportunity for public comment

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 1, "Organization and Operation," Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 546.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 546.

#### *Purpose and Summary*

This proposed chapter provides basic information on the structure and function of the professional licensing boards, formerly part of the Banking Division/Professional Licensing Bureau. These professional licensing boards are now a part of the Department of Inspections, Appeals, and Licensing. The professional licensing boards are responsible for the licensing and regulation of the specified boards: Iowa Accountancy Examining Board, Architectural Examining Board, Engineering and Land Surveying Examining Board, Interior Design Examining Board, Landscape Architectural Examining Board, Real Estate Appraiser Examining Board and Real Estate Commission.

The professional licensing boards are dedicated to the protection of the public through responsible regulations. To achieve this goal and to ensure citizens of the state receive professional, competent, and safe services, each professional licensing board:

- Adopts rules and establishes standards;
- Examines, licenses, certifies or issues permits or licenses to practitioners;
- Sets standards for license renewal and continuing education;
- Investigates all complaints filed and considered alleged violations of its practice or title act and Iowa regulations;
- Conducts disciplinary hearings; and
- Actively monitors the compliance of licensees with orders issued by the board.



## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1  
ORGANIZATION AND OPERATION

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

**193—1.1(546) Purpose of Chapter 1.** This chapter describes the organization and operation of the accountancy examining board, architectural examining board, engineering and land surveying examining board, interior design examining board, landscape architectural examining board, real estate appraiser examining board, and the real estate commission of the department of inspections, appeals, and licensing (hereinafter referred to as “professional licensing boards”).

**193—1.2(546) Scope of rules.** The rules for the professional licensing boards are promulgated under Iowa Code chapter 17A and section 10A.103 and apply to all matters before the professional licensing boards. No rule shall, in any way, relieve a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various boards from any duty under the laws of this state.

**193—1.3(546) Definitions.**

“*Administrator*” means the director of the department of inspections, appeals, and licensing.

“*Board*” means an examining board or commission within the department of inspections, appeals, and licensing.

“*Department*” means the department of inspections, appeals, and licensing.

“*License*” means any license, registration, certificate, or permit that may be granted by one of the professional licensing boards.

“*Licensee*” means any person granted a license by one of the professional licensing boards.

“*Person*” means an individual, corporation, partnership, association, professional corporation, licensee, certificate holder, or registrant.

“*Staff*” means employees assigned to one of the professional licensing boards.

**193—1.4(546) Purpose of the professional licensing boards.** The professional licensing boards coordinate the administrative support for the following boards:

**1.4(1)** The engineering and land surveying examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 542B, Professional Engineers and Land Surveyors, and board rules published under agency number [193C] in the Iowa Administrative Code.

**1.4(2)** The accountancy examining board is an eight-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 542, Public Accountants, and board rules published under agency number [193A] in the Iowa Administrative Code.

**1.4(3)** The real estate commission is a seven-member commission appointed by the governor and confirmed by the senate. The commission administers Iowa Code chapters 543B, Real Estate Brokers and Salespersons; 543C, Sales of Subdivided Land Outside of Iowa; and 557A, Time-Shares; and commission rules published under agency number [193E] in the Iowa Administrative Code.

**1.4(4)** The architectural examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 544A, Licensed Architects, and board rules published under agency number [193B] in the Iowa Administrative Code.

**1.4(5)** The landscape architectural examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 544B, Landscape Architects, and board rules published under agency number [193D] in the Iowa Administrative Code.

**1.4(6)** The real estate appraiser examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 543D, Real Estate Appraisals and Appraisers, and board rules published under agency number [193F] in the Iowa Administrative Code.

**1.4(7)** The interior design examining board is a seven-member board appointed by the governor and confirmed by the senate. The board administers Iowa Code chapter 544C, Registered Interior Designers, and board rules published under agency number [193G] in the Iowa Administrative Code.

**193—1.5(546) Responsibilities of the boards.** All of the boards retain the powers granted them pursuant to the chapters in which they are created, except for budgetary and personnel matters. Each board will

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

adopt rules pursuant to Iowa Code chapter 17A. Decisions by each board are final agency actions for purposes of Iowa Code chapter 17A.

**193—1.6(546) Responsibilities of the administrator.**

**1.6(1)** To make rules pursuant to Iowa Code chapter 17A to implement board duties except to the extent that rulemaking authority is vested in the boards in the bureau.

**1.6(2)** To carry out policy-making and enforcement duties assigned to the boards under the law.

**1.6(3)** To hire, allocate, develop, and supervise members of the staff employed to perform the duties assigned to the boards, including designating staff to act as the executive officer, who may be referred to as the board administrator, for and lawful custodian of the records of each board in the bureau.

**1.6(4)** To coordinate the development of an annual budget for the boards.

**1.6(5)** To supervise and direct personnel and other resources to accomplish duties assigned by law.

**1.6(6)** To authorize expenditures from any appropriation or fund established on behalf of the boards.

**1.6(7)** Except to the extent that decision-making authority is vested in the boards or other body, decisions of the administrator are final agency actions pursuant to Iowa Code chapter 17A.

**1.6(8)** Except to the extent otherwise vested in the boards, the administrator has the authority to establish fees assessed to the regulated industry.

**193—1.7(546) Custodian of records, filings, and requests for public information.** Unless otherwise specified by the rules of the boards, an individual board is the principal custodian of the individual board's own orders, statements of law or policy issued by the individual board, legal documents, and other public documents on file.

Any interested party may examine all public records promulgated or maintained by the boards during regular business hours.

**193—1.8(272C,542,542B,543B,544A,544B,544C) Applicant contact information.** In addition to the mailing address(es) that need to be provided in accordance with the individual board's rules, applicants of the boards need to provide a telephone number and, if applicable, an email address. The boards will honor the "safe at home" address issued by any state's program and protective orders in domestic abuse proceedings or otherwise issued to preserve confidentiality of a person's physical location.

**193—1.9(272C,542,542B,543B,544A,544B,544C) Newsletter.**

**1.9(1)** The administrator or administrator's designee may publish or contract with a vendor to publish a newsletter as a nonpublic forum to disseminate official information related to the regulated professions. This official information may include statutory requirements, statutory changes, rules, rule changes, proposed or pending rule changes, licensing requirements, license renewal procedures, board action, board interpretative rulings or guidelines, office procedures, disciplinary action, ethical or professional standards, education requirements, education opportunities (prelicense education, continuing education, and professional development), board business, board meetings, board news, and matters related thereto.

**1.9(2)** The boards may notify licensees about matters such as license renewal in the newsletter.

**193—1.10(272C,542,542B,543B,544A,544B,544C) Applications.** Unless otherwise regulated by an individual board's rules, abandoned applications are deemed withdrawn. An application is abandoned if the applicant has not accessed or modified the application through the electronic licensing database within the preceding six months.

These rules are intended to implement Iowa Code section 546.10.

**ARC 7512C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

**Notice of Intended Action**

**Proposing rulemaking related to allocation of disciplinary fees and costs  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 2, “Allocation of Disciplinary Fees and Costs,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

*Purpose and Summary*

This proposed chapter sets forth fees that may be assessed to a licensee for disciplinary hearings. The proposed rules outline how the fees are paid and what the fees may be applied toward in accordance with Iowa Code chapter 272C.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

February 13, 2024  
11:30 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

February 14, 2024  
11:30 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2  
ALLOCATION OF DISCIPLINARY FEES AND COSTS

**193—2.1(272C) Allocation of disciplinary fees and costs.**

**2.1(1) Definition.**

"Board(s)" includes the professional licensing boards as defined in 191—Chapter 1.

**2.1(2)** All hearing fees and costs assessed by the boards will be paid directly to the department and held in a separate fund administered by the administrator.

**2.1(3)** The administrator will distribute moneys held in this fund during the fiscal year in which those moneys are paid. Distributions from the fund are made upon the request of a board and at the sole discretion of the administrator. A distribution received by a board under this chapter will be used only for expenditures related to disciplinary hearings.

**2.1(4)** The administrator will consider the following factors in exercising discretion as to whether to distribute funds to a requesting board:

*a.* The remaining funds in the board's allocated appropriation for disciplinary hearings in that fiscal year.

*b.* The number of disciplinary hearings the board has scheduled for the remainder of that fiscal year; the nature and seriousness of those hearings; and the public health, safety, and welfare interests implicated by those hearings.

*c.* Whether the board has adopted and implemented hearing cost recovery rules.

**2.1(5)** The administrator will distribute a percentage of the remaining fees and costs to each board.

**2.1(6)** The fees and costs allocated back to the individual professional licensing boards will be considered repayment receipts as defined in Iowa Code section 8.2. The fees and costs allocated back to each professional board will be applied to the costs incurred by each profession for prosecution of contested cases that could result in disciplinary action.

This rule is intended to implement Iowa Code section 272C.6(6).

**ARC 7513C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

**Notice of Intended Action**

**Proposing rulemaking related to vendor appeals  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 3, “Vendor Appeals,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 546.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 546.

*Purpose and Summary*

This proposed rulemaking specifies the process for vendors to appeal a bid decision when a formal bidding process is not handled by the Department of Administrative Services. This rulemaking provides a uniform process for all boards in the legacy professional licensing and regulation bureau.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

February 13, 2024  
11:30 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

February 14, 2024  
11:30 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3  
VENDOR APPEALS

**193—3.1(546) Purpose.** This chapter outlines a uniform process for vendor appeals for all professional licensing boards as defined in 191—Chapter 1. The process is applicable only when board services are acquired through a formal bidding procedure not handled by the department of administrative services or the office of the chief information officer.

**193—3.2(546) Vendor appeals.** Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the board may appeal by filing a written notice of appeal with the board within five days of the date of the award, exclusive of Saturdays, Sundays, and legal state holidays. A written notice may be filed by email. The notice of appeal needs to state the vendor's completed legal name, street address, telephone number, email address, and the specific grounds upon which the vendor challenges the board's award, including the legal authority, if any, and be received by the board within the time frame specified to be considered timely. The notice of appeal commences a contested case.

**193—3.3(546) Procedures for vendor appeals.** Each board's procedures for licensee disciplinary hearings are applicable, except as provided in these rules.

**3.3(1)** Upon receipt of a notice of vendor appeal, the board will issue a written notice of the date, time and location of the appeal hearing to both the aggrieved vendor or vendors and the successful vendor. Service of the written notice of hearing will be sent to the email address provided by the appellant unless the appellant specifically requests that notice be sent by certified mail. A hearing will be held within 60 days of the date the notice of appeal was received by the board.

**3.3(2)** All hearings are open to the public.

**3.3(3)** Discovery requests, if any, will be served by the parties within ten days of the filing of the notice of appeal. Discovery responses or objections are due at least seven business days prior to hearing.

**3.3(4)** At least three business days prior to the hearing, the parties will exchange witness and exhibit lists. The parties will be limited at hearing to the witnesses and exhibits timely disclosed unless the board finds good cause to allow additional witnesses or exhibits at hearing.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

**3.3(5)** The hearing, at the option of the board or administrative law judge, may be conducted in person, by telephone, or virtually. When not conducted in person, all exhibits will be delivered to the board or administrative law judge no less than two business days prior to the hearing.

**3.3(6)** Oral proceedings will be recorded either by mechanized means or by certified shorthand reporters. Parties requesting that the hearing be recorded by certified shorthand will bear the costs. Copies of tapes of oral proceedings or transcripts of certified shorthand reporters will be paid for by the requester.

**3.3(7)** Any party appealing the issuance of a notice of award may petition for stay of the award pending its review. The petition will be filed with the notice of appeal and state the reasons justifying a stay. The filing of the petition for stay does not automatically stay the award. The board may grant a stay when it concludes that substantial legal or factual questions exist as to the propriety of the award, the party will suffer substantial and irreparable injury without the stay, and the interest of the public or licensees will not be significantly harmed. A stay may be vacated at any time upon application by any party or the board on its own motion with prior notice to all parties.

**3.3(8)** The record of the contested case includes all materials specified in Iowa Code section 17A.12(6) and any other relevant procedural documents regardless of their form.

**3.3(9)** The board or administrative law judge may request the parties to submit proposed findings and conclusions or briefs.

**3.3(10)** Any request for continuance needs to be in writing, specifying the grounds, and filed no later than seven business days prior to hearing.

**3.3(11)** Requests for rehearing need to be made to the board within 20 days of issuing a final decision. A rehearing may be granted when new legal issues are raised, new evidence is available, an obvious mistake is corrected, or when the decision is not necessary to exhaust administrative remedies.

**3.3(12)** Judicial review of the board's final decision may be sought in accordance with the contested case provisions of Iowa Code section 17A.19.

**193—3.4(546) Procedures for board referral to an administrative law judge.** The board, in its discretion, may refer a vendor appeal for hearing before a qualified administrative law judge. The hearing procedures will be substantially the same, but the ruling of an administrative law judge acting as the sole presiding officer will constitute a proposed decision. Board review of a proposed decision will be according to Iowa Code section 17A.15(2) and this chapter. Nothing in this rule will prevent the board from hearing a vendor appeal with the assistance of an administrative law judge. This rule merely authorizes an alternative procedure. The appealing vendor may also request that an administrative law judge act as presiding officer pursuant to 193—subrule 7.10(2).

**3.4(1)** The proposed decision will become the final decision of the board 14 days after mailing of the proposed decision, unless prior to that time a party submits an appeal of the proposed decision, or the board seeks review on its own motion.

**3.4(2)** Notice of an appeal for review of a proposed decision or notice of the board's own review will be mailed to all parties by the board's executive officer. Within 14 days after mailing of the notice of appeal or the board's review, any party may submit to the board exceptions to and a brief in support of or in opposition to the proposed decision, copies of which will be mailed by the submitting party to all other parties to the proceeding. The board's executive officer will notify the parties if oral argument will be heard and specify whether oral argument will be heard in person, by telephone or virtually. The executive officer will schedule the board's review of the proposed decision not less than 30 days after mailing of the notice of appeal or the board's own review.

**3.4(3)** Failure to appeal a proposed decision will preclude judicial review unless the board reviews on its own motion.

**3.4(4)** Review of a proposed decision will be based on the record and limited to the issues raised in the hearing. The issues will be specified in the notice of appeal of a proposed decision. The party requesting the review will be responsible for transcribing any tape of the oral proceedings or arranging for a transcript of oral proceedings reported by a certified shorthand reporter.



## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

**3.4(5)** Each party will have the opportunity to file exceptions and present briefs. The executive officer may set deadlines for the submission of exceptions or briefs. If oral argument will be held, the executive officer shall notify all parties of the date, time and location at least ten days in advance.

**3.4(6)** The board will not receive any additional evidence, unless it grants an application to present additional evidence. Any such application will be filed by a party at least five business days in advance of oral argument. Additional evidence will be allowed only upon a showing that it is material to the outcome and that there were good reasons for failure to present it at hearing. If an application to present additional evidence is granted, the board will order the conditions under which it shall be presented.

**3.4(7)** The board's final decision will be written and may incorporate all or part of the proposed decision.

These rules are intended to implement Iowa Code section 546.10.

**ARC 7514C****PROFESSIONAL LICENSING AND REGULATION BUREAU[193]****Notice of Intended Action****Proposing rulemaking related to social security numbers and proof of legal presence  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 4, "Social Security Numbers and Proof of Legal Presence," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 546.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 546 and sections 252J.8(1) and 272D.8(1) and 8 U.S.C. 1621 and 42 U.S.C. 666(a)(13).

*Purpose and Summary*

This proposed chapter outlines the process for applicants and licensees to establish proof of legal presence pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621). This chapter also establishes the requirement that a licensee provide a Social Security number under 42 U.S.C. 666(a)(13) and Iowa Code sections 252J.8(1) and 272D.8(1) for the purposes of collecting child support and debts owed to the State of Iowa.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
SOCIAL SECURITY NUMBERS AND PROOF OF LEGAL PRESENCE

**193—4.1(546) Purpose.** This chapter outlines a uniform process for applicants and licensees of the professional licensing boards as defined in 191—Chapter 1 to establish proof of legal presence pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621). This chapter also addresses the requirement that a license applicant provide a social security number under 42 U.S.C. 666(a)(13) and Iowa Code sections 252J.8(1) and 272D.8(1) for purposes including the collection of child support obligations and debts owed to the state of Iowa.

**193—4.2(546) Applicability.**

**4.2(1)** Applicants and licensees who are U.S. citizens or permanent resident aliens may be requested to produce evidence of their lawful presence in the United States as a condition of initial licensure or license renewal. Acceptable evidence (List A) is outlined in subrule 4.3(1).

**4.2(2)** Applicants and licensees residing in the United States, other than those described in subrule 4.2(1) above, may be requested to provide evidence of lawful presence in the United States at the time of

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

initial licensure and with every subsequent renewal. Acceptable evidence (List B) is outlined in subrule 4.3(2).

**4.2(3)** Evidence is not required by foreign national applicants or licensees who are not physically present in the United States.

**193—4.3(546) Acceptable evidence.** The professional licensing boards accept as proof of lawful presence in the United States documents outlined in Lists A and B below. The professional licensing boards will not routinely retain the evidence sent and will not return the evidence once submitted. Documents may be retained in computer “imaged” format. Legible copies will be accepted. Original documents will not be necessary unless a question arises concerning the documentation submitted.

**4.3(1) List A—acceptable documents to establish U.S. citizenship.**

*a.* A copy of a birth certificate issued in or by a city, county, state, or other governmental entity within the United States or its outlying possessions.

*b.* U.S. Certificate of Birth Abroad (FS-545, DS-135) or a Report of Birth Abroad of U.S. Citizen (FS-240).

*c.* A birth certificate or passport issued from:

- (1) Puerto Rico, on or after January 13, 1941.
- (2) Guam, on or after April 10, 1989.
- (3) U.S. Virgin Islands, on or after February 12, 1927.
- (4) Northern Mariana Islands after November 4, 1986.
- (5) American Samoa.
- (6) Swain’s Island.
- (7) District of Columbia.

*d.* A U.S. passport (expired or unexpired).

*e.* Certificate of Naturalization (N-550, N-57, N-578).

*f.* Certificate of Citizenship (N-560, N-561, N-645).

*g.* U.S. Citizen Identification Card (I-79, I-197).

*h.* An individual Fee Register Receipt (Form G-711) that shows that the person has filed an application for a New Naturalization or Citizenship Paper (Form N-565).

*i.* Any other acceptable document that establishes a U.S. place of birth or indicates U.S. citizenship.

**4.3(2) List B—acceptable documents to establish alien status.**

*a.* An alien lawfully admitted for permanent residence under the Immigration and Naturalization Act (INA). References to the INA in this rule are to the INA as amended to November 1, 2023. Evidence includes:

- (1) INS Form I-551 (Alien Registration Receipt Card commonly known as a “green card”); or
- (2) Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94.

*b.* An alien who is granted asylum under Section 208 of the INA. Evidence includes:

- (1) INS Form I-94 annotated with stamp showing grant of asylum under Section 208 of the INA.
- (2) INS Form I-668B (Employment Authorization Card) annotated “274a.12(a)(5).”
- (3) INS Form I-776 (Employment Authorization Document) annotated “A5.”
- (4) Grant Letter from the Asylum Office of INS.
- (5) Order of an immigration judge granting asylum.

*c.* A refugee admitted to the United States under Section 207 of INA. Evidence includes:

- (1) INS Form I-94 annotated with stamp showing admission under Section 207 of the INA.
- (2) INS Form I-668B (Employment Authorization Card) annotated “274a.12(a)(3).”
- (3) INS Form I-766 (Employment Authorization Document) annotated “A3.”
- (4) INS Form I-571 (Refugee Travel Document).

*d.* An alien paroled into the United States for at least one year under Section 212(d)(5) of the INA. Evidence includes INS Form I-94 with stamp showing admission for at least one year under Section 212(d)(5) of the INA.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

*e.* An alien whose deportation is being withheld under Section 243(h) of the INA (as in effect immediately prior to September 30, 1996) or Section 241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-2-8). Evidence includes:

- (1) INS Form I-668 (Employment Authorization Card) annotated “271a.12(a)(10).”
- (2) INS Form I-766 (Employment Authorization Document) annotated “A10.”
- (3) Order from an immigration judge showing deportation withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3) of the INA.

*f.* An alien who is granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980. Evidence includes:

- (1) INS Form I-94 with stamp showing admission under Section 203(a)(7) of the INA.
- (2) INS Form I-668 (Employment Authorization Card) annotated “274a.12(a)(3).”
- (3) INS Form I-776 (Employment Authorization Document) annotated “A3.”

*g.* An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980). Evidence includes:

- (1) INS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”) with the code CU6, CU7, or CH6.
- (2) Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with code CU6 or CU7.
- (3) INS Form I-94 with stamp showing parole as “Cuban/Haitian Entrant” under Section 212(d)(5) of the INA.

*h.* An alien paroled into the United States for less than one year under Section 212(d)(5) of the INA. Evidence includes INS Form I-94 showing this status.

*i.* An alien who has been declared a battered alien. Evidence includes INS petition and supporting documentation.

*j.* Any other documentation acceptable under the INA.

**193—4.4(252J,272D,546) Social security number disclosure.**

**4.4(1)** An individual applying for a license from a professional licensing board will disclose the individual’s social security number on the application form unless:

- a.* The applicant demonstrates to the satisfaction of the board that the applicant does not possess and is not eligible for a social security number, or
- b.* The applicant demonstrates or attests that the applicant is in the process of applying for a social security number and will provide such number within 60 days of the date on which the applicant submits the application to the board. The license of an applicant who is licensed pursuant to this subrule may be revoked for failure to provide a valid social security number within 60 days of the date on which the application was filed.

**4.4(2)** An applicant who does not possess a social security number and is not eligible for a social security number will need to demonstrate lawful presence in the United States, if applicable, and provide government-issued photo identification as needed to verify identity. If circumstances change and the applicant or licensee later attains a social security number, the applicant or licensee will disclose the social security number to the board within 30 days of the date on which the social security number is issued.

These rules are intended to implement Iowa Code chapter 546.

**ARC 7515C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

**Notice of Intended Action**

**Proposing rulemaking related to waivers  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 5, “Waivers,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 546.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 546.

*Purpose and Summary*

As of July 1, 2023, the Professional Licensing Bureau became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds the former Bureau’s chapter on waivers so that the Department will have one agencywide chapter to better serve Iowans and streamline operations. The Department addresses waivers in 481—Chapter 6.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

February 13, 2024  
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*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193—Chapter 5.**

**ARC 7516C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

**Notice of Intended Action**

**Proposing rulemaking related to investigatory subpoenas  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 6, "Investigatory Subpoenas," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C, 542, 542B, 543B, 543D, 544A, 544B and 544C.

*Purpose and Summary*

This proposed rulemaking provides the public and licensees with information about the professional licensing boards' investigatory subpoena authority and procedures. The boards utilize investigatory subpoenas to gather information and investigate allegations against a licensee reported to the board.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

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The following rulemaking action is proposed:

ITEM 1. Rescind 193—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6  
INVESTIGATORY SUBPOENAS

**193—6.1(17A,272C,542,542B,543B,543D,544A,544B,544C)**      **Investigatory subpoena authority.** Pursuant to Iowa Code sections 17A.13(1) and 272C.6(3), professional licensing boards, as defined in 191—Chapter 1, have the authority to issue subpoenas to compel the production of professional records, books, papers, correspondence and other records that are deemed necessary as evidence in connection with the investigation of a licensee disciplinary proceeding, or otherwise necessary for the board to determine whether to commence a contested case. When such an investigation involves licensee discipline, the board may subpoena such evidence whether or not privileged or confidential under law. To ensure consistency in procedure,

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

all boards will issue investigatory subpoenas according to the uniform procedures set forth in rule 193—6.2(17A,272C,542,542B,543B,543D,544A,544B,544C). Given the range of investigative options otherwise utilized by each board, additional detail on investigative procedures is provided separately in each board's individual rules.

**193—6.2(17A,272C,542,542B,543B,543D,544A,544B,544C) Investigatory subpoena procedures.**

**6.2(1)** The board's executive officer or designee may, upon the written request of a board investigator or on the officer's own initiative, subpoena books, papers, records, and other real evidence that the officer determines are necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions need to be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;
- c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d. The patient was notified and an attempt was made to secure an authorization from the patient for release of the records at issue.

**6.2(2)** A written request for a subpoena or the executive officer's written memorandum in support of the issuance of a subpoena will contain the following:

- a. The name and address of the person to whom the subpoena will be directed;
- b. A specific description of the books, papers, records or other real evidence requested;
- c. An explanation of the reasons that the documents sought to be subpoenaed are necessary for the board to determine whether it should institute a contested case proceeding; and
- d. In the case of a subpoena request for mental health records, confirmation that the conditions described in subrule 6.2(1) have been satisfied.

**6.2(3)** Each subpoena will contain the following:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production, or inspection and copying;
- d. The time within which a motion to quash or modify the subpoena needs to be filed;
- e. The signature, address and telephone number of the executive officer or designee;
- f. The date of issuance;
- g. A return of service.

**6.2(4)** Any person who is aggrieved or adversely affected by compliance with the subpoena who desires to challenge the subpoena needs to file a motion with the board to quash or modify the subpoena within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days. The motion will describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

**6.2(5)** Upon receipt of a timely motion to quash or modify a subpoena, the board may issue a decision or may request an administrative law judge to issue a decision. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order. Prior to ruling on the motion, the board or administrative law judge may schedule oral argument or hearing by telephone or in person.

**6.2(6)** A person aggrieved by a ruling of an administrative law judge who desires to challenge the ruling needs to appeal the ruling to the board in accordance with the procedure applicable to intra-agency appeals of proposed decisions provided that all of the time frames are reduced by one-half.

**6.2(7)** If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either (1) the



## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

person is notified that the investigation has been concluded with no formal action, or (2) there is a final decision in the contested case.

These rules are intended to implement Iowa Code chapters 17A, 272C, 542, 542B, 543B, 543D, 544A, 544B, and 544C.

**ARC 7517C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

**Notice of Intended Action**

**Proposing rulemaking related to contested cases  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 7, “Contested Cases,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 272C, and 546.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C, and 546.

*Purpose and Summary*

This proposed rulemaking provides procedures for contested case hearings, including time requirements for taking action on a contested case; direction on the service of the statement of charges and notice of hearing, as well as the required contents of the statement of charges and notice of hearing; and the discovery process, including issuance of subpoenas, the handling of pretrial motions, and conferences and procedures for the hearings. The purpose of this rulemaking is to provide the licensee an outline of how a contested case proceeding is initiated and the rights and responsibilities of the licensee during that process. Contested cases help ensure that the public is protected and outlines due process for alleged bad actors.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

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Lori SchraderBachar  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321  
 Phone: 515.725.9030  
 Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7  
 CONTESTED CASES

**193—7.1(17A,542,542B,543B,543D,544A,544B,544C) Definitions.** Except where otherwise specifically defined by law:

“*Board*” includes the professional licensing boards as defined in 191—Chapter 1.

“*Contested case*” means any adversary proceeding before a board to determine whether disciplinary action should be taken against a licensee under Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C; an adversary proceeding against a nonlicensee pursuant to Iowa Code section 542.14, 542B.27, 543B.34, 543D.21, or 544A.15; or any other proceeding designated a contested case by any provision of law, including but not limited to adversary proceedings involving license applicants and the reinstatement of a suspended, revoked or voluntarily surrendered license.

“*Issuance*” means the date of mailing of a decision or order, or date of delivery if service is by other means unless another date is specified by rule or in the order.

“*License*” means a license, registration, certificate, permit or other form of practice permission required or authorized by Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C.

“*Party*” means the state, as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent or applicant, or an intervenor.

“*Presiding officer*” means the board and, when applicable, a panel of board members or an administrative law judge assigned to render a proposed decision in a nondisciplinary contested case.

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“*Probable cause*” means a reasonable ground for belief in the existence of facts that would support a specified proceeding under applicable law and rules.

“*Quorum*” means a majority of the members of the board. Action may generally be taken upon a majority vote of board members present at a meeting who are not disqualified, although discipline may only be imposed by a majority vote of the members of the board who are not disqualified and, for the engineering and land surveying examining board, only upon an affirmative vote of at least five members of the board.

**193—7.2(17A,542,542B,543B,543D,544A,544B,544C,546) Scope and applicability of the Iowa Rules of Civil Procedure.** This chapter applies to contested cases conducted by all boards in the bureau. Except as expressly provided in Iowa Code chapter 17A and these rules, the Iowa Rules of Civil Procedure do not apply to contested case proceedings. However, upon application by a party, the board may permit the use of procedures provided for in the Iowa Rules of Civil Procedure unless doing so would unreasonably complicate the proceedings or impose an undue hardship on a party.

**193—7.3(17A,272C) Commencement of a contested case and probable cause.** A contested case in a disciplinary proceeding is commenced by the filing and service of a statement of charges and notice of hearing. A contested case in a nondisciplinary proceeding is commenced by the filing and service of a notice of hearing. A contested case may only be commenced by the board upon a finding of probable cause to do so by a quorum of the board.

**193—7.4(17A,272C) Informal settlement.** The board, board staff or a board committee may attempt to informally settle a disciplinary case before filing a statement of charges and notice of hearing. If the board and the licensee agree to a settlement of the case, a statement of charges will be filed simultaneously with a consent order. The statement of charges and consent order may be separate documents or may be combined in one document. By electing to sign a consent order, the licensee waives all rights to a hearing and all attendant rights. The consent order will have the force and effect of a final disciplinary order entered in a contested case and will be published as provided in rule 193—7.30(17A,272C). Matters not involving licensee discipline that may culminate in a contested case may also be settled through consent order. Procedures governing settlement after notice of hearing is served are described in rule 193—7.42(546,272C).

**193—7.5(17A) Statement of charges.** The statement of charges will set forth the acts or omissions with which the respondent is charged including the statute(s) and rule(s) that are alleged to have been violated and will be in sufficient detail to enable the preparation of the respondent’s defense. The statement of charges will be incorporated within or attached to the notice of hearing. The statement of charges and notice of hearing are public records open for public inspection under Iowa Code chapter 22.

**193—7.6(17A,272C) Notice of hearing.**

**7.6(1) Contents of notice of hearing.** Unless the hearing is waived, all contested cases will commence with the service of a notice of hearing fixing the time and place for hearing. The notice, including any incorporated or attached statement of charges, will contain those items specified in Iowa Code section 17A.12(2) and, if applicable, Iowa Code section 17A.18(3), and the following:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted;
- e. Identification of all parties including the name, address and telephone number of the assistant attorney general designated as prosecutor for the state and the respondent’s counsel where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding;
- g. Reference to the procedural rules governing informal settlement after charges are filed;

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*h.* Identification of the board or a panel of board members as the presiding officer, or statement that the presiding officer will be an administrative law judge from the department of inspections, appeals, and licensing;

*i.* If applicable, notification of the time period in which a party may request, pursuant to Iowa Code section 17A.11 and rule 193—7.10(17A,272C), that the presiding officer be an administrative law judge from the department of inspections, appeals, and licensing; and

*j.* A statement requiring or authorizing the respondent to submit an answer of the type specified in rule 193—7.9(17A,272C) within 20 days after service of the notice of hearing.

*k.* If applicable, notification of the licensee's right to request a closed hearing in a licensee disciplinary proceeding.

*l.* Information on who to contact if, because of a disability, auxiliary aids or services are needed for a party to participate in the matter.

*m.* If applicable, the date, time, and manner of conduct of a prehearing conference under rule 193—7.21(17A,272C).

*n.* The mailing address and email address for filing with the board and notice of the option of email service as provided in subrule 7.17(6).

**7.6(2) Service of notice of hearing.** Service of notice of hearing on a licensee to begin a contested case that may affect the licensee's continued licensure, such as a licensee disciplinary case or challenge to the renewal of a license, will be made by personal service as in civil actions, by restricted certified mail, return receipt requested, or by the acceptance of service by the licensee or the licensee's duly authorized legal representative. Service of the notice of hearing to begin all other contested cases may additionally be made by certified mail, return receipt requested.

**193—7.7(13,272C) Legal representation.**

**7.7(1)** Every statement of charges and notice of hearing prepared by the board will be reviewed and approved by the office of the attorney general, which will be responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but will represent the public interest.

**7.7(2)** The respondent or applicant may be represented by an attorney. The attorney will file an appearance in the contested case. If the attorney is not licensed to practice law in Iowa, the attorney will comply with Iowa Court Rule 31.14. Business entities may be represented in a contested case by a nonlawyer partner, officer, director, shareholder, member, director, or other owner or manager.

**193—7.8(17A) Requests for contested case proceeding.** Any person claiming an entitlement to a contested case proceeding will file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the board action in question.

The request for a contested case proceeding will state the name and address of the requester; identify the specific disputed board action; describe issues of material fact in dispute; and, where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved. If the board grants the request, the board will issue a notice of hearing. If the board denies the request, the board will issue a written order specifying the basis for the denial.

**193—7.9(17A,272C) Form of answer.**

**7.9(1)** Unless otherwise provided in the notice of hearing, the answer will contain the following information:

**7.9(2)** The answer may include any additional facts or information that the respondent deems relevant to the issues and that may be of assistance in the ultimate determination of the case, including explanations, remarks or statements of mitigating circumstances.

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**193—7.10(17A,272C) Presiding officer.**

**7.10(1)** The presiding officer in all licensee disciplinary contested cases will be the board, a panel of board members, or a panel of nonboard member specialists as provided in Iowa Code sections 272C.6(1) and 272C.6(2). When board members act as presiding officer, they will conduct the hearing and issue either a final decision or, if a quorum of the board is not present, a proposed decision. As provided in subrule 7.10(4), the board may be assisted by an administrative law judge when the board acts as presiding officer.

**7.10(2)** In cases that do not pertain to licensee discipline, the board may act as presiding officer or may notify the parties that an administrative law judge will act as presiding officer at hearing and issue a proposed decision. The use of an administrative law judge as presiding officer is only an option in cases that do not pertain to licensee discipline because only the board may conduct licensee discipline hearings pursuant to Iowa Code section 272C.6. Any party to a nondisciplinary case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing will need to file a written request within 20 days after service of a notice of hearing that identifies the presiding officer as the board. The board may deny the request only upon a finding that one or more of the following apply:

*a.* Neither the board nor any officer of the board under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.

*b.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

*c.* The case involves a disciplinary hearing to be held by the board pursuant to Iowa Code section 272C.6.

*d.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

*e.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

*f.* Funds are unavailable to pay the costs of an administrative law judge and an interboard appeal.

*g.* The request was not timely filed.

*h.* The request is not consistent with a specified statute.

**7.10(3)** The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is granted, the administrative law judge assigned to act as presiding officer and issue a proposed decision in a nondisciplinary contested case will have a J.D. degree unless waived by the board.

**7.10(4)** The board or a panel of board members when acting as presiding officer may request that an administrative law judge perform certain functions as an aid to the board or board panel, such as ruling on prehearing motions, conducting the prehearing conference, ruling on evidentiary objections at hearing, assisting in deliberations, or drafting the written decision for review by the board or board panel.

**7.10(5)** All rulings by an administrative law judge who acts either as presiding officer or assistant to the board are subject to appeal to the board pursuant to rules 193—7.31(17A) and 193—7.32(17A). A party will need to timely seek intra-agency appeal of prehearing rulings or proposed decisions in order to exhaust adequate administrative remedies. While a party may seek immediate board or board panel review of rulings made by an administrative law judge when sitting with and acting as an aid to the board or board panel during a hearing, such immediate review is not required to preserve error for judicial review.

**7.10(6)** Unless otherwise provided by law, board members have the powers of and will comply with the provisions of this chapter that apply to presiding officers when reviewing a proposed decision of a panel of the board or an administrative law judge.

**193—7.11(17A) Time requirements.**

**7.11(1)** Time will be computed as provided in Iowa Code section 4.1(34).

**7.11(2)** For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening

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the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

**193—7.12(17A) Waiver of procedures.** Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

**193—7.13(17A,272C) Telephone and electronic proceedings.** The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. The presiding officer will determine the location of the parties and witnesses for telephone or other electronic hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Disciplinary hearings will generally not be held by telephone or electronic means in the absence of consent by all parties, but the presiding officer may permit any witness to testify by telephone or other electronic means. Parties will disclose at or before the prehearing conference if any witness will be testifying by telephone or other electronic means. Objections, if any, will be filed with the board and served on all parties at least three business days in advance of hearing.

**193—7.14(17A) Disqualification.**

**7.14(1)** A presiding officer or other person will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated, in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f. Has a spouse or relative within the third degree of relationship that (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

**7.14(2)** The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information that is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other board functions, including fact gathering for purposes other than investigation of the matter that culminates in a contested case. A person voluntarily appearing before the board or a committee of the board waives any objection to a board member or board staff both participating in the appearance and later participating as a decision maker or aid to the decision maker in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17(3) and subrule 7.28(9).

**7.14(3)** In a situation where a presiding officer or other person knows of information that might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary,

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that person will submit the relevant information for the record by affidavit and provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

**7.14(4)** If a party asserts disqualification on any appropriate ground, including those listed in subrule 7.14(1), the party will file a motion supported by an affidavit pursuant to Iowa Code sections 17A.11(3) and 17A.17(7). The motion will need to be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

**7.14(5)** If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but will need to establish the grounds by the introduction of evidence into the record.

**7.14(6)** A motion to disqualify a board member or other person will first be directed to the affected board member or other person for determination. If the board member or other person determines that disqualification is appropriate, the board member or other person will withdraw from further participation in the case. If the board member or other person determines that withdrawal is not required, the presiding officer will promptly review that determination, provided that, if the person at issue is an administrative law judge, the review will be by the board. If the presiding officer determines that disqualification is appropriate, the board member or other person will withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer will enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 193—7.31(17A), if applicable, and seek a stay under rule 193—7.34(17A).

**193—7.15(17A) Consolidation—severance.**

**7.15(1) Consolidation.** The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

**7.15(2) Severance.** The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

**193—7.16(17A) Amendments.** Any notice of hearing or statement of charges may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

**193—7.17(17A) Service and filing of pleadings and other papers.**

**7.17(1) When service required.** Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding will be served upon each of the parties of record to the proceeding, including the person designated as prosecutor for the state, simultaneously with their filing. Except for the original notice of hearing and statement of charges, and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties. A notice of hearing and statement of charges will be served by the board as provided in subrule 7.6(2). Once a specific administrative law judge has been assigned to a case, copies of all prehearing motions will also be served on the administrative law judge.

**7.17(2) Service—how made.** Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

**7.17(3) Filing—when required.** After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding will be filed with the board. All pleadings, motions, documents or other papers that are required to be served upon a party will be filed simultaneously with the board.

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**7.17(4) Filing—how and when made.** Except where otherwise provided by law, a document is deemed filed at the time it is received by the board. Parties may file documents with the board by hand delivery or mail or by electronic transmission to the email address specified in the notice of hearing. If a document required to be filed within a prescribed period or on or before a particular date is received by the board after such period or such date, the document will be deemed filed on the date it is mailed by first-class mail or state interoffice mail, so long as there is proof of mailing. Filing by electronic transmission is complete upon transmission unless the party making the filing learns that the attempted filing did not reach the board. The board will not provide a mailed file-stamped copy of documents filed by email or other approved electronic means.

**7.17(5) Proof of mailing.** Proof of mailing includes either a legible United States Postal Service nonmetered postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (insert board title) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

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(Date)

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(Signature)

**7.17(6) Electronic service.** The presiding officer may by order or a party or a party's attorney may by consent permit service of particular documents by email or similar electronic means, unless precluded by a provision of law. In the absence of such an order or consent, electronic transmission will not satisfy service requirements, but may be used to supplement service when rapid notice is desirable. Consent to electronic service by a party or a party's attorney will be in writing, may be accomplished through electronic transmission to the board and other parties, and will specify the email address for such service. Service by electronic transmission is complete upon transmission unless the board or party making service learns that the attempted service did not reach the party to be served.

### 193—7.18(17A) Discovery.

**7.18(1)** The scope of discovery described in Iowa Rule of Civil Procedure 1.503 applies to contested case proceedings.

**7.18(2)** The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; and requests for admission. Unless lengthened or shortened by the presiding officer, the time frames for discovery in the specific Iowa Rules of Civil Procedure govern those specific procedures.

*a.* Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions applies to any depositions taken in a contested case proceeding. Any party taking a deposition in a contested case will be responsible for any deposition costs, unless otherwise specified or allocated in an order. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

*b.* Iowa Rule of Civil Procedure 1.509 applies to any interrogatories propounded in a contested case proceeding.

*c.* Iowa Rule of Civil Procedure 1.512 applies to any requests for production of documents, electronically stored information, and things in a contested case proceeding.

*d.* Iowa Rule of Civil Procedure 1.510 applies to any requests for admission in a contested case proceeding. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission applies in a contested case proceeding.

**7.18(3)** The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to a contested case proceeding. However, upon application by a party, the board may order the parties to comply with these procedures unless doing so would



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unreasonably complicate the proceeding or impose an undue hardship. As a practical matter, the purpose of the disclosure requirements and discovery conference is served by the board's obligation to supply the information described in Iowa Code section 17A.13(2) upon request while a contested case is pending and the mutual exchange of information required in a prehearing conference under rule 193—7.22(17A).

**7.18(4)** Iowa Rule of Civil Procedure 1.508 applies to discovery of any experts identified by a party to a contested case proceeding.

**7.18(5)** Discovery will be served on all parties to the contested case proceeding, but not be filed with the board.

**7.18(6)** A party may file a motion to compel or other motion related to discovery in accordance with this subrule. Any motion filed with the board relating to discovery will allege that the moving party has previously made a good-faith attempt to resolve with the opposing party the discovery issues involved. Motions in regard to discovery will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is lengthened or shortened by the presiding officer. The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

**7.18(7)** Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

**193—7.19(17A,272C) Issuance of subpoenas in a contested case.**

**7.19(1)** Subpoenas issued in a contested case may compel the attendance of witnesses at deposition or hearing, and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or each command may be issued separately. Subpoenas will be issued by the executive officer or designee upon a written request that complies with this rule. In the case of a request for a subpoena of mental health records, the request will need to confirm compliance with the following conditions prior to the issuance of the subpoena:

- a.* The nature of the issues in the case reasonably justifies the issuance of the requested subpoena;
- b.* Adequate safeguards have been established to prevent unauthorized disclosure;
- c.* An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d.* An attempt was made to notify the patient and to secure an authorization from the patient for the release of the records at issue.

**7.19(2)** A request for a subpoena will include the following information, as applicable:

- a.* The name, address, email address, and telephone number of the person requesting the subpoena;
- b.* The name and address of the person to whom the subpoena is directed;
- c.* The date, time, and location at which the person is commanded to attend and give testimony;
- d.* Whether the testimony is requested in connection with a deposition or hearing;
- e.* A description of the books, papers, records or other real evidence requested;
- f.* The date, time and location for production, or inspection and copying; and
- g.* In the case of a subpoena request for mental health records, confirmation that the conditions described in subrule 7.19(1) have been satisfied.

**7.19(3)** Each subpoena will contain, as applicable:

- a.* The caption of the case;
- b.* The name, address and telephone number of the person who requested the subpoena;
- c.* The name and address of the person to whom the subpoena is directed;
- d.* The date, time, and location at which the person is commanded to appear;
- e.* Whether the testimony is commanded in connection with a deposition or hearing;
- f.* A description of the books, papers, records or other real evidence the person is commanded to produce;
- g.* The date, time and location for production, or inspection and copying;
- h.* The time within which a motion to quash or modify the subpoena will need to be filed;
- i.* The signature, address and telephone number of the executive officer or designee;

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- j.* The date of issuance;
- k.* A return of service.

**7.19(4)** The executive officer or designee will mail copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena. If a subpoena is requested to compel testimony or documents for rebuttal or impeachment at hearing, the person requesting the subpoena will so state in the request and may ask that copies of the subpoena not be mailed to the parties in the contested case.

**7.19(5)** Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena, will need to file with the board a motion to quash or modify the subpoena within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days. The motion will describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits. However, if a subpoena solely requests the production of books, papers, records, or other real evidence and does not also seek to compel testimony, the person who is aggrieved or adversely affected by compliance with the subpoena may alternatively serve written objection on the requesting party before the earlier of the date specified for compliance or 14 days after the subpoena is served. The serving party may then file a motion asking the presiding officer to issue an order compelling production.

**7.19(6)** Upon receipt of a timely motion to quash or modify a subpoena or motion to compel production, the board may issue a decision or may request an administrative law judge to issue a decision. The administrative law judge or the board may quash or modify the subpoena, deny or grant the motion, or issue an appropriate protective order. Prior to ruling on the motion, the board or administrative law judge may schedule oral argument or hearing by telephone or in person.

**7.19(7)** A person aggrieved by a ruling of an administrative law judge who desires to challenge the ruling will need to appeal the ruling to the board in accordance with the procedure applicable to intra-agency appeals of proposed decisions set forth in rules 193—7.31(17A) and 193—7.32(17A), provided that all of the time frames are reduced by one-half.

**7.19(8)** If the person contesting the subpoena is not a party to the contested case proceeding, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case proceeding, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

**193—7.20(17A) Motions.**

**7.20(1)** No technical form for motions is required. However, prehearing motions need to be in writing, state the grounds for relief, and state the relief sought.

**7.20(2)** Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the board or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

**7.20(3)** The presiding officer may schedule oral argument on any motion. If the board requests that an administrative law judge issue a ruling on a prehearing motion, the ruling is subject to interlocutory appeal pursuant to rule 193—7.31(17A).

**7.20(4)** Motions pertaining to the hearing, except motions for summary judgment, will need to be filed and served at least seven days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

**7.20(5)** Motions for summary judgment will comply with the requirements of Iowa Rule of Civil Procedure 1.981 and are subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

**7.20(6)** Motions for summary judgment will need to be filed and served at least 20 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion will need to file and serve a resistance within ten days from the date a copy of the motion was served unless otherwise ordered by the presiding officer. The time fixed for hearing or nonoral

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submission will be not less than 15 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 193—7.33(17A) and appeal pursuant to rule 193—7.32(17A).

**193—7.21(17A,272C) Prehearing conference and disclosures.**

**7.21(1)** Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion will be filed not less than ten days prior to the hearing date. A prehearing conference will be scheduled not less than five business days prior to the hearing date. The board will set a prehearing conference in all licensee disciplinary cases and provide notice of the date and time in the notice of hearing. Written notice of the prehearing conference will be given by the board to all parties. For good cause, the presiding officer may permit variances from this rule.

**7.21(2)** Each party will disclose at or prior to the prehearing conference:

*a.* A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

*b.* A final list of exhibits that the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

*c.* Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments need to be served on all parties.

**7.21(3)** In addition to the requirements of subrule 7.21(2), the parties at a prehearing conference may:

*a.* Enter into stipulations of law or fact;

*b.* Enter into stipulations on the admissibility of exhibits;

*c.* Identify matters that the parties intend to request be officially noticed;

*d.* Enter into stipulations for waiver of any provision of law; and

*e.* Consider any additional matters that will expedite the hearing.

**7.21(4)** Prehearing conferences will be conducted by telephone unless otherwise ordered. Parties will exchange and receive witness and exhibit lists in advance of a telephone prehearing conference. Unless otherwise provided in the order setting a prehearing conference, the prehearing conference will be conducted by an administrative law judge.

**7.21(5)** The parties will exchange copies of all exhibits marked for introduction at hearing in the manner provided in subrule 7.26(4) no later than three business days in advance of hearing, or as ordered by the presiding officer at the prehearing conference.

**193—7.22(17A) Continuances.** Unless otherwise provided, applications for continuances will be made to the presiding officer.

**7.22(1)** A written application for a continuance will:

*a.* Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;

*b.* State the specific reasons for the request; and

*c.* Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance will need to confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance will be made or granted without notice to all parties except in an emergency where notice is not feasible. The board may waive notice of such requests for a particular case or an entire class of cases.

**7.22(2)** In determining whether to grant a continuance, the presiding officer may require documentation of any grounds for continuance and may consider:

*a.* Prior continuances;

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- b. The interests of all parties;
- c. The likelihood of informal settlement;
- d. The existence of an emergency;
- e. Any objection;
- f. Any applicable time requirements;
- g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h. The timeliness of the request; and
- i. Other relevant factors.

**7.22(3)** The board's executive officer or an administrative law judge may enter an order granting an uncontested application for a continuance. Upon consultation with the board chair or chair's designee, the board's executive officer or an administrative law judge may deny an uncontested application for a continuance, or rule on a contested application for continuance.

**193—7.23(17A) Withdrawals.** A party requesting a contested case proceeding may withdraw that request prior to the hearing upon written notice filed with the board and served on all parties. Unless otherwise ordered by the board, a withdrawal will be with prejudice.

**193—7.24(17A) Intervention.**

**7.24(1) Motion.** A motion for leave to intervene in a contested case proceeding will state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention will be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

**7.24(2) When filed.** Motion for leave to intervene will be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene will be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion will contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor will be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances that would delay the proceeding will ordinarily be denied.

**7.24(3) Grounds for intervention.** The movant will demonstrate that (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

**7.24(4) Effect of intervention.** If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

**193—7.25(17A,272C) Hearings.** The presiding officer will be in control of the proceedings and have the authority to administer oaths and to admit or exclude testimony or other evidence and rule on all motions and objections. The board may request that an administrative law judge assist the board by performing any of these functions. Parties have the right to participate or to be represented in all hearings. Any party may be represented by an attorney at the party's expense.

**7.25(1) Examination of witnesses.** All witnesses will be sworn or affirmed by the presiding officer or the court reporter, and be subject to cross-examination. Board members and the administrative law judge have the right to examine witnesses at any stage of a witness's testimony. The presiding officer may limit questioning in a manner consistent with law.

**7.25(2) Public hearing.** The hearing will be open to the public unless a licensee or licensee's attorney requests in writing that a licensee disciplinary hearing be closed to the public. At the request of a party

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or on the presiding officer's own motion, the presiding officer may issue a protective order to protect all or a part of a record or information that is privileged or confidential by law.

**7.25(3) *Record of proceedings.*** Oral proceedings will be recorded either by mechanical or electronic means or by certified shorthand reporters. Oral proceedings or any part thereof will be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription will be filed with and maintained by the board for at least five years from the date of decision.

**7.25(4) *Order of proceedings.*** Before testimony is presented, the record will show the identities of any board members present, the identity of the administrative law judge, the identities of the primary parties and their representatives, and the fact that all testimony is being recorded. In contested cases initiated by the board, such as licensee discipline, hearings will generally be conducted in the following order, subject to modification at the discretion of the board:

*a.* The presiding officer or designated person may read a summary of the charges and answers thereto and other responsive pleadings filed by the respondent prior to the hearing.

*b.* The assistant attorney general representing the state interest before the board will make a brief opening statement that may include a summary of charges and the names of any witnesses and documents to support such charges.

*c.* Each respondent will be offered the opportunity to make an opening statement, including the names of any witnesses the respondent(s) desires to call in defense. A respondent may elect to make the opening statement just prior to the presentation of evidence by the respondent(s).

*d.* The presentation of evidence on behalf of the state.

*e.* The presentation of evidence on behalf of the respondent(s).

*f.* Rebuttal evidence on behalf of the state, if any.

*g.* Rebuttal evidence on behalf of the respondent(s), if any.

*h.* Closing arguments first on behalf of the state, then on behalf of the respondent(s), and then on behalf of the state, if any.

The order of proceedings will be tailored to the nature of the contested case. In license reinstatement hearings, for example, the respondent will generally present evidence first because the respondent is obligated to present evidence in support of the respondent's application for reinstatement pursuant to rule 193—7.38(17A,272C). In license denial hearings, the state will generally first establish the basis for the board's denial of licensure, but thereafter the applicant has the burden of establishing the conditions for licensure pursuant to rule 193—7.39(546,272C).

**7.25(5) *Decorum.*** The presiding officer will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

**7.25(6) *Immunity.*** The presiding officer will have authority to grant immunity from disciplinary action to a witness, as provided by Iowa Code section 272C.6(3), but only upon the unanimous vote of all members of the board hearing the case. The official record of the hearing will include the reasons for granting the immunity.

**7.25(7) *Sequestering witnesses.*** The presiding officer, on the officer's own motion or upon the request of a party, may sequester witnesses.

**7.25(8) *Witness representation.*** Witnesses are entitled to be represented by an attorney at their own expense. In a closed hearing, the attorney may be present only when the client testifies. The attorney may assert legal privileges personal to the client, but may not make other objections. The attorney may only ask questions of the client to prevent a misstatement from entering the record.

**7.25(9) *Depositions.*** Depositions may be used at hearing to the extent permitted by Iowa Rule of Civil Procedure 1.704.

**7.25(10) *Witness fees.*** The parties in a contested case will be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing, unless otherwise specified or allocated in an order. The costs for lay witnesses will be determined in accordance with Iowa Code section 622.69. The costs for expert witnesses will be determined in accordance with Iowa Code section 622.72. Witnesses are entitled to reimbursement for mileage and may be entitled to reimbursement for meals and lodging, as incurred.

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**193—7.26(17A) Evidence.**

**7.26(1)** The presiding officer will rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

**7.26(2)** Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

**7.26(3)** Evidence in the proceeding will be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

**7.26(4)** The party seeking admission of an exhibit will provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents will be provided to opposing parties. Copies will also be furnished to members of the board. All exhibits admitted into evidence will be appropriately marked and be made part of the record. The state's exhibits will be marked numerically, and the applicant's or respondent's exhibits will be marked alphabetically.

**7.26(5)** Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection needs to be timely and be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

**7.26(6)** Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record.

**7.26(7)** Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based on hearsay or other types of evidence that may or would be inadmissible in a jury trial.

**193—7.27(17A) Default.**

**7.27(1)** If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

**7.27(2)** Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

**7.27(3)** Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 193—7.32(17A). A motion to vacate will state all facts relied upon by the moving party that establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated will be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

**7.27(4)** The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

**7.27(5)** Properly substantiated and timely filed motions to vacate will be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties will have ten days to respond to a motion to vacate. Adverse parties are allowed to conduct discovery as to the issue of

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good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

**7.27(6)** "Good cause" for purposes of this rule has the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

**7.27(7)** A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 193—7.31(17A).

**7.27(8)** If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer will issue another notice of hearing and the contested case will proceed accordingly.

**7.27(9)** A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues.

**7.27(10)** A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 193—7.34(17A).

**193—7.28(17A) Ex parte communication.**

**7.28(1)** Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there will be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the board or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 7.14(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

**7.28(2)** Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

**7.28(3)** Written, oral or other forms of communication are ex parte if made without notice and opportunity for all parties to participate.

**7.28(4)** To avoid prohibited ex parte communications, notice needs to be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 193—7.17(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

**7.28(5)** Persons who jointly act as presiding officers in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

**7.28(6)** The executive officer or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as the executive officer or other persons are not disqualified from participating in the making of a proposed or final decision under any provision of law and the executive officer or other persons comply with subrule 7.28(1).

**7.28(7)** Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and will notify other parties when seeking to continue hearings or other deadlines pursuant to rule 193—7.22(17A).

**7.28(8)** Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case will initially determine if the effect

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of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication will be submitted for inclusion in the record under seal by protective order. If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication will be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

**7.28(9)** Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer will disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

**7.28(10)** The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the board. Violation of ex parte communication prohibitions by board personnel will be reported to the administrator for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

**193—7.29(17A) Recording costs.** Upon request, the board will provide a copy of the whole record or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record will be paid by the requesting party.

**193—7.30(17A,272C) Final decisions, publication and client notification.**

**7.30(1)** *Final decision.* When a quorum of the board presides over the reception of evidence at the hearing, the decision is a final decision. The final decision of the board will be filed with the executive officer. A copy of the final decision and order will immediately be sent by certified mail, return receipt requested, to the licensee's or other respondent's last-known U.S. Postal Service address or may be served as in the manner of original notices. A party's attorney may waive formal service and accept service in writing for the party. Copies will be mailed by interoffice mail or first-class mail to the prosecutor and counsel of record.

**7.30(2)** *Publication of decisions.* Final decisions of the board, including consent agreements and consent orders, are public documents, are available to the public and may be disseminated as provided in Iowa Code chapter 22 by the board or others. Final decisions relating to licensee discipline will be published in the professional licensing and regulation bureau's newsletter, may be published on the bureau's website, and may be transmitted to the appropriate professional association(s), national associations, other states, and news media, or otherwise disseminated. The board may, in its discretion, issue a formal press release.

**7.30(3)** *Notification of clients.* Within 15 days (or such other time period specifically ordered by the board) of the licensee's receipt of a final decision of the board, whether entered by consent or following hearing, which suspends or revokes a license or accepts a voluntary surrender of a license to resolve a disciplinary case, the licensee will notify in writing all current clients of the fact that the license has been suspended, revoked or voluntarily surrendered. Such notice will advise clients to obtain alternative professional services. Within 30 days of receipt of the board's final order, the licensee will file with the board copies of the notices sent. Compliance with this requirement will be a condition for an application for reinstatement.

**193—7.31(17A) Interlocutory appeals.** Upon written request of a party or on its own motion, the board may review an interlocutory order of the administrative law judge, such as a ruling on a motion to quash a subpoena or other prehearing motion. In determining whether to do so, the board will weigh the extent



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to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of the interlocutory order at the time of the issuance of a final decision would provide an adequate remedy. Any request for interlocutory review will need to be filed within 14 days of issuance of the challenged order, but no later than the date for compliance with the order or the date of hearing, whichever is earlier.

**193—7.32(17A) Appeals and review.**

**7.32(1) Proposed decision.** Decisions issued by a panel of less than a quorum of the board or by an administrative law judge are proposed decisions. All licensee disciplinary decisions are obligated to be issued by the board. A proposed disciplinary decision issued by a panel of the board will need to be acted upon by the full board in order to become a final decision. In nondisciplinary cases, a proposed decision issued by a panel of the board or an administrative law judge becomes a final decision if not timely appealed by any party or reviewed by the board.

**7.32(2) Appeal by party.** Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision. Such an appeal is required to exhaust administrative remedies and is a jurisdictional prerequisite to seeking judicial review.

**7.32(3) Review.** The board may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

**7.32(4) Notice of appeal.** An appeal of a proposed decision is initiated by filing a timely notice of appeal with the board. The notice of appeal needs to be signed by the appealing party or a representative of that party and contain a certificate of service. The notice will specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order that is being appealed;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

**7.32(5) Requests to present additional evidence.** A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence will need to be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

**7.32(6) Scheduling.** The board will issue a schedule for consideration of the appeal.

**7.32(7) Briefs and arguments.** Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs will cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument will be filed with the briefs. The board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

**7.32(8) Record.** The record on appeal or review will be the entire record made before the hearing panel or administrative law judge.

**193—7.33(17A) Applications for rehearing.**

**7.33(1) By whom filed.** Any party to a contested case proceeding may file an application for rehearing from a final order.

**7.33(2) Content of application.** The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application will state whether the applicant desires reconsideration of all or part of the board decision on the existing record and whether, on the basis of the grounds enumerated in subrule 7.33(3), the applicant requests an opportunity to submit additional evidence.

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**7.33(3) Additional evidence.** A party may request the taking of additional evidence only by establishing that (a) the facts or other evidence arose after the original proceeding, or (b) the party offering such evidence could not reasonably have provided such evidence at the original proceeding, or (c) the party offering the additional evidence was misled by any party as to the necessity for offering such evidence at the original proceeding.

**7.33(4) Time of filing.** The application will be filed with the board within 20 days after issuance of the final decision. The board's final decision is deemed issued on the date it is mailed or the date of delivery if service is by other means, unless another date is specified in the order. The application for rehearing is deemed filed on the date it is received by the board unless the provisions of subrule 7.17(4) apply.

**7.33(5) Notice to other parties.** A copy of the application will be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board will serve copies of the application on all parties.

**7.33(6) Disposition.** An application for rehearing will be deemed denied unless the board grants the application within 20 days after its filing. An order granting or denying an application for rehearing is deemed issued on the date it is filed with the board.

**7.33(7) Proceedings.** If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

**193—7.34(17A) Stays of board actions.**

**7.34(1) When available.**

*a.* Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board. The petition will be filed with the notice of appeal and will state the reasons justifying a stay or other temporary remedy. The board may rule on the stay or authorize the administrative law judge to do so.

*b.* Any party to a contested case proceeding may petition the board for a stay or other temporary remedies, pending judicial review of all or part of that proceeding. The petition will state the reasons justifying a stay or other temporary remedy. Seeking a stay from the board is required to exhaust administrative remedies before a stay may be sought from the district court.

**7.34(2) When granted.** In determining whether to grant a stay, the presiding officer or board will consider the factors listed in Iowa Code section 17A.19(5) "c."

**7.34(3) Vacation.** A stay may be vacated by the issuing authority upon application of the board or any other party.

**193—7.35(17A) No factual dispute contested cases.** If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

**193—7.36(17A) Emergency adjudicative proceedings.**

**7.36(1) Necessary emergency action.** To the extent necessary to prevent or avoid immediate danger to the public health, safety or welfare, and consistent with the United States Constitution and Iowa Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order, the board will consider factors including, but not limited to, the following:

- a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;
- b. Whether the specific circumstances that pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and
- e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

**7.36(2) Issuance of order.**

a. An emergency adjudicative order will contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action.

b. The written emergency adjudicative order will be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

- (1) Personal delivery;
- (2) Certified mail, return receipt requested, to the last address on file with the board;
- (3) Certified mail to the last address on file with the board;
- (4) First-class mail to the last address on file with the board; or
- (5) Electronic service. Fax or email notification may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax or email and has provided a fax number or email address for that purpose.

c. To the degree practicable, the board will select the procedure for providing written notice that best ensures prompt, reliable delivery.

**7.36(3) Oral notice.** Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board will make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

**7.36(4) Completion of proceedings.** After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order will include notification of the date on which board proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing.

**193—7.37(17A,272C) Judicial review.** Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A.

**7.37(1)** Consistent with Iowa Code section 17A.19(3), if a party does not file a timely application for rehearing, a judicial review petition will need to be filed with the district court within 30 days after the issuance of the board's final decision. The board's final decision is deemed issued on the date it is mailed or the date of delivery if service is by other means, unless another date is specified in the order.

**7.37(2)** If a party does file a timely application for rehearing, a judicial review petition will need to be filed with the district court within 30 days after the application for rehearing is denied or deemed denied. An application for rehearing is denied or deemed denied as provided in subrule 7.33(6).

**193—7.38(17A,272C) Reinstatement.**

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

**7.38(1)** The term “reinstatement” as used in this rule will include both the reinstatement of a suspended license and the issuance of a new license following the revocation or voluntary surrender of a license. Reinstating a license to active status under this rule is a two-step process:

*a.* First, the board will need to determine whether the suspended, revoked, or surrendered license may be reinstated under the terms of the order revoking or suspending the license or accepting the surrender of the license and under the two-part test described in subrule 7.38(5).

*b.* Second, if the board grants the application to reinstate, the licensee will need to complete and submit an application to demonstrate satisfaction of all administrative preconditions for reinstatement of the license to active status, including verification of completion of all continuing education and payment of reinstatement and renewal fees.

**7.38(2)** Any person whose license has been revoked or suspended by the board, or who voluntarily surrendered a license in a disciplinary proceeding, may apply to the board for reinstatement in accordance with the terms of the order of revocation or suspension, or order accepting the voluntary surrender.

**7.38(3)** Unless otherwise provided by law, if the order of revocation or suspension did not establish terms upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until at least one year has elapsed from the date of the order or the date the board accepted the voluntary surrender of a license.

**7.38(4)** All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the respondent’s license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the petition for reinstatement, including the matters preliminary and ancillary thereto, will be subject to the same rules of procedure as other cases before the board. In addition, the board may grant an applicant’s request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the ground of personal investigation the board members or staff before whom the applicant appears.

**7.38(5)** An application for reinstatement will allege facts that, if established, will be sufficient to enable the board to determine that the basis of revocation, suspension or voluntary surrender of the respondent’s license no longer exists and that it will be in the public interest for the license to be reinstated. Compliance with subrule 7.30(3) needs to also be established. The burden of proof to establish such facts will be on the respondent. An order of reinstatement may include such conditions as the board deems reasonable under the circumstances. The board may grant the application without hearing, but may not deny the application in whole or part without setting the matter for hearing or providing the applicant the opportunity to request a contested case hearing if aggrieved by a term of the reinstatement order.

**7.38(6)** An order of reinstatement will be based upon a decision that incorporates findings of fact and conclusions of law and needs to be based upon the affirmative vote of not fewer than a majority of the board. This order will be published as provided for in subrule 7.30(2).

**193—7.39(546,272C) Hearing on license denial.** If the board denies an application for an initial, reciprocal or comity license, the executive officer will send written notice to the applicant by regular first-class mail identifying the factual and legal basis for denying the application. If the board denies an application to renew an existing license, the provisions of rule 193—7.40(546,272C) will apply.

**7.39(1)** An applicant who is aggrieved by the denial of an application for licensure and who desires to contest the denial will need to request a hearing before the board within 30 calendar days of the date the notice of denial is mailed. A request for a hearing needs to be in writing and is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service to the board office. The request for hearing will specify the factual or legal errors that the applicant contends were made by the board, needs to identify any factual disputes upon which the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure. If a request for hearing is timely made, the board will promptly issue a notice of contested case hearing on the grounds asserted by the applicant.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

**7.39(2)** The board, in its discretion, may act as presiding officer at the contested case hearing, may hold the hearing before a panel of three board members, or may request that an administrative law judge act as presiding officer. The applicant may request that an administrative law judge act as presiding officer and render a proposed decision pursuant to rule 193—7.10(17A,272C). A proposed decision by a panel of board members or an administrative law judge is subject to appeal or review by the board pursuant to rule 193—7.32(17A).

**7.39(3)** License denial hearings are contested cases open to the public. Evidence supporting the denial of the license may be presented by an assistant attorney general. While each party will have the burden of establishing the affirmative of matters asserted, the applicant will have the ultimate burden of persuasion as to the applicant's qualification for licensure.

**7.39(4)** The board, after a hearing on license denial, may grant or deny the application for licensure. If denied, the board will state the reasons for denial of the license and may state conditions under which the application for licensure might be granted, if applicable.

**7.39(5)** The notice of license denial, request for hearing, notice of hearing, record at hearing and order are open records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be provided to the media, collateral organizations and other persons or entities.

**7.39(6)** Judicial review of a final order of the board denying licensure may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

**193—7.40(546,272C) Denial of application to renew license.** If the board denies a timely and sufficient application to renew a license, a notice of hearing will be issued to commence a contested case proceeding.

**7.40(1)** Hearings on denial of an application to renew a license will be conducted according to the procedural rules applicable to contested cases. Evidence supporting the denial of the license may be presented by an assistant attorney general. The provisions of subrules 7.39(2) and 7.39(4) to 7.39(6) will generally apply, although license denial hearings that are in the nature of disciplinary actions will be subject to all laws and rules applicable to such hearings.

**7.40(2)** Pursuant to Iowa Code section 17A.18(2), an existing license will not terminate or expire if the licensee has made timely and sufficient application for renewal until the last day for seeking judicial review of the board's final order denying the application, or a later date fixed by order of the board or the reviewing court.

**7.40(3)** Within the meaning of Iowa Code section 17A.18(2), a timely and sufficient renewal application will be:

- a.* Received by the board in paper or electronic form, or postmarked with a nonmetered United States Postal Service postmark on or before the date the license is set to expire or lapse;
- b.* Signed by the licensee if submitted in paper form or certified as accurate if submitted electronically;
- c.* Fully completed; and
- d.* Accompanied with the proper fee. The fee will be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds.

**7.40(4)** The administrative processing of an application to renew an existing license will not prevent the board from subsequently commencing a contested case to challenge the licensee's qualifications for continued licensure if grounds exist to do so.

**193—7.41(546,272C) Recovery of hearing fees and expenses.** The board may assess the licensee certain fees and expenses relating to a disciplinary hearing only if the board finds that the licensee has violated a statute or rule enforced by the board. Payment will be made directly to the professional licensing and regulation bureau of the banking division of the department of commerce pursuant to rule 193—2.1(272C).

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

**7.41(1)** The board may assess the following costs under this rule:

- a.* For conducting a disciplinary hearing, an amount not to exceed \$75.
- b.* All applicable costs involved in the transcript of the hearing or other proceedings in the contested case including, but not limited to, the services of the court reporter at the hearing, transcription, duplication, and postage or delivery costs. In the event of an appeal to the full board from a proposed panel decision, the appealing party will timely request and pay for the transcript necessary for use in the board appeal process. The board may assess the transcript cost against the licensee pursuant to Iowa Code section 272C.6(6) or against the requesting party pursuant to Iowa Code section 17A.12(7), as the board deems equitable in the circumstances.
- c.* All normally accepted witness expenses and fees for a hearing or the taking of depositions, as incurred by the state of Iowa. These costs will include, but not be limited to, the cost of an expert witness and the cost involved in telephone testimony. The costs for lay witnesses will be guided by Iowa Code section 622.69. The cost for expert witnesses will be guided by Iowa Code section 622.72. Mileage costs will not be governed by Iowa Code section 625.2. The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences of failure to make such payment are applicable with regard to any witness who is subpoenaed by either party to testify at hearing. Additionally, the board may assess travel and lodging expenses for witnesses at a rate not to exceed the rate applicable to state employees on the date the expense is incurred.
- d.* All normally applicable costs incurred by the state of Iowa involved in depositions including, but not limited to, the services of the court reporter who records the deposition, transcription, duplication, and postage or delivery costs. When a deposition of an expert witness is taken, the deposition cost will include a reasonable expert witness fee. The expert witness fee will not exceed the expert's customary hourly or daily rate, and will include the time spent in travel to and from the deposition but exclude time spent in preparation for the deposition.

**7.41(2)** When imposed in the board's discretion, hearing fees (not exceeding \$75) will be assessed in the final disciplinary order. Costs and expenses assessed pursuant to this rule will be calculated and, when possible, entered into the final disciplinary order specifying the amount to be reimbursed and the time period in which the amount assessed will need to be paid by the licensee.

*a.* When it is impractical or not possible to include in the disciplinary order the exact amount of the assessment and time period in which to pay in a timely manner, or if the expenditures occur after the disciplinary order is issued, the board, by a majority vote of the members present, may assess through separate order the amount to be reimbursed and the time period in which payment is to be made by the licensee.

*b.* If the assessment and the time period are not included in the disciplinary order, the board will have to the end of the sixth month after the date the state of Iowa paid the expenditures to assess the licensee for such expenditure. In order to rely on this provision, however, the final disciplinary order will need to notify the licensee that fees and expenses will be assessed once known.

**7.41(3)** Any party may object to the fees, costs or expenses assessed by the board by filing a written objection within 20 days of the issuance of the final disciplinary decision, or within 10 days of any subsequent order establishing the amount of the assessment. A party's failure to timely object will be deemed a failure to exhaust administrative remedies. Orders that impose fees, costs or expenses will notify the licensee of the time frame in which objections will need to be filed in order to exhaust administrative remedies.

**7.41(4)** Fees, costs, and expenses assessed by the board pursuant to this rule will be allocated to the expenditure category in which the disciplinary procedure of hearing was incurred. The fees, costs, and expenses will be considered repayment receipts as defined in Iowa Code section 8.2.

**7.41(5)** The failure to comply with payment of the assessed costs, fees, and expenses within the time specified by the board will constitute a violation of an order of the board, be grounds for discipline, and be considered prima facie evidence of a violation of Iowa Code section 272C.3(2) "a." However, no action may be taken against the licensee without the opportunity for hearing as provided in this chapter.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

**7.42(1)** Settlement negotiations after the notice of hearing is served may be initiated by the licensee or other respondent, the prosecuting assistant attorney general, the board's executive officer, or the board chair or chair's designee.

**7.42(2)** The board chair or chair's designee has authority to negotiate on behalf of the board but does not have the authority to bind the board to particular terms of settlement.

**7.42(3)** The respondent is not obligated to participate in settlement negotiations. The respondent's initiation of or consent to settlement negotiation constitutes a waiver of notice and opportunity to be heard during settlement negotiation pursuant to Iowa Code section 17A.17 and rule 193—7.28(17A). Thereafter, the prosecuting attorney is authorized to discuss informal settlement with the board chair or chair's designee, and the designated board member is not disqualified from participating in the adjudication of the contested case.

**7.42(4)** Unless designated to negotiate, no member of the board will be involved in settlement negotiation until a written consent order is submitted to the full board for approval. No informal settlement will be submitted to the full board unless it is in final written form executed by the respondent. By signing the proposed consent order, the respondent authorizes the prosecuting attorney or executive officer to have ex parte communications with the board related to the terms of settlement. If the board fails to approve the consent order, it will be of no force and effect to either party and will not be admissible at hearing. Upon rejecting a proposed consent order, the board may suggest alternative terms of settlement that the respondent is free to accept or reject.

**7.42(5)** If the board and respondent agree to a consent order, the consent order will constitute the final decision of the board. By electing to resolve a contested case through consent order, the respondent waives all rights to a hearing and all attendant rights. A consent order in a licensee disciplinary case will have the force and effect of a final disciplinary order entered in a contested case and will be published as provided in rule 193—7.30(17A,272C).

These rules are intended to implement Iowa Code chapters 17A, 252J, 272C, 272D, 542, 542B, 543B, 543D, 544A, 544B, and 544C and sections 261.126, 261.127 and 546.10.

**ARC 7518C****PROFESSIONAL LICENSING AND REGULATION BUREAU[193]****Notice of Intended Action****Proposing rulemaking related to denial due to debt  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 8, "Denial of Issuance or Renewal, Suspension, or Revocation of License for Nonpayment of Child Support or State Debt," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 546.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 252J, 272C, and 272D.

*Purpose and Summary*

As of July 1, 2023, the Professional Licensing Bureau became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds the former Bureau's chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations. The Department addresses licensing actions for nonpayment of child support and state debt in 481—Chapter 8.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193—Chapter 8**.



**ARC 7519C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

**Notice of Intended Action**

**Proposing rulemaking related to petition for rulemaking  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 9, “Petition for Rule Making,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 546.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

*Purpose and Summary*

As of July 1, 2023, the Professional Licensing Bureau became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds the former Bureau’s chapter on petitions for rulemaking so that the Department will have one agencywide chapter to better serve Iowans and streamline operations. The Department addresses petitions for rulemaking in 481—Chapter 2.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

February 13, 2024  
11:30 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

February 14, 2024  
11:30 a.m.

6200 Park Avenue, Suite 100  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193—Chapter 9.**

**ARC 7520C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

**Notice of Intended Action**

**Proposing rulemaking related to declaratory orders  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 10, "Declaratory Orders," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 546.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

*Purpose and Summary*

As of July 1, 2023, the Professional Licensing Bureau became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds the former Bureau's chapter on declaratory orders so that the Department will have one agencywide chapter to better serve Iowans and streamline operations. The Department addresses declaratory orders in 481—Chapter 3.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193—Chapter 10**.

**ARC 7521C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]****Notice of Intended Action****Proposing rulemaking related to sales and leases of goods and services  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 11, “Sales and Leases of Goods and Services,” Iowa Administrative Code, and to adopt a new chapter with the same title.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 10A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 10A and 68B.

*Purpose and Summary*

This proposed chapter provides the process for professional licensing board members to gain authorization to sell goods or services to those who are subject to the regulatory authority of the board on which they serve. The chapter provides for certain blanket consent previously authorized by the boards and filed with the Ethics and Campaign Disclosure Board.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11  
SALES AND LEASES OF GOODS AND SERVICES

**193—11.1(68B) Selling or leasing of goods or services by members of the department of inspections, appeals, and licensing examining boards as defined in 191—Chapter 1.** The board members cannot sell or lease, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the department of inspections, appeals, and licensing except as authorized by this rule, and by the consent documents filed with the Iowa ethics and campaign disclosure board pursuant to Iowa Code section 68B.4 and the corresponding provisions of rule 351—6.11(68B).

**11.1(1) Conditions of consent for members.** Consent may be given by a majority of the members of the board upon a finding that the conditions required by Iowa Code section 68B.4, as described in 351—subrule 6.11(4), have been satisfied. The board may grant a blanket consent for sales and leases to classes of individuals, associations, or corporations when such blanket consent is consistent with 351—subrule 6.11(4) and the granting of single consents is impractical or impossible to determine.

**11.1(2) Authorized sales and leases.**

*a.* A member of a department of inspections, appeals, and licensing examining board may sell or lease goods or services to any individual, association, or corporation regulated by any division within the department of inspections, appeals, and licensing, other than the board on which that official serves. This consent is granted because the sale or lease of such goods or services does not affect the board member's duties or functions on the board. Each board has filed its blanket consent to such sales and leases with the ethics and campaign disclosure board.

*b.* A member of a department of inspections, appeals, and licensing examining board may sell or lease goods or services to any individual, association, or corporation regulated by the licensing board or commission of which that person is a member if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale or lease of such goods or services does not affect the board member's duties or functions on the board. In the event a complaint is filed with the licensing board concerning the services provided by the board member to a member of the public, that board member is otherwise prohibited by law from participating in any discussion or decision by the licensing board in that case, as provided, for instance, in the code of administrative judicial conduct at 481—paragraph 10.29(3) "b." Each board has filed its blanket consent to such sales and leases with the ethics and campaign disclosure board. The boards intend that the blanket consent be interpreted broadly to allow routine professional services offered directly to the general public and to licensees, such as continuing education instruction or peer review services. Such consent recognizes that those licensees most proficient and ethical in their professional careers may also be among those whose services are desirable to enrich the professional competence of licensees. Interpreting the blanket consent broadly accordingly removes a possible disincentive to board membership.

*c.* Individual application and approval are not necessary for the sales and leases authorized by this rule and by the consents filed with the ethics and campaign disclosure board unless there are unique facts surrounding a particular sale or lease that would cause the sale or lease to affect the seller's or lessor's

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

duties or functions, would give the buyer or lessee an advantage in dealing with the board, or would otherwise present a conflict of interest as defined in Iowa Code section 68B.2A or common law.

**11.1(3) *Application for consent.*** Prior to selling or leasing a good or service to an individual, association, or corporation subject to the regulatory authority of the department of inspections, appeals, and licensing, an official will obtain prior written consent, as provided in 351—subrule 6.11(3), unless the sale or lease is specifically allowed in subrule 11.1(2) and in the consents filed with the ethics and campaign disclosure board. The request for consent needs to be in writing and signed by the official requesting consent. The application needs to provide a clear statement of all relevant facts concerning the sale or lease. The application should identify the parties to the sale or lease and the amount of compensation. The application should also explain why the sale or lease should be allowed. All applications need to conform to the requirements of 351—subrule 6.11(3).

**11.1(4) *Limitation of consent.*** Consent will be in writing and be valid only for the activities and the time period specifically described in the consent. Consent can be revoked at any time by a majority vote of the members of the board upon written notice to the board. A consent provided under this rule does not constitute authorization for any activity that is a conflict of interest under common law or that would violate any other statute or rule. It is the responsibility of the official requesting consent to ensure compliance with all other applicable laws and rules. The board's ruling on each application, whether consent is conferred or denied or conditionally granted, will be filed with the ethics and campaign disclosure board pursuant to 351—subrule 6.11(7). An official who receives a denial or conditional consent may appeal the ruling to the ethics and campaign disclosure board as provided in 351—subrule 6.11(6).

This rule is intended to implement Iowa Code chapter 68B.

**ARC 7522C****PROFESSIONAL LICENSING AND REGULATION BUREAU[193]****Notice of Intended Action****Proposing rulemaking related to impaired licensee review committees  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 12, “Impaired Licensee Review Committees,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

*Purpose and Summary*

The purpose of this proposed chapter is to form a committee to monitor impaired licensees for the purpose of public safety. The committee may include a licensed practitioner who has expertise in the area of substance abuse and addiction treatment or other applicable impairment; one public member of a professional licensing board; and one licensee. The program is confidential and participation is not a matter of public record. Specific eligibility criteria must be met to ensure that matters that may need to be addressed by the applicable board are routed appropriately. The goal of the program is to ensure that a licensee is safe to practice the licensee's profession through ongoing committee monitoring. A participant will enter into a contract with a committee and agree to adhere to all terms and agreements set forth in the contract. Failure to comply with the provisions of the contract gives the committee the

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

authority to make a referral to the applicable board for possible disciplinary action. If a contract provision is breached that poses an immediate risk to the public, the committee may place immediate practice restrictions on the licensee.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

ITEM 1. Rescind 193—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12  
IMPAIRED LICENSEE REVIEW COMMITTEES

**193—12.1(272C) Impaired licensee review committee.** Pursuant to the authority of Iowa Code section 272C.3(1)“k,” all the professional licensing boards as defined in 191—Chapter 1 may establish an impaired licensee review committee.

**12.1(1) Definitions.** The following definitions are applicable wherever such terminology is used in the rules regarding the impaired licensee review committee.

“*Committee*” means the impaired licensee review committee.

“*Contract*” means the written document establishing the terms for participation in the impaired licensee program prepared by the committee.

“*Impairment*” means an inability to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any neuropsychological or physical disorder or disability.

“*Licensee*” means a person licensed under Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C.

“*Self-report*” means the licensee’s providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging the same from a second party.

**12.1(2) Purpose.** The impaired licensee review committee evaluates, assists, monitors, and, as necessary, makes reports to the board on the recovery or rehabilitation of licensees who self-report impairments or who are referred to the committee by the board.

**12.1(3) Composition of the committee.** The chairperson of each board will appoint the members of the committee for that board. The membership of the committee includes, but is not limited to:

- a. One licensee, registered under the applicable Iowa Code chapter regulated by the board;
- b. One public member of the board;
- c. One or more licensed professionals with expertise in substance abuse/addiction treatment programs or other applicable impairment.

The board may, alternatively, contract with an established impaired licensee review committee of another board, inside or outside the department of inspections, appeals, and licensing, if deemed in the best interest of the licensee or the public.

**12.1(4) Eligibility.** To be eligible for participation in the impaired licensee recovery program, a licensee will need to meet all of the following criteria:

- a. The licensee needs to self-report an impairment or suspected impairment directly to the office of the board or be referred to the committee by the board;
- b. The licensee cannot have engaged in the unlawful diversion or distribution of controlled substances, or illegal substances;
- c. At the time of the self-report, the licensee cannot already be under board order for an impairment or any other violation of the laws and rules governing the practice of the profession, although the existence of such an order cannot prevent the board from making a referral when deemed in the best interest of the licensee and the public;
- d. The licensee has not caused harm or injury to a client;
- e. The licensee has not been subject to a civil or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the profession;
- f. The licensee has provided truthful information and fully cooperated with the board or committee.

**12.1(5) Meetings.** The committee will meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring.



## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

**12.1(6) Terms of participation.** A licensee will agree to comply with the terms for participation in the impaired licensee program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period will be established by the committee and communicated to the licensee in writing.

**12.1(7) Noncompliance.** Failure to comply with the provisions of the agreement obligates the committee to make immediate referral of the matter to the board for the purpose of disciplinary action.

**12.1(8) Practice restrictions.** The committee may impose restrictions on the licensee's practice as a term of the contract until such time as it receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a licensee is obligated to agree to restricted practice in accordance with the terms specified in the contract. In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee will refer the licensee to the board for appropriate action.

**12.1(9) Limitations.** The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired licensee program. Participation in the program under the auspices of the committee cannot relieve the board of any duties and cannot divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant will be referred to the board for appropriate action. A violation of a contract is a ground for licensee discipline.

**12.1(10) Confidentiality.** The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information in the possession of the board or the committee about licensees in the program cannot be disclosed to the public. Participation in the impaired licensee program under the auspices of the committee is not a matter of public record.

This rule is intended to implement Iowa Code chapter 272C.

**ARC 7523C****PROFESSIONAL LICENSING AND REGULATION BUREAU[193]****Notice of Intended Action****Proposing rulemaking related to public records  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 13, "Public Records and Fair Information Practices," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 546.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 22.

*Purpose and Summary*

As of July 1, 2023, the Professional Licensing Bureau became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds the former Bureau's chapter on public records and fair information practices so that the Department will have one agencywide chapter to better serve Iowans and streamline operations. The Department addresses public records and fair information practices in 481—Chapter 3.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193—Chapter 13**.

**ARC 7524C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure by verification or work experience  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 14, “Alternative Paths to Licensure,” and to adopt a new Chapter 14, “Licensure by Verification or Work Experience,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

*Purpose and Summary*

These proposed rules provide alternative pathways for licensure. The alternative options streamline the process for individuals who are licensed in another state to be licensed in Iowa. The requirements set out in these rules ensure licensees have proper skills to practice. The rules provide for certain criteria to be assessed, including prior discipline, proof of residency, and work experience, in order to protect the public.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.9030  
Email: [lori.schraderbachar@dia.iowa.gov](mailto:lori.schraderbachar@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

February 13, 2024  
11:30 a.m.

6200 Park Avenue, Suite 100  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14  
LICENSURE BY VERIFICATION OR WORK EXPERIENCE

**193—14.1(272C) Definitions.**

*“Board”* means an examining board or commission as defined in 193—Chapter 1.

*“Issuing jurisdiction”* means any state, commonwealth, or municipality; the District of Columbia; or other insular territory of the United States.

*“License”* or *“licensure”* means any license, registration, certificate, or permit that may be granted by an examining board or commission as defined in 193—Chapter 1.

**193—14.2(272C) Licensure by verification.** Licensure by verification is available in accordance with the following:

**14.2(1) Eligibility.** A person may seek licensure by verification if the person is licensed in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa.

**14.2(2) Board application.** The applicant needs to submit the following:

- a. A completed application for licensure by verification.
- b. Payment of the application fee.
- c. Completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, if required for initial licensure by the board.
- d. A verification form completed by the licensing authority in the jurisdiction that issued the applicant's license, verifying that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form needs to be sent directly from the licensing authority to the board.
- e. A copy of the complete criminal record, if the applicant has a criminal history.
- f. A copy of relevant disciplinary documents, if another jurisdiction has taken disciplinary action against the applicant.
- g. Copies of relevant laws setting forth the scope of practice in the other state.

**14.2(3) Applicants with prior discipline.** If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved,

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

**14.2(4) *Applicants with pending licensing complaints or investigations.*** If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

**14.2(5) *Determination by board.*** The board will make the determination of whether to issue a license under this rule based on information supplied by the applicant in the application and on such additional information as the board may acquire, including information or verification from other jurisdictions.

**193—14.3(272C) Applicants with work experience in jurisdictions without licensure requirements.**

**14.3(1) *Work experience.*** An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not need a professional license to practice in the profession may be considered to have met any educational and training requirements if the person has at least three years of work experience with a scope of practice substantially similar to that of the profession for which a license in Iowa is sought. The three years of work experience needs to be within the four years preceding the date of application for initial licensure. The applicant will need to satisfy all other requirements, including passing any required examinations, to receive a license.

**14.3(2) *Required documentation.*** An applicant who wishes to substitute work experience in lieu of satisfying applicable education or training requirements carries the burden of providing all of the following by submitting relevant documents as part of a completed license application:

- a.* Proof of Iowa residency, which may include:
    - (1) Residential mortgage, lease, or rental agreement;
    - (2) Utility bill;
    - (3) Bank statement;
    - (4) Paycheck or pay stub;
    - (5) Property tax statement;
    - (6) A document issued by the federal or state government; or
    - (7) Any other board-approved document that reliably confirms Iowa residency.
  - b.* Proof of three or more years of work experience within the four years preceding the application for licensure, which may include:
    - (1) A letter from the applicant's prior employer documenting the dates of employment;
    - (2) Paychecks or pay stubs;
    - (3) If self-employed, business documents filed with the secretary of state; or
    - (4) Any other board-approved evidence of sufficient work experience.
  - c.* Proof that the work experience was in a practice with a scope of practice substantially similar to that for the license sought in Iowa, which includes:
    - (1) A written statement by the applicant detailing the scope of practice; and
    - (2) Business or marketing materials detailing the services provided.
- These rules are intended to implement Iowa Code chapter 272C.

**ARC 7525C**

**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

**Notice of Intended Action**

**Proposing rulemaking related to use of criminal convictions  
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 15, “Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 272C and 546.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 272C and 546 and 2020 Iowa Acts, House File 2627.

*Purpose and Summary*

This proposed rulemaking clarifies the pathway to potential licensure for individuals with criminal convictions. The proposed rules ensure a streamlined pathway while protecting the public through criteria that allows a professional licensing board to review the complete criminal record, evidence of rehabilitation, and other information when making a determination on eligibility for licensure. This rulemaking implements 2020 Iowa Acts, House File 2627.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

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*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

February 13, 2024  
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*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15

USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING DECISIONS

**193—15.1(272C) Definitions.** For the purposes of these rules, the following definitions apply:

“*Complete criminal record*” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Disqualifying offense*” means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

“*License*” means any license or registration issued by a board.

**193—15.2(272C) License application.** Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule 193—15.3(272C), the applicant's convictions will be reviewed when the board receives a completed license application.

**15.2(1)** An applicant will disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

**15.2(2)** An applicant with one or more convictions will submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

**15.2(3)** An applicant will submit as a part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

**15.2(4)** The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

**15.2(5)** An applicant with one or more disqualifying offenses who has been found rehabilitated will need to still satisfy all other requirements for licensure.

**15.2(6)** Any application fees paid will not be refunded if the license is denied.

**193—15.3(272C) Eligibility determination.**

**15.3(1)** An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

**15.3(2)** To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner will submit all of the following:

- a. A completed petition for eligibility determination form;
- b. The complete criminal record for each of the petitioner's convictions;
- c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;
- d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- e. Payment of a nonrefundable fee of \$25.

**193—15.4(272C) Appeal.** A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board's written decision will become a final order.

**15.4(1)** An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered is a proposed decision.

**15.4(2)** The contested case hearing is closed to the public and the board's review of a proposed decision occurs in closed session.

**15.4(3)** The office of the attorney general will represent the board's initial ineligibility determination or license denial and will have the burden of proof to establish that the petitioner or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof will shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

**15.4(4)** A petitioner or applicant will need to appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding will be in accordance with Iowa Code chapter 17A.

**193—15.5(272C) Future petitions or applications.** If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code chapter 272C.



**ARC 7297C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to board administrative processes  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 4, “Board Administrative Processes,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 21, 147, 252J, 272C, and 272D, and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 21, 147, 252J, 272C, and 272D.

*Purpose and Summary*

The proposed rules publicly outline administrative processes of the professional licensing boards within the Licensing Division of the Department. This includes expectations of licensees to change their name and address, order duplicate certificates, and provide continuing education information in an audit, as well as board order authority.

A public hearing was held November 21, 2023, after proper notice. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
BOARD ADMINISTRATIVE PROCESSES

**645—4.1(17A) Definitions.**

“*License*” means a license to practice the specific practice governed by one of the boards defined in this chapter.

“*Licensee*” means a person licensed to practice the specific practice governed by one of the boards defined in this chapter.

**645—4.2(17A) Purpose of board.** The purpose of each professional licensing board is to administer and enforce the provisions of Iowa Code chapters 17A, 21, 147, and 272C and the practice-specific provisions in Iowa Code chapters 148A, 148B, 148C, 149, 151, 152A, 152B, 152C, 152D, 154, 154A, 154B, 154C, 154D, 154E, 155, 156, 157 and 158 applicable to each board. The mission of each professional licensing board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of each board. Responsibilities of each professional licensing board include, but are not limited to:

**4.2(1)** Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

**4.2(2)** Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**4.2(3)** Imposing discipline on licensees as provided by statute or rule.

**645—4.3(17A,147,272C) Organization of board and proceedings.**

**4.3(1)** Each professional licensing board is composed of members appointed by the governor and confirmed by the senate as defined in Iowa Code chapter 147.

**4.3(2)** Each board elects a chairperson and vice chairperson from its membership at the first meeting after April 30 of each year.

**4.3(3)** A majority of the members of each board constitutes a quorum.

**4.3(4)** Board meetings are governed in accordance with Iowa Code chapter 21.

**4.3(5)** Each professional licensing board has the authority to:

*a.* Develop and implement continuing education rules to ensure the continued competency of individuals licensed by the board.

*b.* Establish fees.

*c.* Establish committees of the board.

*d.* Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session. The records shall be stored securely in the board office.

*e.* Investigate alleged violations of statutes or rules that relate to the practice of licensees upon receipt of a complaint or upon the board's own initiation.

*f.* Initiate and impose licensee discipline.

*g.* Monitor licenses that are restricted by a board order.

*h.* Establish and register peer reviewers.

*i.* Refer complaints to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action.

*j.* Perform any other functions authorized by a provision of law.

**645—4.4(17A) Name and address changes.**

**4.4(1)** Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

**4.4(2)** Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

**645—4.5(147) Duplicate certificate.** A duplicate certificate is required if the current certificate is lost, stolen or destroyed. Duplicate certificates may be purchased online.

**645—4.6(17A,147,272C) License denial.**

**4.6(1)** When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing and cite the reasons for which the application was denied.

**4.6(2)** An applicant who has been denied licensure by the board may appeal the denial and request a hearing by submitting a request in writing within 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing. The hearing and subsequent procedures will be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

**645—4.7(272C) Audit of continuing education.** The board may select licensees for audit following license renewal.

**4.7(1)** If selected for audit, the licensee will provide certificates of completion of continuing education within 30 days of notice. The documents will contain the course date, title, contact hours, sponsor and licensee's name. Extension of time may be granted on an individual basis.

**4.7(2)** All licensees must retain continuing education certificates for two years after the renewal.

**4.7(3)** If the submitted certificates are incomplete or unsatisfactory, the licensee may submit make-up credit to cover the deficit. The deadline for make-up credit is 90 days from the date of the notice of deficit.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—4.8(272C,83GA,SF2325) Automatic exemption.** A licensee is exempt from the continuing education requirement during the license biennium when the licensee:

1. Served active duty in the military service; or
2. Resided in another state or district having continuing education requirements; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States.

**645—4.9(272C) Continuing education exemption for disability or illness.** A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption providing an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application.

**4.9(1)** The board may grant an extension of time to fulfill the continuing education requirement.

**4.9(2)** The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

**4.9(3)** The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

**645—4.10(147,272C) Order for physical, mental, substance abuse or clinical competency examination.** If the board has probable cause, a licensee may be required to submit to a physical, mental, substance abuse or clinical competency examination at the licensee's expense.

**4.10(1) Content of order.** A board order for a physical, mental, substance abuse or clinical competency examination shall include the following items:

- a. A description of the type of examination.
- b. The amount of time the licensee has to complete the examination.
- c. A statement indicating the licensee sign necessary releases for the board to communicate with the examiner of the evaluation or treatment facility.
- d. A statement that the licensee communicate with the board regarding the status of the examination.
- e. A statement that the licensee will have the examiner provide the examination results directly to the board within a specified period of time.

**4.10(2) Alternatives.** Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request that the board approve an alternative examiner or treatment facility. The board in its discretion shall determine whether to grant the request.

**4.10(3) Objection to order.** A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. A licensee who fails to timely file a request for hearing to object to an examination order waives any future objection to the examination order in the event formal disciplinary charges are filed for failure to comply with the examination order or on any other grounds. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned to maintain the licensee's confidentiality.

**4.10(4) Closed hearing.** Any hearing on an objection to the examination order shall be closed pursuant to Iowa Code section 272C.6(1).

**4.10(5) Order and reports confidential.** An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

to Iowa Code section 272C.6(4). However, all investigative information regarding the examination order shall be provided to the licensee in the event the licensee files an objection, under subrule 4.15(3), in order to allow the licensee an opportunity to prepare for hearing.

**4.10(6) Admissibility.** In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

**4.10(7) Failure to submit.** Failure of a licensee to submit to a board-ordered physical, mental, substance abuse or clinical competency examination constitutes a violation of the rules of the board and is grounds for disciplinary action.

**645—4.11(252J,272D) Noncompliance rules regarding child support and nonpayment of state debt.**

**4.11(1) Child support noncompliance.** The board hereby adopts by reference 641—Chapter 192, "Child Support Noncompliance," Iowa Administrative Code.

**4.11(2) Nonpayment of state debt.** The board hereby adopts by reference 641—Chapter 194, "Nonpayment of State Debt," Iowa Administrative Code.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 252J, 272C and 272D.

**ARC 7306C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to fees and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 5, "Fees," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 272C and section 147.80 and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147 and 272C.

*Purpose and Summary*

The purpose of this proposed chapter is to establish fees for licensed professions. This chapter provides fees for the following boards: Hearing Aid Specialist Board, Speech Pathology and Audiology Board, Nursing Home Administrative Board, Optometry Board, Sign Language Interpreters and Translators Board, Barbering and Cosmetology Arts and Sciences Board, Physical and Occupational Therapy Board, Athletic Training Board, Mortuary Science Board, Physician Assistants Board, Chiropractic Board, Behavioral Science Board, Psychology Board, Social Work Board, Podiatry Board, Massage Therapy Board, Dietetics Board and the Respiratory Care Board.

A public hearing was held November 21, 2023, after proper notice. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5  
FEES

**645—5.1(147,152D) Athletic training license fees.** All fees are nonrefundable.

**5.1(1)** License fee for license to practice athletic training is \$120.

**5.1(2)** Temporary license fee for license to practice athletic training is \$120.

**5.1(3)** Biennial license renewal fee for each biennium is \$120.

**5.1(4)** Late fee for failure to renew before expiration is \$60.

**5.1(5)** Reactivation fee is \$180.

**5.1(6)** Duplicate or reissued license certificate fee is \$20.

**5.1(7)** Verification of license fee is \$20.

**5.1(8)** Returned check fee is \$25.

**5.1(9)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

**645—5.2(147,158) Barbering license fees.** All fees are nonrefundable.

**5.2(1)** License fee for an initial license to practice barbering, license by endorsement, license by reciprocity or an instructor's license is \$60.

**5.2(2)** Biennial renewal fee for a barber license or barber instructor license is \$60.

**5.2(3)** Temporary permit fee is \$12.

**5.2(4)** Practical examination fee is \$75.

**5.2(5)** Demonstrator permit fee is \$45 for the first day and \$12 for each day thereafter for which the permit is valid.

**5.2(6)** Barber school license fee is \$600.

**5.2(7)** Barber school annual renewal fee is \$300.

**5.2(8)** Barbershop license fee is \$72.

**5.2(9)** Biennial renewal fee for a barbershop license is \$72.

**5.2(10)** Late fee for failure to renew before expiration is \$60.

**5.2(11)** Reactivation fee for a barber license is \$120.

**5.2(12)** Reactivation fee for a barbershop license is \$132.

**5.2(13)** Reactivation fee for a barber school license is \$360.

**5.2(14)** Duplicate or reissued license certificate fee is \$20.

**5.2(15)** Verification of license fee is \$20.

**5.2(16)** Returned check fee is \$25.

**5.2(17)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.80 and chapter 158.

**645—5.3(147,154D) Behavioral science license fees.** All fees are nonrefundable.

**5.3(1)** License fee for license to practice marital and family therapy or mental health counseling is \$120.

**5.3(2)** Temporary license fee for license to practice marital and family therapy or mental health counseling is \$120.

**5.3(3)** License fee for license to practice as a behavior analyst or assistant behavior analyst is \$120. Behavior analyst and assistant behavior analyst licenses issued for less than one year shall not be subject to a renewal fee for the first renewal.

**5.3(4)** Biennial license renewal fee for each biennium is \$120.

**5.3(5)** Late fee for failure to renew before expiration is \$60.

**5.3(6)** Reactivation fee is \$180.

**5.3(7)** Duplicate or reissued license certificate fee is \$20.

**5.3(8)** Verification of license fee is \$20.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**5.3(9)** Returned check fee is \$25.

**5.3(10)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154D and 272C.

**645—5.4(151) Chiropractic license fees.** All fees are nonrefundable.

**5.4(1)** License fee for license to practice chiropractic is \$270.

**5.4(2)** Fee for issuance of annual temporary certificate is \$120.

**5.4(3)** Biennial license renewal fee is \$120.

**5.4(4)** Late fee for failure to renew before the expiration date is \$60.

**5.4(5)** Reactivation fee is \$180.

**5.4(6)** Duplicate or reissued license certificate fee is \$20.

**5.4(7)** Fee for verification of license is \$20.

**5.4(8)** Returned check fee is \$25.

**5.4(9)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 151 and 272C.

**645—5.5(147,157) Cosmetology arts and sciences license fees.** All fees are nonrefundable.

**5.5(1)** License fee for license to practice cosmetology arts and sciences, license by endorsement, license by reciprocity, or an instructor's license is \$60.

**5.5(2)** Biennial license renewal fee for each license for each biennium is \$60.

**5.5(3)** Late fee for failure to renew before expiration is \$60.

**5.5(4)** Reactivation fee for applicants licensed to practice cosmetology is \$120; for salons, \$144; and for schools, \$330.

**5.5(5)** Duplicate or reissued license certificate fee is \$20.

**5.5(6)** Fee for verification of license is \$20.

**5.5(7)** Returned check fee is \$25.

**5.5(8)** Disciplinary hearing fee is a maximum of \$75.

**5.5(9)** Fee for license to conduct a school teaching cosmetology arts and sciences is \$600.

**5.5(10)** Fee for renewal of a school license is \$270 annually.

**5.5(11)** Salon license fee is \$84.

**5.5(12)** Biennial license renewal fee for each salon license for each biennium is \$84.

**5.5(13)** Demonstrator and not-for-profit temporary permit fee is \$42 for the first day and \$12 for each day thereafter that the permit is valid.

**5.5(14)** An initial fee or a reactivation fee for certification to administer microdermabrasion or utilize a certified laser product or an intense pulsed light (IPL) device is \$25 for each type of procedure or certified laser product or IPL device.

**5.5(15)** An initial fee or a reactivation fee for certification of cosmetologists to administer chemical peels is \$25.

This rule is intended to implement Iowa Code section 147.80 and chapter 157.

**645—5.6(147,152A) Dietetics license fees.** All fees are nonrefundable.

**5.6(1)** License fee for license to practice dietetics, license by endorsement, or license by reciprocity is \$120.

**5.6(2)** Biennial license renewal fee for each biennium is \$120.

**5.6(3)** Late fee for failure to renew before expiration is \$60.

**5.6(4)** Reactivation fee is \$180.

**5.6(5)** Duplicate or reissued license certificate fee is \$20.

**5.6(6)** Verification of license fee is \$20.

**5.6(7)** Returned check fee is \$25.

**5.6(8)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 152A and 272C.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—5.7(147,154A) Hearing aid specialists license fees.** All fees are nonrefundable.

5.7(1) Application fee for a license to practice by examination, endorsement, or reciprocity is \$156.

5.7(2) Renewal of license fee is \$60.

5.7(3) Temporary permit fee is \$42.

5.7(4) Late fee is \$60.

5.7(5) Reactivation fee is \$120.

5.7(6) Duplicate or reissued license certificate fee is \$20.

5.7(7) Verification of license fee is \$20.

5.7(8) Returned check fee is \$25.

5.7(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapter 154A.

**645—5.8(147) Massage therapy license fees.** All fees are nonrefundable.

5.8(1) License fee for license to practice massage therapy is \$120.

5.8(2) Biennial license renewal fee for each biennium is \$60.

5.8(3) Temporary license fee for up to one year is \$120.

5.8(4) Late fee for failure to renew before expiration is \$60.

5.8(5) Reactivation fee is \$120.

5.8(6) Duplicate or reissued license certificate fee is \$20.

5.8(7) Verification of license fee is \$20.

5.8(8) Returned check fee is \$25.

5.8(9) Disciplinary hearing fee is a maximum of \$75.

5.8(10) Initial application fee for approval of massage therapy education curriculum is \$120.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

**645—5.9(147,156) Mortuary science license fees.** All fees are nonrefundable.

5.9(1) License fee for license to practice funeral directing is \$120.

5.9(2) Biennial funeral director's license renewal fee for each biennium is \$120.

5.9(3) Late fee for failure to renew before expiration is \$60.

5.9(4) Reactivation fee for a funeral director is \$180 and for a funeral establishment or cremation establishment is \$150.

5.9(5) Duplicate or reissued license certificate fee is \$20.

5.9(6) Verification of license fee is \$20.

5.9(7) Returned check fee is \$25.

5.9(8) Disciplinary hearing fee is a maximum of \$75.

5.9(9) Funeral establishment or cremation establishment fee is \$90.

5.9(10) Three-year renewal fee of funeral establishment or cremation establishment is \$90.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 156 and 272C.

**645—5.10(147,155) Nursing home administrators license fees.** All fees are nonrefundable.

5.10(1) License fee for license to practice nursing home administration is \$120.

5.10(2) Biennial license renewal fee for each license for each biennium is \$60.

5.10(3) Late fee for failure to renew before expiration is \$60.

5.10(4) Reactivation fee is \$120.

5.10(5) Duplicate or reissued license certificate fee is \$20.

5.10(6) Verification of license fee is \$20.

5.10(7) Returned check fee is \$25.

5.10(8) Disciplinary hearing fee is a maximum of \$75.

5.10(9) Provisional license fee is \$120.

This rule is intended to implement Iowa Code section 147.80 and chapter 155.

**645—5.11(147,148B) Occupational therapy license fees.** All fees are nonrefundable.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**5.11(1)** License fee for an OT or OTA license to practice occupational therapy is \$120.

**5.11(2)** Biennial license renewal fee to practice occupational therapy is \$60.

**5.11(3)** Biennial license renewal fee for an occupational therapy assistant is \$60.

**5.11(4)** Late fee for failure to renew before expiration is \$60.

**5.11(5)** Reactivation fee is \$120.

**5.11(6)** Duplicate or reissued license certificate fee is \$20.

**5.11(7)** Verification of license fee is \$20.

**5.11(8)** Returned check fee is \$25.

**5.11(9)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148B and 272C.

**645—5.12(147,154) Optometry license fees.** All fees are nonrefundable.

**5.12(1)** License fee for license to practice optometry, license by endorsement, or license by reciprocity is \$300.

**5.12(2)** Biennial license renewal fee for each biennium is \$144.

**5.12(3)** Late fee for failure to renew before expiration date is \$60.

**5.12(4)** Reactivation fee is \$204.

**5.12(5)** Duplicate or reissued license certificate fee is \$20.

**5.12(6)** Verification of license fee is \$20.

**5.12(7)** Returned check fee is \$25.

**5.12(8)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

**645—5.13(147,148A) Physical therapy license fees.** All fees are nonrefundable.

**5.13(1)** License fee for license to practice physical therapy or as a physical therapist assistant is \$120.

**5.13(2)** Biennial license renewal fee for a physical therapist is \$60.

**5.13(3)** Biennial license renewal fee for a physical therapist assistant is \$60.

**5.13(4)** Late fee for failure to renew before expiration is \$60.

**5.13(5)** Reactivation fee is \$120.

**5.13(6)** Duplicate or reissued license certificate fee is \$20.

**5.13(7)** Verification of license fee is \$20.

**5.13(8)** Returned check fee is \$25.

**5.13(9)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148A and 272C.

**645—5.14(148C) Physician assistants license fees.** All fees are nonrefundable.

**5.14(1)** Application fee for a license is \$120.

**5.14(2)** Fee for a temporary license is \$120.

**5.14(3)** Renewal of license fee is \$120.

**5.14(4)** Late fee for failure to renew before expiration is \$60.

**5.14(5)** Reactivation fee is \$180.

**5.14(6)** Duplicate or reissued license certificate fee is \$20.

**5.14(7)** Fee for verification of license is \$20.

**5.14(8)** Returned check fee is \$25.

**5.14(9)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148C and 272C.

**645—5.15(147,148F,149) Podiatry license fees.** All fees are nonrefundable.

**5.15(1)** License fee for license to practice podiatry, license by endorsement, or license by reciprocity is \$400.

**5.15(2)** License fee for temporary license to practice podiatry is \$200.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**5.15(3)** The fee for a license to practice orthotics, prosthetics, or pedorthics received on or before July 1, 2015, shall be \$600. The fee for a license to practice orthotics, prosthetics, or pedorthics received after July 1, 2015, shall be \$400.

**5.15(4)** Biennial license renewal fee is \$400 for each biennium.

**5.15(5)** Reactivation fee is \$460.

**5.15(6)** Temporary license renewal fee is \$200.

**5.15(7)** Late fee for failure to renew before expiration is \$60.

**5.15(8)** Duplicate or reissued license certificate fee is \$20.

**5.15(9)** Verification of license fee is \$20.

**5.15(10)** Returned check fee is \$25.

**5.15(11)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148F, 149 and 272C.

**645—5.16(147,154B) Psychology license fees.** All fees are nonrefundable.

**5.16(1)** License fee for license to practice psychology is \$120.

**5.16(2)** Biennial license renewal fee is \$170.

**5.16(3)** Late fee for failure to renew before expiration is \$60.

**5.16(4)** Reactivation fee is \$230.

**5.16(5)** Duplicate or reissued license certificate fee is \$20.

**5.16(6)** Verification of license fee is \$20.

**5.16(7)** Returned check fee is \$25.

**5.16(8)** Disciplinary hearing fee is a maximum of \$75.

**5.16(9)** Processing fee for exemption to licensure is \$60.

**5.16(10)** Certification fee for a health service provider is \$60.

**5.16(11)** Biennial renewal fee for certification as a certified health service provider in psychology is \$60.

**5.16(12)** Reactivation fee for certification as a certified health service provider in psychology is \$60.

**5.16(13)** Provisional license fee is \$120.

**5.16(14)** Provisional license renewal fee is \$170.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154B and 272C and 2014 Iowa Acts, chapter 1043.

**645—5.17(147,152B) Respiratory care license fees.** All fees are nonrefundable.

**5.17(1)** Initial license fee.

*a.* The initial license fee for a respiratory care practitioner license is \$75, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

*b.* The initial license fee for a polysomnographic technologist license is \$75, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

*c.* The initial license fee for a respiratory care and polysomnography practitioner license is \$90, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

**5.17(2)** Biennial license renewal fee for each biennium.

*a.* The biennial license renewal fee for each biennium for a respiratory care practitioner license is \$75.

*b.* The biennial license renewal fee for each biennium for a polysomnographic technologist license is \$75.

*c.* The biennial license renewal fee for each biennium for a respiratory care and polysomnography practitioner license is \$90.

**5.17(3)** Late fee for failure to renew before expiration is \$60.

**5.17(4)** Reactivation fee.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* The reactivation fee to practice respiratory care is \$135, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

*b.* The reactivation fee to practice as a polysomnographic technologist is \$135, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

*c.* The reactivation fee to practice respiratory care and polysomnography is \$150, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

**5.17(5)** Duplicate or reissued license certificate fee is \$20.

**5.17(6)** Verification of license fee is \$20.

**5.17(7)** Returned check fee is \$25.

**5.17(8)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 152B and 272C.

**645—5.18(147,154E) Sign language interpreters and transliterators license fees.** All fees are nonrefundable.

**5.18(1)** License fee for license to practice interpreting or transliterating is \$120.

**5.18(2)** License fee for temporary license to practice interpreting or transliterating is \$120.

**5.18(3)** Biennial license renewal fee for each biennium is \$120.

**5.18(4)** Late fee for failure to renew before expiration is \$60.

**5.18(5)** Duplicate or reissued license certificate fee is \$20.

**5.18(6)** Verification of license fee is \$20.

**5.18(7)** Returned check fee is \$25.

**5.18(8)** Disciplinary hearing fee is a maximum of \$75.

**5.18(9)** Reactivation fee is \$180.

This rule is intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

**645—5.19(147,154C) Social work license fees.** All fees are nonrefundable.

**5.19(1)** License fee for license to practice social work is \$120.

**5.19(2)** Biennial license renewal fee for a license at the bachelor's level is \$72; at the master's level, \$120; and independent level, \$144.

**5.19(3)** Late fee for failure to renew before expiration is \$60.

**5.19(4)** Reactivation fee for the bachelor's level is \$132; for the master's level, \$180; and independent level, \$204.

**5.19(5)** Duplicate or reissued license certificate fee is \$20.

**5.19(6)** Verification of license fee is \$20.

**5.19(7)** Returned check fee is \$25.

**5.19(8)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154C and 272C.

**645—5.20(147) Speech pathology and audiology license fees.** All fees are nonrefundable.

**5.20(1)** License fee for license to practice speech pathology or audiology, temporary clinical license, license by endorsement, or license by reciprocity is \$120.

**5.20(2)** Biennial license renewal fee for each biennium is \$96.

**5.20(3)** Late fee for failure to renew before expiration is \$60.

**5.20(4)** Reactivation fee is \$156.

**5.20(5)** Duplicate or reissued license certificate fee is \$20.

**5.20(6)** Verification of license fee is \$20.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**5.20(7)** Returned check fee is \$25.

**5.20(8)** Disciplinary hearing fee is a maximum of \$75.

**5.20(9)** Temporary clinical license renewal fee is \$60.

**5.20(10)** Temporary permit fee is \$30.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

**ARC 7308C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to petitions for rulemaking  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 6, “Petitions for Rule Making,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3 and 272C.3 and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 272C.

*Purpose and Summary*

This proposed rulemaking would eliminate unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards’ realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 2, which is substantively analogous to 645—Chapter 6. The proposed rulemaking aligns with Executive Order 10’s goal of reducing and simplifying the Iowa Administrative Code to make it easier for Iowans to enter the workforce.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Emily DeRonde  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.249.7038  
 Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 9 to 9:20 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Or dial: +1 813.252.1868  
 PIN: 724 486 884#  
 More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
 9 to 9:20 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Or dial: +1 813.252.1868  
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 More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **645—Chapter 6.**

**ARC 7300C**

**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to agency procedure for rulemaking  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 7, "Agency Procedure for Rule Making," Iowa Administrative Code.

*Legal Authority for Rulemaking*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking is proposed under the authority provided in Iowa Code section 17A.3 and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

*Purpose and Summary*

This proposed rulemaking would eliminate unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards' realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 4, which is substantively analogous to the current 645—Chapter 7. The rulemaking aligns with Executive Order 10's goal of reducing and simplifying the Iowa Administrative Code to make it easier for Iowans to enter the workforce.

A public hearing was held on November 21, 2023, after proper notice and publication. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
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[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **645—Chapter 7**.

**ARC 7304C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to declaratory orders  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 8, "Declaratory Orders," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 17A.3 and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

*Purpose and Summary*

This proposed rulemaking would eliminate unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards' realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 3, which is substantively



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

analogous to 645—Chapter 8. The rulemaking aligns with Executive Order 10's goal of reducing and simplifying the Iowa Administrative Code to make it easier for Iowans to enter the workforce.

A public hearing was held on November 21, 2023, after proper notice and publication. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **645—Chapter 8**.

**ARC 7303C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to complaints and investigations  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 9, "Complaints and Investigations," Iowa Administrative Code, and to adopt a new chapter with the same name.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3, 17A.22 and 272C.3 and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 272C.

*Purpose and Summary*

This proposed rulemaking is intended to provide guidance on complaint and investigation procedures. The rulemaking ensures licensees are aware of the investigative process and understand their rights and responsibilities related to the complaint and investigative process. The rulemaking sets forth information such as the process for submitting a complaint, duties of the licensee in reporting the licensee's own malpractice or disciplinary actions, and duties of the licensee in reporting first-hand knowledge of violations from other licensees. The rulemaking also provides the procedure to issue investigatory subpoenas, initiate the peer review process and require board appearances by the licensee.

A public hearing was held November 21, 2023, after proper notice. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9  
COMPLAINTS AND INVESTIGATIONS

**645—9.1(272C) Complaints.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**9.1(1)** Complaints can be submitted online, in writing, or verbally and are to include the name and contact information of the complainant, the name of the licensee, and a concise statement of the allegations against the licensee. A complaint may also be initiated by the board.

**9.1(2)** A person is not civilly liable for filing a complaint in good faith, or for cooperating with a board investigation.

**645—9.2(272C) Report of malpractice claims or actions or disciplinary actions.** The licensee will submit any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state or jurisdiction to the board within 30 days of the date of occurrence.

**645—9.3(272C) Report of acts or omissions.** A licensee who has knowledge of rule violations committed by another licensee will file a report to the board. The report will include the name and contact information of the licensee and the date, time, and place of the incident.

**645—9.4(272C) Investigation of complaints or reports.** Board staff may request additional information, solicit a response from the licensee, subpoena records, conduct interviews, gather evidence, and perform other investigatory duties to sufficiently inform the board.

**645—9.5(17A,272C) Issuance of investigatory subpoenas.**

**9.5(1)** The board administrator or designee may, upon the written request of a board investigator or on the administrator's own initiative, subpoena books, papers, records, and other real evidence which is necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;
- c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

**9.5(2)** Each subpoena will contain:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production, or inspection and copying;
- d. The deadline for a motion to quash or modify the subpoena to be filed;
- e. The signature, address and telephone number of the board administrator or designee;
- f. The date of issuance;
- g. A return of service.

**9.5(3)** A person can challenge the subpoena by filing a motion to quash describing the legal justification for the motion accompanied by a legal brief or factual affidavits, within 14 days after service of the subpoena.

**9.5(4)** Upon receipt of a timely motion to quash or modify a subpoena, an administrative law judge will issue a decision. The administrative law judge may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

**9.5(5)** A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board administrator, either in person, via email, or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

**9.5(6)** If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either (1) the

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

person is notified the investigation has been concluded with no formal action, or (2) there is a final decision in the contested case.

**645—9.6(272C) Peer review.**

**9.6(1)** A complaint may be assigned to a peer reviewer for review and report to the board.

**9.6(2)** The board determines what complaints or other matters are referred to a peer reviewer.

**9.6(3)** Peer reviewers are not to be liable for acts, omissions, or decisions made in connection with service made in good faith.

**9.6(4)** The peer reviewer will observe the requirements of confidentiality imposed by Iowa Code section 272C.6.

**645—9.7(17A) Appearance.** The board may request that a licensee appear before a committee of the board to discuss a pending investigation. By electing to participate in the committee appearance, the licensee waives any objection to a board member both participating in the appearance and later participating as a decision maker in a contested case proceeding. By electing to participate in the committee appearance, the licensee further waives any objection to the board administrator assisting the board in the contested case proceeding.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapter 272C.

**ARC 7301C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to public records and fair information practices and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 10, “Public Records and Fair Information Practices,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3 and 22.11 and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 22.

*Purpose and Summary*

This proposed rulemaking would eliminate unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards’ realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 5, which is substantively analogous to 645—Chapter 10. The rulemaking aligns with the goal of Executive Order 10 of reducing and simplifying the Iowa Administrative Code and is in line with a stated goal of Iowa Code chapter 17A to “simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions.”

A public hearing was held on November 21, 2023, after proper notice and publication. No public comment was received.

*Fiscal Impact*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **645—Chapter 10**.

**ARC 7299C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to contested cases and informal settlement  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 11, "Contested Cases," and adopt a new Chapter 11, "Contested Cases and Informal Settlement," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3 and 272C.3 and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 272C.

*Purpose and Summary*

Proposed Chapter 11 provides regulation on the contested case hearings including time requirements for taking action on a contested case, direction on the service of the statement of charges and notice of hearing as well as the required contents of the statement of charges and notice of hearing, the discovery process including issuance of subpoenas, the handling of pretrial motions and conferences and procedures for the hearings. The purpose of the chapter is to provide a licensee an outline of how a contested case proceeding is initiated and the rights and responsibilities of the licensee during that process. This chapter ensures the licensee is aware of how a contested case begins, how the licensee can gather information to prepare for the hearing and the potential result of the hearing.

A public hearing was held November 21, 2023, after proper notice. No public comment was received.

*Fiscal Impact*

This rule making will have no fiscal impact on the state of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11  
CONTESTED CASES AND INFORMAL SETTLEMENT

**645—11.1(17A) Scope and applicability.** This chapter applies to contested case proceedings conducted by the board of \_\_\_\_\_ examiners.

**645—11.2(17A) Definitions.** Except where otherwise specifically defined by law:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Party*” means the state of Iowa as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent, or an intervenor.

“*Presiding officer*” means the board of \_\_\_\_\_ examiners.

**645—11.3(17A) Time requirements.**

**11.3(1)** Time will be computed as provided in Iowa Code section 4.1(34).

**11.3(2)** For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

**645—11.4(17A) Probable cause.** If the board finds there is probable cause for taking disciplinary action against a licensee following investigation, the board will order a contested case hearing be commenced by the filing of a statement of charges and notice of hearing.

**645—11.5(17A) Statement of charges and notice of hearing.**

**11.5(1) Legal review.** Every statement of charges and notice of hearing prepared by the board will be reviewed by the office of the attorney general prior to filing.

**11.5(2) Delivery.** Delivery of the statement of charges and notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Restricted certified mail, return receipt requested; or
- c. Publication, as provided in the Iowa Rules of Civil Procedure.

**11.5(3) Contents.** The statement of charges and notice of hearing will contain the following information:

- a. A statement by the board showing that there is probable cause to file the statement of charges;
- b. A statement of the time, place, and nature of the hearing;
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- d. A reference to the particular sections of the statutes and rules involved;
- e. A short and plain statement of the matters asserted containing sufficient detail to give the respondent fair notice of the allegations so that the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;
- f. Identification of all parties including the name, address and telephone number of the assistant attorney general designated as prosecutor for the state and the parties’ counsel, if known;
- g. Reference to the procedural rules governing conduct of the contested case proceeding;
- h. Reference to the procedural rules governing informal settlement;
- i. Identification of the board as the presiding officer; and
- j. Notification of the time period in which a party may request, when applicable, and pursuant to Iowa Code section 17A.11 and rules 645—11.8(17A,272C) and 645—11.9(17A,272C), that the presiding officer be an administrative law judge.

**645—11.6(17A,272C) Legal representation.** Following the filing of the statement of charges and notice of hearing, the office of the attorney general will be responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board will not represent the board in that case but will represent the public interest. All other parties to a proceeding before the board will be entitled to have counsel at their own expense.

**645—11.7(17A,272C) Presiding officer in a disciplinary contested case.** The presiding officer in a disciplinary contested case will be the board. The board may request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

serving in this capacity are subject to the interlocutory appeal provisions of rule 645—11.24(17A). An administrative law judge may assist and advise the board at the contested case hearing.

**645—11.8** Reserved.

**645—11.9(17A) Presiding officer in a nondisciplinary contested case.**

**11.9(1)** Any party in a nondisciplinary contested case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing must file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the board.

**11.9(2)** The board may deny the request only upon a finding that one or more of the following apply:

- a.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- b.* An administrative law judge with the qualifications identified in subrule 11.9(4) is unavailable to hear the case within a reasonable time.
- c.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- d.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- e.* Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- f.* The request was not timely filed.
- g.* The request is not consistent with a specified statute.

**11.9(3)** The board will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 11.9(4), the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

**11.9(4)** An administrative law judge assigned to act as presiding officer in a nondisciplinary contested case shall have a J.D. degree unless waived by the agency.

**11.9(5)** Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek appeal to the board in order to exhaust adequate administrative remedies. Such appeals must be filed within ten days of the date of the issuance of the challenged ruling, but no later than the time for compliance with the order or the date of hearing, whichever is first.

**11.9(6)** Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon appeal, the board will have the powers of and will comply with the provisions of this chapter which apply to presiding officers.

**645—11.10(17A) Disqualification.**

**11.10(1)** A presiding officer or other person will withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a.* Has a personal bias or prejudice concerning a party or a representative of a party;
- b.* Has personally investigated, prosecuted or advocated, in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c.* Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d.* Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e.* Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f.* Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

**11.10(2)** The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include:

- a. General direction and supervision of assigned investigators;
- b. Unsolicited receipt of information which is relayed to assigned investigators;
- c. Review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or
- d. Exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

**11.10(3)** Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case will be disclosed if required by Iowa Code section 17A.17(3) and subrules 11.10(3) and 11.22(9).

**11.10(4)** In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person will submit the relevant information for the record by affidavit including a statement of the reasons for the determination that withdrawal is unnecessary.

**11.10(5)** If a party asserts disqualification on any appropriate ground, including those listed in subrule 11.10(1), the party will file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board will determine the matter as part of the record in the case.

**645—11.11(17A) Consolidation—severance.**

**11.11(1) Consolidation.** The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

- a. The matters at issue involve common parties or common questions of fact or law;
- b. Consolidation would expedite and simplify consideration of the issues involved; and
- c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

**11.11(2) Severance.** The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

**645—11.12(17A) Pleadings.**

**11.12(1) Pleadings.** Pleadings may be required by rule, by the statement of charges, or by order of the presiding officer.

**11.12(2) Answer.** An answer will be filed within 20 days of service of the statement of charges and notice of hearing.

- a. An answer will:
  - (1) Identify on whose behalf it is filed;
  - (2) Set forth the name, address and telephone number of the person filing the answer, the person on whose behalf it is filed, and the attorney, if any, representing that person;
  - (3) Specifically admit, deny, or otherwise answer all material allegations of the statement of charges; and
  - (4) Set forth any facts deemed necessary to show an affirmative defense and contain as many additional defenses as the respondent may claim.

b. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

**11.12(3) Amendments.** Any notice of hearing or statement of charges may be amended before a responsive pleading has been filed. Otherwise, a party may amend a pleading only with the consent of the other parties or at the discretion of the presiding officer who may impose terms or grant a continuance.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—11.13(17A) Service and filing.**

**11.13(1) Service—when required.** Except where otherwise provided by law, every document filed in a contested case proceeding will be served upon each of the parties of record to the proceeding, including the person designated as prosecutor for the state, simultaneously with its filing. Except for the original statement of charges and notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

**11.13(2) Service—how made.** Service upon a party represented by an attorney will be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

**11.13(3) Filing—when required.** After the notice of hearing, all documents in a contested case proceeding will be filed with the board. All documents that are required to be served upon a party will be filed simultaneously with the board.

**11.13(4) Filing—when made.** Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Board of \_\_\_\_\_ Examiners, Board Administrator, Lucas State Office Building, Des Moines, Iowa 50319; delivered to an established courier service for immediate delivery to that office; or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

**11.13(5) Proof of mailing.** Proof of mailing includes:

- a. A legible United States Postal Service postmark on the envelope, or
- b. A certificate of service, or
- c. A notarized affidavit, or
- d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the \_\_\_\_\_ Board, and to the names and addresses of the parties listed below by depositing the same in (a United States Post Office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

**645—11.14(17A) Discovery.**

**11.14(1)** Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules, by order of the presiding officer, or by agreement of the parties, time periods for compliance with discovery will be as provided in the Iowa Rules of Civil Procedure.

**11.14(2)** Any motion relating to discovery will allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery will be ruled upon by the presiding officer. Opposing parties will be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 11.14(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

**11.14(3)** Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

**645—11.15(17A,272C) Subpoenas in a contested case.**

**11.15(1)** Subpoenas issued in a contested case may compel the attendance of witnesses at deposition or hearing, and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or may be issued separately. Subpoenas shall be issued by the board administrator or designee upon written request. A request for a subpoena of mental health records must confirm the conditions described in 645—subrule 9.5(1) prior to the issuance of the subpoena.

**11.15(2)** A request for a subpoena will include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- a.* The name, address and telephone number of the person requesting the subpoena;
- b.* The name and address of the person to whom the subpoena shall be directed;
- c.* The date, time, and location at which the person shall be commanded to attend and give testimony;
- d.* Whether the testimony is requested in connection with a deposition or hearing;
- e.* A description of the books, papers, records or other real evidence requested;
- f.* The date, time and location for production, or inspection and copying; and
- g.* In the case of a subpoena request for mental health records, confirmation that the conditions described in 645—subrule 9.5(1) have been satisfied.

**11.15(3)** Each subpoena will contain, as applicable:

- a.* The caption of the case;
- b.* The name, address and telephone number of the person who requested the subpoena;
- c.* The name and address of the person to whom the subpoena is directed;
- d.* The date, time, and location at which the person is commanded to appear;
- e.* Whether the testimony is commanded in connection with a deposition or hearing;
- f.* A description of the books, papers, records or other real evidence the person is commanded to produce;
- g.* The date, time and location for production, or inspection and copying;
- h.* The time within which a motion to quash or modify the subpoena must be filed;
- i.* The signature, address and telephone number of the board administrator or designee;
- j.* The date of issuance; and
- k.* A return of service.

**11.15(4)** Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the board administrator or designee will mail the subpoena to the requesting party, with a copy to the opposing party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

**11.15(5)** Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena describing the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

**11.15(6)** Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to issue a decision, or the board may issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

**11.15(7)** A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the board administrator, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

**11.15(8)** If the person contesting the subpoena is not a party to the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

**645—11.16(17A) Motions.**

**11.16(1)** Prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

**11.16(2)** Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

**11.16(3)** The presiding officer may schedule oral argument on any motion.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**11.16(4)** Motions pertaining to the hearing must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

**645—11.17(17A) Prehearing conferences.**

**11.17(1)** Any party may request a prehearing conference. Prehearing conferences will be conducted by the board administrator, who may request the assistance of an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the board administrator's own motion will be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date. Written notice of the prehearing conference will be given by the board administrator to all parties. For good cause the board administrator may permit variances from this rule.

**11.17(2)** The parties at a prehearing conference will be prepared to discuss the following subjects, and the board administrator or administrative law judge may issue appropriate orders concerning:

- a.* The possibility of settlement.
  - b.* The entry of a scheduling order to include deadlines for completion of discovery.
  - c.* Stipulations of law or fact.
  - d.* Stipulations on the admissibility of exhibits.
  - e.* Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the board administrator or administrative law judge at the prehearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.
  - f.* Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the board administrator or administrative law judge at the prehearing conference. Exhibits other than rebuttal exhibits that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.
  - g.* Stipulations for waiver of any provision of law.
  - h.* Identification of matters which the parties intend to request be officially noticed.
  - i.* Consideration of any additional matters which will expedite the hearing.
- 11.17(3)** Prehearing conferences may be conducted by telephone unless otherwise ordered.

**645—11.18(17A) Continuances.**

**11.18(1)** Applications for continuances will be filed with the board. If the application for continuance is not contested, the board administrator will issue the appropriate order. If the application for continuance is contested, the matter will be heard by the board or may be delegated by the board to an administrative law judge.

**11.18(2)** A written application for a continuance will:

- a.* Be made at the earliest possible time and no less than five working days before the hearing. Within five working days of the date set for hearing, no continuances shall be granted except for extraordinary, extenuating, or emergency circumstances;
- b.* State the specific reasons for the request; and
- c.* Be signed by the requesting party or the party's representative.

**11.18(3)** The presiding officer may require documentation of any grounds for continuance. In determining whether to grant a continuance, the presiding officer may consider:

- a.* Prior continuances;
- b.* The interests of all parties;
- c.* The public interest;
- d.* The likelihood of informal settlement;
- e.* The existence of an emergency;
- f.* Any objection;
- g.* Any applicable time requirements;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- h.* The existence of a conflict in the schedules of counsel, parties, or witnesses;
- i.* The timeliness of the request; and
- j.* Other relevant factors.

**645—11.19(17A,272C) Hearing procedures.**

**11.19(1)** The presiding officer will have the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The presiding officer may request that an administrative law judge perform any of these functions and may be assisted and advised by an administrative law judge.

**11.19(2)** All objections will be timely made and stated on the record.

**11.19(3)** Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at the party's own expense.

**11.19(4)** Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

**11.19(5)** The presiding officer will maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

**11.19(6)** Witnesses may be sequestered during the hearing.

**11.19(7)** The presiding officer will have authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

**11.19(8)** The presiding officer will conduct the hearing in the following manner:

- a.* The presiding officer will give an opening statement briefly describing the nature of the proceedings;
- b.* The parties will be given an opportunity to present opening statements;
- c.* The parties will present their cases in the sequence determined by the presiding officer;
- d.* Each witness will be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;
- e.* When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

**11.19(9)** The board members and the administrative law judge have the right to question a witness. Examination of witnesses is subject to properly raised objections.

**11.19(10)** The hearing will be open to the public unless the licensee requests that the hearing be closed.

**645—11.20(17A) Evidence.**

**11.20(1)** The presiding officer will rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

**11.20(2)** Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

**11.20(3)** Evidence in the proceeding will be confined to the issues as to which the parties received notice prior to the hearing unless a party waives the party's right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

**11.20(4)** The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. All exhibits admitted into evidence will be appropriately marked and be made part of the record.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**11.20(5)** Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection will be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

**11.20(6)** Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it will be marked as part of an offer of proof and inserted in the record.

**11.20(7)** Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based on hearsay or other types of evidence which may or would be inadmissible in a jury trial.

**645—11.21(17A) Default.**

**11.21(1)** If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

**11.21(2)** Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

**11.21(3)** Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated. A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

**11.21(4)** The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

**11.21(5)** Properly substantiated and timely filed motions to vacate will be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties will have ten days to respond to a motion to vacate. Adverse parties will be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

**11.21(6)** "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

**11.21(7)** A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 645—11.24(17A).

**11.21(8)** If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer will issue another notice of hearing and the contested case will proceed accordingly.

**11.21(9)** A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 645—11.26(17A).

**645—11.22(17A) Ex parte communication.**

**11.22(1)** Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the statement of charges and notice of hearing, there will be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating, prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

**11.22(2)** Prohibitions on ex parte communications commence with the issuance of the statement of charges and notice of hearing in a contested case and continue for as long as the case is pending before the board.

**11.22(3)** Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

**11.22(4)** To avoid prohibited ex parte communications notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications will be provided in compliance with rule 645—11.6(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

**11.22(5)** Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

**11.22(6)** The board administrator or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a final decision under any provision of law and they comply with this rule.

**11.22(7)** Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and will notify other parties when seeking to continue hearings or other deadlines.

**11.22(8)** A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

*a.* If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication will be submitted for inclusion in the record under seal by protective order.

*b.* If the presiding officer determines that disqualification is not warranted, such documents will be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

**11.22(9)** Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

**11.22(10)** The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, suspension or revocation of the privilege to practice before the agency. Violation of ex parte communication prohibitions by board personnel will be reported to the board and its board administrator for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—11.23(17A) Recording costs.** Upon request, the board will provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record will be paid by the requesting party.

**645—11.24(17A) Interlocutory appeals.** Upon written request of a party or on its own motion, the board may review an interlocutory order of the board administrator or an administrative law judge. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first. In determining whether to do so, the board will consider:

1. The extent to which its granting the interlocutory appeal would expedite final resolution of the case; and
2. The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

**645—11.25(17A) Applications for rehearing.**

**11.25(1) Who may file.** Any party to a contested case proceeding may file an application for rehearing from a final order. The filing of an application for rehearing is not necessary to exhaust administrative remedies for purposes of judicial review.

**11.25(2) Content of application.** The application for rehearing will state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether the applicant requests an opportunity to submit additional evidence.

**11.25(3) Additional evidence.** A party may request the taking of additional evidence only by establishing that (a) the facts or other evidence arose after the original proceeding, or (b) the party offering such evidence could not reasonably have provided such evidence at the original proceedings, or (c) the party offering the additional evidence was misled by any party as to the necessity for offering such evidence at the original proceeding. A written request to present additional evidence must be filed with the application for rehearing or, by a nonappealing party, within 14 days of service of the notice of appeal.

**11.25(4) Filing deadline.** The application will be filed with the board within 20 days after issuance of the final decision.

**11.25(5) Notice to other parties.** A copy of the application will be timely mailed by the applicant to all parties of record not joining therein.

**11.25(6) Disposition.** Any application for a rehearing will be deemed denied unless the agency grants the application within 20 days after its filing.

**11.25(7) Only remedy.** Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

**11.25(8) Proceedings.** If the board grants an application for rehearing, the board may set the application for oral argument or for hearing if additional evidence will be received. If additional evidence will not be received, the board may issue a ruling without oral argument or hearing. The board may, on the request of a party or on its own motion, order or permit the parties to provide written argument on one or more designated issues. The board may be assisted by an administrative law judge in all proceedings related to an application for rehearing.

**645—11.26(17A) Stays of agency actions.**

**11.26(1) When available.** Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy.

**11.26(2) When granted.** In determining whether to grant a stay, the board will consider the factors listed in Iowa Code section 17A.19(5) "c."

**11.26(3) Vacation.** A stay may be vacated by the issuing authority upon application of the board or any other party.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—11.27(17A) No factual dispute contested cases.** If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

**645—11.28(17A) Emergency adjudicative proceedings.**

**11.28(1) Emergency action.** To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order.

**11.28(2)** Before issuing an emergency adjudicative order, the board will consider factors including, but not limited to, the following:

- a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;
- b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and
- e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

**11.28(3) Issuance of order.**

a. An emergency adjudicative order will contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action. The order is a public record.

b. The written emergency adjudicative order will be immediately delivered to the person who is required to comply with the order by utilizing one or more of the following procedures:

- (1) Personal delivery;
- (2) Certified mail, return receipt requested, to the last address on file with the agency;
- (3) Certified mail to the last address on file with the agency; or
- (4) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board will select the procedure for providing written notice that best ensures prompt, reliable delivery.

**11.28(4) Oral notice.** Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board will make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

**11.28(5) Completion of proceedings.** After the issuance of an emergency adjudicative order, the board will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

a. Issuance of a written emergency adjudicative order will include notification of the date on which board proceedings are scheduled for completion.

b. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the person who is required to comply with the order is the party requesting the continuance.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—11.29(17A) Appeal.** Any appeal to district court from a decision in a contested case will be taken within 30 days from the date of issuance of the decision by the board pursuant to Iowa Code section 17A.19.

**645—11.30(272C) Publication of decisions.** Final decisions of the board in a contested case will be transmitted to the appropriate association, the news media, and the employer.

**645—11.31(272C) Reinstatement.**

**11.31(1)** Any person whose license to practice has been revoked or suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the license is permanently revoked.

**11.31(2)** Unless otherwise provided by law, if the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

**11.31(3)** All proceedings for reinstatement will be initiated by the respondent, who will file with the board an application for reinstatement of the license. Such application will be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement will be subject to the same rules of procedure as other cases before the board.

**11.31(4)** An application for reinstatement will allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation, suspension or voluntary surrender of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts is on the respondent.

**11.31(5)** An order of reinstatement will be based upon a decision which incorporates findings of facts and conclusions of law. The order will be published as provided for in this chapter.

**645—11.32(17A,272C) License denial.**

**11.32(1)** An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing will specifically delineate the facts to be contested at hearing.

**11.32(2)** All hearings held pursuant to this rule will be held pursuant to the process outlined in this chapter.

**645—11.33(17A,272C) Informal settlement.**

**11.33(1) Informal settlement—parties.** A contested case may be resolved by informal settlement. Negotiation of an informal settlement may be initiated by the state of Iowa represented by an assistant attorney general, the respondent, or the board. The board shall designate a board member with authority to negotiate on behalf of the board. The full board will not be involved in negotiations until the presentation of a final, written, signed informal settlement to the full board for approval.

**11.33(2) Informal settlement—waiver of notice and opportunity to be heard.** Consent to negotiation by a respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code chapter 17A during informal settlement negotiation, and the assistant attorney general is thereafter authorized to discuss informal settlement with the board's designee until that consent is expressly withdrawn.

**11.33(3) Informal settlement—board approval.** All informal settlements are subject to approval of a majority of the board. No informal settlement will be presented to the board for approval except in final, written form executed by the respondent. If the board fails to approve the informal settlement, it will be of no force or effect to either party.

**11.33(4) Informal settlement—disqualification of designee.** A board member who is designated to act in negotiation of settlement is not disqualified from participating in the contested case should the case proceed to hearing.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**11.33(5) Voluntary surrender.** The board may accept the voluntary surrender of a license if accompanied by a written statement of intention. A voluntary surrender, when accepted in connection with a disciplinary proceeding, has the same force and effect as an order of revocation.

These rules are intended to implement Iowa Code chapters 17A and 272C.

**ARC 7302C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to informal settlement  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 12, “Informal Settlement,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 17A.10 and chapter 272C and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 272C.

*Purpose and Summary*

This proposed rulemaking would eliminate an unnecessary chapter in the Iowa Administrative Code. The purpose of Chapter 12 is to provide procedures for negotiation and resolution of a contested case by informal settlement. The chapter is being repealed and consolidated into 645—Chapter 11.

A public hearing was held on November 21, 2023, after proper notice and publication. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Emily DeRonde  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.249.7038  
 Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 9 to 9:20 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Or dial: +1 813.252.1868  
 PIN: 724 486 884#  
 More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
 9 to 9:20 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Or dial: +1 813.252.1868  
 PIN: 724 486 884#  
 More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **645—Chapter 12**.

**ARC 7305C**

**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to discipline and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 13, "Discipline," and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 21.7 and chapter 272C and Executive Order 10 (January 10, 2023).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 21.7 and chapter 272C.

*Purpose and Summary*

This proposed rulemaking provides protection to Iowa by publicly defining required professional standards for the 18 boards represented in this chapter. This includes the following boards: Hearing Aid Specialist Board, Speech Pathology and Audiology Board, Nursing Home Administrator Board, Optometry Board, Sign Language Interpreters and Transliterators Board, Barbering and Cosmetology Arts and Sciences Board, Physical and Occupational Therapy Board, Athletic Training Board, Mortuary Science Board, Physician Assistants Board, Chiropractic Board, Behavioral Science Board, Psychology Board, Social Work Board, Podiatry Board, Massage Therapy Board, Dietetics Board, and Respiratory Care Board. This is important to both the public and to the licensee because the rulemaking creates a shared understanding of what is and is not appropriate for certain types of licensed individuals. When professional standards are not met, it can subject a licensee to discipline against a licensee's license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation.

A public hearing was held November 21, 2023, after proper notice. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13  
DISCIPLINE

**645—13.1(272C) Definitions.**

“Board” means a professional licensing board established pursuant to Iowa Code chapter 147.

“Licensee” means a person licensed under Iowa Code chapter 147.

“Licensee discipline” means the same as defined in Iowa Code section 272C.1.

**645—13.2(147,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in Iowa Code section 147.55:

**13.2(1)** Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

*a.* False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

*b.* Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

**13.2(2)** Professional incompetence. Professional incompetence includes, but is not limited to:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- a.* A substantial lack of knowledge or ability to perform professional obligations within the scope of practice.
- b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other licensees in the state of Iowa acting in the same or similar circumstances.
- c.* A failure to exercise the degree of care which is ordinarily exercised by the average licensees acting in the same or similar circumstances.
- d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a licensee in this state.
- e.* Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
- f.* Being adjudged mentally incompetent by a court of competent jurisdiction.

**13.2(3)** Practice outside the scope of the profession.

**13.2(4)** Habitual intoxication or addiction to the use of drugs, including:

- a.* The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.
- b.* The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

**13.2(5)** Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

**13.2(6)** Falsification, alteration or destruction of client or patient records with the intent to deceive.

**13.2(7)** Acceptance of any fee by fraud or misrepresentation.

**13.2(8)** Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**13.2(9)** Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

**13.2(10)** Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of the profession.

**13.2(11)** Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

**13.2(12)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice in another state, district, territory or country.

**13.2(13)** Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

**13.2(14)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

**13.2(15)** Engaging in any conduct that subverts or attempts to subvert a board investigation.

**13.2(16)** Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

**13.2(17)** Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

**13.2(18)** Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**13.2(19)** Failure to pay costs assessed in any disciplinary action.

**13.2(20)** Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

**13.2(21)** Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

**13.2(22)** Knowingly aiding, assisting, or advising a person to unlawfully practice the profession.

**13.2(23)** Failure to report a change of name or address within 30 days after it occurs.

**13.2(24)** Representing oneself as a licensee when one's license has been suspended or revoked, or when one's license is on inactive status.

**13.2(25)** Permitting another person to use the licensee's license for any purpose.

**13.2(26)** Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license to practice the profession.

**13.2(27)** Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a patient or client.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.

**13.2(28)** Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

**13.2(29)** Violation of the terms of an initial agreement with the Iowa professional review committee or violation of the terms of an impaired practitioner recovery contract with the Iowa professional review committee.

**645—13.3(272C) Method of discipline.** The board has the authority to impose the following disciplinary sanctions as defined in Iowa Code section 272C.3, and as follows:

1. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
2. Such other sanctions allowed by law.

**645—13.4(272C) Discretion of board.** The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to assuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating facts or other countervailing considerations.
4. The number of prior violations or complaints.
5. The seriousness of prior violations or complaints.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

These rules are intended to implement Iowa Code sections 21.7, 272C.4, 272C.5, and 272C.6.

**ARC 7311C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to use of criminal convictions in eligibility determinations and initial licensing decisions and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensure hereby proposes to rescind Chapter 14, “Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 272C and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

*Purpose and Summary*

This proposed rulemaking clarifies the pathway to potential licensure for individuals with criminal convictions. The requirements set out in this rulemaking ensure a streamlined pathway while protecting the public through criteria that allows the board to review the complete criminal record, evidence of rehabilitation, and other information when making a determination on eligibility for licensure. This rulemaking implements recent legislation, 2020 Iowa Acts, House File 2627.

A public hearing was held November 21, 2023, after proper notice. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensure  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
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February 14, 2024  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 14 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 14

## USE OF CRIMINAL CONVICTIONS IN ELIGIBILITY DETERMINATIONS AND INITIAL LICENSING DECISIONS

**645—14.1(272C) Definitions.**

“*Complete criminal record*” includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

“*Conviction*” means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

“*Disqualifying offense*” means a conviction directly related to the duties and responsibilities of the profession pursuant to Iowa Code section 272C.1(8).

“*License*” means any license, registration, or permit issued by the board.

**645—14.2(272C) License application.** Unless an applicant for licensure petitions the board for an eligibility determination pursuant to rule 645—14.3(272C), the applicant's convictions will be reviewed when the board receives a completed license application.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**14.2(1)** An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

**14.2(2)** An applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

**14.2(3)** An applicant must submit all evidence of rehabilitation that the applicant wishes to be considered by the board.

**14.2(4)** The board may deny a license if the applicant has a disqualifying offense unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

**14.2(5)** An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

**14.2(6)** Any application fees paid will not be refunded if the license is denied.

**645—14.3(272C) Eligibility determination.**

**14.3(1)** An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure.

**14.3(2)** To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner shall submit all of the following:

- a. A completed petition for eligibility determination form;
- b. The complete criminal record for each of the petitioner's convictions;
- c. A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should find the petitioner rehabilitated;
- d. All evidence of rehabilitation that the petitioner wishes to be considered by the board; and
- e. Payment of a nonrefundable fee of \$25.

**645—14.4(272C) Appeal.** A petitioner deemed ineligible or an applicant denied a license due to a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board's written decision will become a final order.

**14.4(1)** An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

**14.4(2)** The contested case hearing shall be closed to the public, and the board's review of a proposed decision shall occur in closed session.

**14.4(3)** The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner or applicant's convictions include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

**14.4(4)** A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

**645—14.5(272C) Future petitions or applications.** If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement 2020 Iowa Acts, House File 2627.

**ARC 7296C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to impaired practitioner review committee  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 16, “Impaired Practitioner Review Committee,” and adopt a new Chapter 16, “Iowa Professional Review Committee,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 272C.3 and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

*Purpose and Summary*

The purpose of this proposed rulemaking is to form a committee to monitor impaired professionals for the purpose of public safety. The committee may include a licensed practitioner who has expertise in the area of substance abuse and addiction treatment; a licensed practitioner who has expertise in diagnosis and treatment of psychological disorders and disabilities; a specialty board-certified psychiatrist; a licensee who has remained free of addiction for a period of no less than two years since successfully completing the board-approved recovery program; and a licensed physician, physician assistant or advanced registered nurse practitioner whose specialty area is family practice or who has expertise in neurological disorders. The goal of this composition is to ensure that the committee has expertise in medicine, addiction, disability and/or recovery. The program is confidential and participation is not a matter of public record. Specific eligibility criteria must be met to ensure that matters that may need to be addressed by the board are routed appropriately. The goal of the program is to ensure that a licensee is safe to practice the licensee’s profession through ongoing committee monitoring. Participants enter into a contract with the committee and agree to adhere to all terms and agreements set forth in the contract. Failure to comply with the provisions of the contract gives the committee the authority to make a referral to the board for possible disciplinary action. If a contract provision is breached that poses an immediate risk to the public, the committee may place immediate practice restrictions on the licensee.

A public hearing was held November 21, 2023, after proper notice. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16  
IOWA PROFESSIONALS REVIEW COMMITTEE

**645—16.1(272C) Definitions.**

“*Contract*” means the written document establishing the terms for participation in the impaired practitioner program.

“*Initial agreement*” means the written document establishing the initial terms for participation in the impaired practitioner program.

“*IPRC*” or “*committee*” means the impaired Iowa professionals review committee.

“*Participant*” means an applicant or person licensed under Iowa Code chapter 147, 153, 154A, 154E, 155, or 155A who self-reports a potential impairment to the program, is referred to the program by the board, or signs an initial agreement or contract with the committee.

“*Self-report*” means written notification provided by the licensee to the board or committee that the licensee has been, is, or may be impaired. Information relative to impairment or a potential impairment provided on a license application or a renewal form may be considered a self-report. A self-report can be received even if the applicable licensing board has received a complaint or a third party has alleged the same.

**645—16.2(272C) Composition of the committee.** The division of licensing shall appoint members of the committee.

**16.2(1) Membership.** The committee may be composed of, but not limited to, members with the following qualifications:

- a. A licensed practitioner who has expertise in the area of substance abuse and addiction treatment.
- b. A licensed practitioner who has expertise in the diagnosis and treatment of psychological disorders and disabilities.
- c. A specialty board-certified psychiatrist who holds a current, active Iowa license as defined in rule 653—9.1(147,148,150,150A).
- d. A licensee who has remained free of addiction for a period of no less than two years since successfully completing a board-approved recovery program; board-ordered probation for drug or alcohol dependency, addiction or abuse; or an Iowa professionals review committee contract.
- e. An Iowa licensed physician, a physician assistant or an advanced registered nurse practitioner (ARNP) whose specialty area is family practice or who has expertise in neurological disorders.
- f. A board of pharmacy specialty certified psychiatric pharmacist who holds a current, active Iowa pharmacist license.
- g. An at-large public member.
- h. The board administrator for professional licensure or designee.

**16.2(2) Officers.** At the last meeting of each calendar year, the committee elects co-chairpersons to serve a one-year term beginning January 1. A chairperson, in consultation with counsel, may offer guidance and direction to staff between regularly scheduled committee meetings concerning program descriptions, interim restrictions on practice, and negotiation and execution of initial agreements and contracts on behalf of the committee. The committee retains authority to review all interim decisions at its discretion.

**16.2(3) Terms.** Committee members are appointed to a three-year term, for a maximum of three terms. Each term expires on December 31 of the third year of the term. Initial terms are for a period of one to three years as designated by the division to provide continuity to the committee.

**645—16.3(272C) Eligibility.**

**16.3(1)** To be eligible for participation in the program, an applicant or licensee must self-report or be referred by the board for an impairment or suspected impairment. The committee will determine for each self-report or referral whether the applicant or licensee is an appropriate candidate for participation



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

in the program. An applicant or licensee is ineligible if the committee finds sufficient evidence that the applicant or licensee:

- a. Diverted medication for distribution to third parties or for personal profit;
- b. Adulterated, misbranded, or otherwise tampered with medication intended for a patient;
- c. Provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the committee;
- d. Participated in the program, or a similar program offered by another state, without success;
- e. Failed to sign an initial agreement or a contract when offered by the committee; or
- f. Caused injury or harm to a patient or client.

**16.3(2) Discretion.** Eligibility of a person to participate in the program is at the sole discretion of the committee. No person is entitled to participate in the program.

**16.3(3) Limitations.** The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the program. Participation in the program shall not relieve the licensee's board of any duties or divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant will be referred to the board for appropriate action.

**645—16.4(272C) Terms of participation.** A participant is responsible for complying with the terms of participation established in the initial agreement and the contract, and for all expenses incurred to comply with the terms imposed by the program. Terms of participation specified in the contract shall include, but not be limited to:

**16.4(1) Duration.** The length of participation in the program is determined by the committee and will vary depending upon the recommendations of an approved evaluator and review of all relevant information.

**16.4(2) Noncompliance.** Participants are responsible for notifying the committee of any instance of noncompliance including, but not limited to, a relapse. Notification of noncompliance made to the IPRC by the participant, a monitoring provider, or another party may result in notice to the board for the filing of formal charges or other action the board deems appropriate.

**16.4(3) Practice restrictions.** The IPRC may impose practice restrictions on a participant as a term of the initial agreement or contract until such time as an approved evaluator and the IPRC determines, based on all relevant information, that the participant is capable of practicing with reasonable safety and skill. Participation in the program requires that participants agree to restrict practice in accordance with a request from the IPRC. If a participant refuses to agree to or comply with the restrictions established in the initial agreement or contract, the committee will refer the practitioner to the board for appropriate action.

**645—16.5(272C) Confidentiality.** Information in the possession of the board or the committee is subject to the confidentiality requirements of Iowa Code section 272C.6.

**16.5(1)** Program participants must report their participation to the applicable monitoring program or licensing authority in any state in which the participant is currently licensed or in which the participant seeks licensure.

**16.5(2)** The committee is authorized to communicate information about a participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance for the duration of the contract.

**16.5(3)** The committee is authorized to communicate information about a program participant to the board in the event a participant does not comply with the terms of the contract as set forth in rule 701—16.4(272C). The committee may provide the board with a participant's program file when the committee refers the case to the board for noncompliance. If the board initiates disciplinary action against a licensee as a result of the noncompliance, the board may include in the public disciplinary documents information about a licensee's participation in the program.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**16.5(4)** The committee is authorized to communicate information about a current or former program participant to the board if reliable information held by the committee reasonably indicates that a significant risk to the public exists. If the board initiates disciplinary action based upon this information, the board may include in the public disciplinary documents information about a licensee's participation if necessary to address impairment issues related to the violations which are the subject of the disciplinary action.

These rules are intended to implement Iowa Code chapter 272C.

**ARC 7298C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to materials for board review  
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 17, "Materials for Board Review," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 147 and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 147.

*Purpose and Summary*

The proposed rescission would eliminate an unnecessary chapter in the Iowa Administrative Code. Chapter 17 provides rules on internal processes that do not need to be in the Iowa Administrative Code.

A public hearing was held on November 21, 2023, after proper notice and publication. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since it reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Emily DeRonde  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.249.7038  
 Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 9 to 9:20 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Or dial: +1 813.252.1868  
 PIN: 724 486 884#  
 More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
 9 to 9:20 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Or dial: +1 813.252.1868  
 PIN: 724 486 884#  
 More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **645—Chapter 17.**

**ARC 7307C**

**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to waivers or variances from administrative rules and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 18, "Waivers or Variances From Administrative Rules," Iowa Administrative Code.

*Legal Authority for Rulemaking*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking is proposed under the authority provided in Iowa Code section 17A.9A and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147 and 272C.

*Purpose and Summary*

This proposed rulemaking would eliminate unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards' realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 6, which is substantively analogous to 645—Chapter 18. The proposed rulemaking aligns with Executive Order 10's goal of reducing and simplifying the Iowa Administrative Code and is in line with a stated goal of Iowa Code chapter 17A to "simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions."

A public hearing was held on November 21, 2023, after proper notice and publication. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **645—Chapter 18**.

**ARC 7310C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure by verification and of applicants with work experience and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 19, "Licensure by Verification and of Applicants with Work Experience," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 272C and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 272C and 2020 Iowa Acts, House File 2627.

*Purpose and Summary*

This proposed chapter provides an alternative pathway to licensure. This alternative option streamlines the process for individuals who are licensed in another state to be licensed in Iowa. The

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

requirements set out in this chapter ensure licensees have proper skills to practice. The chapter provides for certain criteria to be assessed, including prior discipline, proof of residency and work experience, in order to protect the public.

A public hearing was held November 21, 2023, after proper notice. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
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February 14, 2024  
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More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19

LICENSURE BY VERIFICATION AND OF APPLICANTS WITH WORK EXPERIENCE

**645—19.1(272C) Licensure by verification.** Licensure by verification is available in accordance with the following.

**19.1(1) Eligibility.** A person may seek licensure by verification if the person is licensed in at least one other jurisdiction that has a scope of practice substantially similar to that of Iowa.

**19.1(2) Board application.** The applicant must submit the following:

- a. A completed application.
- b. Payment of the application fee.
- c. Completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, if required for initial licensure by the board.
- d. An attestation that the applicant's license in that jurisdiction complies with the requirements of Iowa Code section 272C.12.
- e. A copy of the complete criminal record if the applicant has a criminal history.
- f. A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.
- g. A written statement from the applicant detailing the scope of practice in the other state.
- h. Copies of relevant laws setting forth the scope of practice in the other state.

**19.1(3) Applicants with prior discipline.** If another jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person who has had a license revoked, or who has voluntarily surrendered a license, in another jurisdiction is ineligible for licensure by verification.

**19.1(4) Applicants with pending licensing complaints or investigations.** If an applicant is currently the subject of a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

**19.1(5) Compact privileges.** A person who has a privilege to practice in Iowa by virtue of an interstate licensure compact is ineligible for licensure by verification. Licenses issued pursuant to this rule do not grant privileges to practice in any other jurisdiction pursuant to any interstate licensure compact.

**645—19.2(272C) Applicants with work experience in jurisdictions without licensure requirements.**

**19.2(1) Work experience.** An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a professional license to practice in the profession may be considered to have met any educational and training requirements if the person has at least three years of work experience with a scope of practice substantially similar to that of the profession for which a license in

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Iowa is sought. The three years of work experience must be within the four years preceding the date of application for initial licensure. The applicant must satisfy all other requirements, including passing any required examinations, to receive a license.

**19.2(2) Required documentation.** An applicant who wishes to substitute work experience in lieu of satisfying applicable education or training requirements shall carry the burden of proving all of the following by submitting relevant documents as part of a completed license application:

- a. Proof of Iowa residency.
- b. Proof of three or more years of work experience within the four years preceding the application for licensure.
- c. Proof that the work experience was in a practice with a scope of practice substantially similar to that for the license sought in Iowa.

These rules are intended to implement 2020 Iowa Acts, House File 2627.

**ARC 7309C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to military service  
and veteran reciprocity and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 20, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Executive Order 10 (January 10, 2023) and Iowa Code section 272C.12A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

*Purpose and Summary*

This proposed rulemaking would eliminate unnecessary and unreasonably duplicative language and rules in the Iowa Administrative Code. The boards’ realignment with the Department as a result of 2023 Iowa Acts, Senate File 514, allows the boards to rely on 481—Chapter 7, which is substantively analogous to 645—Chapter 20. The proposed rulemaking aligns with Executive Order 10’s goal of reducing and simplifying the Iowa Administrative Code and creating unity throughout the agency.

A public hearing was held on November 21, 2023, after proper notice and publication. No public comment was received.

*Fiscal Impact*

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

*Jobs Impact*

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

*Waivers*



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9 to 9:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: +1 813.252.1868  
PIN: 724 486 884#  
More phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **645—Chapter 20**.

**ARC 7293C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to licensure of marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts and providing an opportunity for public comment**

The Board of Behavioral Science hereby proposes to rescind Chapter 31, “Licensure of Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 154D and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154D and 272C.

*Purpose and Summary*

This proposed rulemaking sets minimum standards for entry into the professions of mental health counselors, marital and family therapists, behavior analysts and assistant behavior analysts. Iowa residents, licensees and employers benefit from the rulemaking because it articulates the processes by which individuals apply for licensure in these professions in the state of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications, and examination requirements.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Tony Alden  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.4401  
Email: [tony.alden@dia.iowa.gov](mailto:tony.alden@dia.iowa.gov)

*Public Hearing*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9:40 to 10 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9:40 to 10 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 31 and adopt the following **new** chapter in lieu thereof:

*BEHAVIORAL SCIENTISTS*

CHAPTER 31	LICENSURE OF MARITAL AND FAMILY THERAPISTS, MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR ANALYSTS
CHAPTER 32	CONTINUING EDUCATION FOR MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS
CHAPTER 33	DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS, MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR ANALYSTS

CHAPTER 31

LICENSURE OF MARITAL AND FAMILY THERAPISTS, MENTAL HEALTH COUNSELORS,  
BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR ANALYSTS

**645—31.1(154D) Definitions.** For purposes of these rules, the following definitions shall apply:

“*ACA*” means the American Counseling Association.

“*Active license*” means a license that is current and has not expired.

“*AMFTRB*” means the Association of Marital and Family Therapy Regulatory Boards.

“*AMHCA*” means the American Mental Health Counselors Association.

“*BACB*” means the Behavior Analyst Certification Board.

“*Board*” means the board of behavioral science.

“*CCE*” means the Center for Credentialing and Education, Inc.

“*Course*” means three graduate semester credit hours.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*“Inactive license”* means a license that has expired because it was not renewed by the end of the grace period.

*“Licensee”* means any person licensed to practice as a marital and family therapist, mental health counselor, behavior analyst, or assistant behavior analyst in the state of Iowa.

*“License expiration date”* means September 30 of even-numbered years for marital and family therapists and mental health counselors, and means the expiration date of the certification issued by the Behavior Analyst Certification Board for behavior analysts and assistant behavior analysts.

*“Licensure by endorsement”* means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is or has been licensed in another state.

*“Mental health setting”* means a behavioral health setting where an applicant is providing mental health services including the diagnosis, treatment, and assessment of emotional and mental health disorders and issues.

*“NBCC”* means the National Board for Certified Counselors.

*“Reactivate”* or *“reactivation”* means the process as outlined in rule 645—31.13(17A,147,272C) by which an inactive license is restored to active status.

*“Reinstatement”* means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

*“Temporary license”* means a license to practice marital and family therapy or mental health counseling under direct supervision of a qualified supervisor as determined by the board by rule to fulfill the postgraduate supervised clinical experience requirement in accordance with this chapter.

**645—31.2(154D) Requirements for permanent and temporary licensure as a mental health counselor or marriage and family therapist.** The following criteria shall apply to licensure:

**31.2(1)** The applicant shall submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.3(147,154D).

**31.2(2)** The applicant for a mental health counseling license shall submit two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

**31.2(3)** No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of behavioral science have been received by the board or an equivalency evaluation completed by the Center for Credentialing and Education, Inc. (CCE) has been received by the board. The applicant shall present proof of meeting the educational requirements. Documentation of such proof shall be on file in the board office with the application and include one of the following:

*a.* For licensure as a marital and family therapist, an official transcript verifying completion of a marital and family therapy program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as defined in subrule 31.5(1) or an equivalency evaluation of the applicant’s educational credentials completed by CCE as defined in subrule 31.5(2).

*b.* For licensure as a mental health counselor, an official transcript verifying completion of a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs (CACREP) as defined in subrule 31.6(1) or an equivalency evaluation of the applicant’s educational credentials completed by CCE as defined in subrule 31.6(2).

**31.2(4)** The candidate is required to take the examination(s) provided in rule 645—31.3(1).

**31.2(5)** The candidate for permanent licensure shall submit the required attestation of supervision forms documenting clinical experience as required in rule 645—31.7(154D).

**31.2(6)** The candidate for temporary licensure must submit a supervision plan to the board prior to licensure. Within 30 days of completion of the supervised clinical experience, the attestation of the completed supervised experience must be submitted to the board office. The temporary licensee shall remain under supervision until a permanent license is issued.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**31.2(7)** A temporary license is only valid for the purpose of fulfilling the postgraduate supervised clinical experience requirement. It is valid for three years and may be renewed at the discretion of the board.

**31.2(8)** A licensee who was issued an initial permanent license within six months prior to the renewal shall not be required to renew the license until the renewal date two years later.

**31.2(9)** An application for a temporary or permanent license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

**645—31.3(154D) Examination requirements for mental health counselors and marital and family therapists.** The following criteria shall apply to the written examination(s):

**31.3(1)** The applicant will take and pass the following examinations in order to qualify for licensing:

*a.* For a marital and family therapist license, the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) Examination in Marital and Family Therapy.

*b.* For a mental health counselor license or a temporary mental health counselor license, the National Counselor Examination (NCE) of the NBCC or the National Clinical Mental Health Counselor Examination (NCMHCE) of the NBCC. For a temporary mental health counselor license, the NCE of the NBCC or the NCMHCE of the NBCC.

*c.* For a mental health counselor license, the NCMHCE of the NBCC.

**31.3(2)** The passing score on the written examination shall be the passing point criterion established by the appropriate national testing authority at the time the test was administered.

**31.3(3)** An applicant who is requesting approval to take the licensure examination prior to graduation shall:

*a.* Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.3(147,154D).

*b.* Have a letter on official school letterhead sent directly from the program director to the board indicating that the applicant is in good academic standing; that the applicant will graduate from the program within three months of the date on the letter; and the applicant's anticipated date of graduation.

**645—31.4(147) Professional counselor licensing compact.** The rules of the Counseling Compact Commission are incorporated by reference.

**645—31.5(154D) Educational qualifications for marital and family therapists.** The applicant must complete the required semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in subrule 31.5(2); no course may be used more than once. The applicant must present proof of completion of the following educational requirements for licensure as a marital and family therapist:

**31.5(1) Accredited program.** Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

**31.5(2) Content-equivalent program.** Applicants must present an official transcript verifying completion of a master's degree of 60 semester hours (or 80 quarter hours or equivalent) or a doctoral degree in marital and family therapy, behavioral science, or a counseling-related field from a college or university accredited by an agency recognized by the United States Department of Education, which is content-equivalent to a graduate degree in marital and family therapy. Applicants who

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

entered a program of study prior to July 1, 2010, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent. Graduates from non-COAMFTE-accredited marital and family therapy programs shall provide an equivalency evaluation of the graduates' educational credentials by the Center for Credentialing and Education, Inc. (CCE), website [cce-global.org](http://cce-global.org).

**645—31.6(154D) Educational qualifications for mental health counselors.** The applicant must complete three semester credit hours, or equivalent quarter hours, of graduate level coursework in each of the content areas identified in subrule 31.6(2); no course may be used to fulfill more than one content area. The applicant must present proof of completion of the following educational requirements for licensure as a mental health counselor:

**31.6(1) Accredited program.** Applicants must present with the application an official transcript verifying completion of a master's degree of 60 semester hours (or equivalent quarter hours) or a doctoral degree in counseling with emphasis in mental health counseling from a mental health counseling program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) from a college or university accredited by an agency recognized by the United States Department of Education. Applicants who entered a program of study prior to July 1, 2012, must present with the application an official transcript verifying completion of a master's degree of 45 semester hours or the equivalent; or

**31.6(2) Content-equivalent program.** Applicants must present an official transcript verifying completion of a master's degree or a doctoral degree from a college or university accredited by an agency recognized by the United States Department of Education which is content-equivalent to a master's degree in counseling with emphasis in mental health counseling. Graduates from non-CACREP accredited mental health counseling programs shall provide an equivalency evaluation of their educational credentials by the Center for Credentialing and Education, Inc. (CCE), website [cce-global.org](http://cce-global.org).

**31.6(3) Foreign-trained marital and family therapists or mental health counselors.** Foreign-trained marital and family therapists or mental health counselors shall:

*a.* Provide an equivalency evaluation of their educational credentials by the following: International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone 310.258.9451; website [www.ierf.org](http://www.ierf.org) or email at [info@ierf.org](mailto:info@ierf.org). A candidate shall bear the expense of the curriculum evaluation.

*b.* Receive a final determination from the board regarding the application for licensure.

**645—31.7(154D) Supervised clinical experience.** An applicant for licensure as a mental health counselor or marital and family therapist must complete a supervised clinical experience as set forth in this rule.

**31.7(1) Minimum requirements.** The supervised clinical experience must satisfy all of the following requirements:

*a. Timing.* The supervised clinical experience cannot begin until after all graduate coursework has been completed with the exception of the thesis.

*b. Duration.* The supervised clinical experience must be for a minimum of two years.

*c. Minimum number of hours.* The supervised clinical experience must consist of at least 3,000 hours of practice.

*d. Minimum number of direct client hours.* The supervised clinical experience will consist of at least 1,500 hours of direct client contact.

*e. Minimum number of direct supervision hours.* The supervised clinical experience will consist of at least 110 hours of direct supervision equitably distributed throughout the supervised clinical experience, including at least 24 hours of live or recorded direct observation of client interaction. A maximum of 50 hours of direct supervision may be obtained through group supervision. Direct supervision can occur in person or by using videoconferencing. After 110 hours of direct supervision

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are complete, ongoing direct supervision will continue to occur for the remainder of the supervised clinical experience.

*f. Number of supervisors.* A supervisee may utilize a maximum of four supervisors at any given time. A supervisee is responsible for notifying each supervisor if another supervisor is also being utilized to allow for coordination as appropriate.

*g. Number of supervisees.* A supervisor will determine the number of supervisees who can be supervised safely and competently and will not exceed that number.

*h. Content.* The supervised clinical experience must involve performing psychosocial assessments, diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) published March 2022, and providing treatment, including the establishment of treatment goals, psychosocial therapy using evidence-based therapeutic modalities, and differential treatment planning. The supervised clinical experience will prepare the supervisee for independent practice and must include training on practice management, ethical standards, legal and regulatory requirements, documentation, coordination of care, and self-care.

**31.7(2) Eligible supervisors.** A supervisor must satisfy all of the following requirements:

*a.* Hold an active license as an independent level social worker, mental health counselor, or marital and family therapist in Iowa.

*b.* Have a minimum of three years of independent practice.

*c.* Have completed at least a six-hour continuing education course in supervision or one graduate-level course in supervision.

*d.* Be knowledgeable of the applicable ethical code and licensing rules governing the supervisee.

Any request for a supervisor who does not meet these requirements must be approved by the board before supervision begins.

**31.7(3) Supervision plan.** Prior to beginning supervision, the supervisee will submit a written supervision plan to the board using the current form published by the board. The supervisee will also submit a written supervision plan to the board prior to beginning supervision with a new supervisor.

**31.7(4) Supervision report.** When supervision is complete, or when a supervisor ceases providing supervision to the supervisee, the supervisee will ensure a completed supervision report using the current form published by the board is submitted to the board. If the supervisor reports that the supervisee is not adequately prepared for independent licensure, or reports violations of the board's rules or applicable ethical code, the board may require the supervisee to complete additional supervision or training as deemed appropriate prior to licensure.

**31.7(5) Supervised clinical experience in other states.** An applicant who completed some or all of the supervised clinical experience in another state without obtaining licensure in that state should contact the board to determine whether some or all of the supervised clinical experience that has been completed can be used to qualify for licensure in Iowa.

**31.7(6) Grandfather clause.** Any new or additional requirements imposed by this rule do not apply to supervision that started prior to July 20, 2022.

**645—31.8(154D) Licensure by endorsement for mental health counselors and marital and family therapists.** An applicant who has been a licensed marriage and family therapist or mental health counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

**31.8(1)** The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

*a.* Meets the requirements of rule 645—31.2(154D); and

*b.* Provides verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction(s) to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

(1) Licensee's name;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

**31.8(2)** In lieu of meeting the requirements of subrules 31.2(4) and 31.2(5), applicants who meet the qualifications below may instead submit documentation demonstrating how each of the qualifications below is satisfied:

- a.* The applicant possesses a master's degree or higher in mental health counseling or marital and family therapy or an equivalent counseling-related field; and
- b.* The applicant does not have any past or pending disciplinary action from any state licensing boards related to any mental health counseling or marital and family therapy license currently or previously held by the applicant.

**31.8(3)** A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**645—31.9(147) Licensure of behavior analysts and assistant behavior analysts.**

**31.9(1)** The applicant must submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.3(147,154D).

**31.9(2)** For licensure as a behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified behavior analyst or board-certified behavior analyst-doctoral. For licensure as an assistant behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified assistant behavior analyst.

**645—31.10(147) License renewal for mental health counselors and marriage and family therapists.**

**31.10(1)** The biennial license renewal period for a license to practice marital and family therapy or mental health counseling shall begin on October 1 of an even-numbered year and end on September 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

**31.10(2)** A licensee seeking renewal shall:

- a.* Meet the continuing education requirements of rule 645—32.2(272C). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b.* Submit the completed renewal application and renewal fee before the license expiration date.

An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

**31.10(3)** Mandatory reporter training requirements.

*a.* A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph "d."

*b.* A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph "d."

*c.* The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" and "b," including program date(s), content, duration, and proof of participation.

*d.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

*e.* The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “d.”

**31.10(4)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**31.10(5)** A person licensed to practice as a marital and family therapist or mental health counselor shall keep the person’s license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

**31.10(6)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.3(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**31.10(7)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice mental health counseling or marital and family therapy in Iowa until the license is reactivated. A licensee who practices mental health counseling or marital and family therapy in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—31.11(272C) Initial licensing, reactivation, and license renewal for behavior analysts and assistant behavior analysts.**

**31.11(1)** An initial license for a behavior analyst or assistant behavior analyst shall be issued with the same expiration date as the applicant’s current certification issued by BACB.

**31.11(2)** The biennial license renewal period for a behavior analyst or assistant behavior analyst shall run concurrent with the licensee’s BACB certification. Each license renewed shall be given the expiration date that is on the licensee’s current BACB certification. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

**31.11(3)** A licensee seeking renewal shall:

*a.* Meet the continuing education requirements required by BACB to renew a certification.

*b.* Maintain current certification as a board-certified behavior analyst, board-certified behavior analyst-doctoral, or board-certified assistant behavior analyst issued by BACB.

*c.* Submit the completed renewal application and renewal fee before the license expiration date.

**31.11(4)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**31.11(5)** A person licensed as a behavior analyst or assistant behavior analyst shall keep the person’s license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

**31.11(6)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.3(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**31.11(7)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

in Iowa, but may not engage in the practice of applied behavior analysis for which a license is required in Iowa until the license is reactivated. A licensee who practices applied behavior analysis in a capacity that requires licensure in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**31.11(8) Reactivation.** To apply for reactivation of an inactive license, a licensee shall submit a completed renewal application and proof of current certification and shall be assessed a reactivation fee as specified in 645—subrule 5.3(6).

**645—31.12(147) Licensee record keeping.**

**31.12(1)** A licensee shall maintain sufficient, timely, and accurate documentation in client records.

**31.12(2)** For purposes of this rule, “client” means the individual, couple, family, or group to whom a licensee provides direct clinical services.

**31.12(3)** A licensee’s records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

**31.12(4) Clinical services.** A licensee who provides clinical services in any employment setting, including private practice, shall:

*a.* Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee’s employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all client records for a minimum of seven years after the date of the client’s discharge or death, or, in the case of a minor, for three years after the client reaches the age of majority under state law or seven years after the date of the client’s discharge or death, whichever is longer.

*b.* Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of treatment.

*c.* Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client’s access to the client’s records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client’s access to the client’s records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client’s request for access and the licensee’s rationale for withholding some or all of a record shall be documented in the client’s records.

*d.* Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

**31.12(5) Electronic record keeping.** The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

**31.12(6) Correction of records.**

*a.* Hard-copy records. Original notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the licensee.

*b.* Electronic records. If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

**31.12(7) Confidentiality and transfer of records.** Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

**31.12(8) Retirement, death or discontinuance of practice.**

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*a.* If a licensee is retiring or discontinuing practice and is the owner of a practice, the licensee shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

*b.* Upon a licensee's death:

(1) The licensee's employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The licensee's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

**31.12(9)** Nothing stated in this rule shall prohibit a licensee from conveying or transferring the licensee's client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

**645—31.13(17A,147,272C) License reactivation for mental health counselors and marital and family therapists.** To apply for reactivation of an inactive license, a licensee shall:

**31.13(1)** Submit a reactivation application.

**31.13(2)** Pay the reactivation fee that is due as specified in 645—Chapter 5.

**31.13(3)** Provide:

*a.* Verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction(s) to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license; and

*b.* Verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

**645—31.14(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—31.13(17A,147,272C) or subrule 31.11(8) prior to practicing mental health counseling, marital and family therapy, or applied behavior analysis in this state.

**645—31.15(154D) Marital and family therapy and mental health counselor services subject to regulation.** Marital and family therapy and mental health counselor services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the marital and family therapy and mental health counselor, shall constitute the practice of marital and family therapy and mental health counseling and shall be subject to regulation in Iowa.

**645—31.16(154D) Temporary licensees.** A temporary licensee shall engage only in the practice of marital and family therapy or mental health counseling as part of an agency or group practice with oversight over the temporary licensee. The agency or group practice shall have at least one independently

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

licensed mental health provider. A temporary licensee shall not practice as a solo practitioner or solely with other temporary licensees.

These rules are intended to implement Iowa Code chapters 17A, 147, 154D and 272C.

**ARC 7294C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to continuing education for marital and family therapists and mental health counselors and providing an opportunity for public comment**

The Board of Behavioral Science hereby proposes to rescind Chapter 32, “Continuing Education for Marital and Family Therapists and Mental Health Counselors,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 154D and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154D and 272C.

*Purpose and Summary*

This proposed rulemaking sets forth continuing education requirements for mental health counselors and marital and family therapists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rules, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that mental health counselors and marital and family therapists maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Tony Alden  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.281.4401  
 Email: [tony.alden@dia.iowa.gov](mailto:tony.alden@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 9:40 to 10 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:tel.meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
 9:40 to 10 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:tel.meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 32 and adopt the following **new** chapter in lieu thereof:

CHAPTER 32  
 CONTINUING EDUCATION FOR MARITAL AND  
 FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

**645—32.1(272C) Definitions.** For the purpose of these rules, the following definitions will apply:

“*Active license*” means the license is current and has not expired.

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

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

“*Board*” means the board of behavioral science.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

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

*“Inactive license”* means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

*“Independent study”* means a continuing education program or activity that a licensee pursues autonomously that includes a posttest and meets the general criteria in subrule 32.3(1).

*“License”* means license to practice.

*“Licensee”* means any person licensed to practice marital and family therapy or mental health counseling in the state of Iowa.

**645—32.2(272C) Continuing education requirements.**

**32.2(1)** The biennial continuing education compliance period shall extend for a 25-month period beginning on September 1 of the even-numbered year and ending on September 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state is required to complete a minimum of 40 hours of continuing education approved by the board.

**32.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

**32.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

**32.2(4)** No hours of continuing education will be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**32.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—32.3(154D,272C) Standards.**

**32.3(1) General criteria.** A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

*a.* Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

*b.* Pertains to subject matters which integrally relate to the practice of the profession;

*c.* Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters.

*d.* Fulfills stated program goals, objectives, or both; and

*e.* Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**32.3(2) Specific criteria.** Continuing education hours of credit may be obtained by completing the following:

*a.* Attendance at workshops, conferences, symposiums and webinars.

*b.* Academic courses. Official transcripts indicating successful completion of academic courses which apply to the field of mental health counseling or marital and family therapy, as appropriate, will be necessary in order to receive the following continuing education credits:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

c. Completion of independent study courses that meet the general criteria in subrule 32.3(1).

d. A maximum of 20 hours of continuing education credit may be granted for any of the following activities not to exceed a combined total of 20 hours:

(1) Presenting professional programs which meet the criteria in rule 645—32.3(272C). Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presentation at a professional program does not include teaching a class at an institution of higher learning at which the applicant is regularly and primarily employed. Presentations to lay public are excluded.

(2) Scholarly research or other activities, the results of which are published in a recognized professional publication such as a refereed journal, monograph or conference proceedings. The scholarly research must be integrally related to the practice of the professions.

(3) Publication in a refereed journal. The article in a refereed journal for which the licensee is seeking continuing education credit must be integrally related to the practice of the professions.

(4) Teaching in an approved college, university, or graduate school. The licensee may receive credit on a one-time basis for the first offering of the course.

(5) Authoring papers, publications, and books. The licensee will receive 5 hours of credit per page with a maximum of 20 hours of credit.

(6) Serving on a state or national professional board. The licensee will receive a maximum of three hours of credit.

**32.3(3) Required specific criteria:**

a. Three hours of the 40 continuing education hours will be in ethics.

b. Effective with the biennial continuing education compliance period that begins October 1, 2022, persons serving in a supervisory role must complete three hours of continuing education in supervision.

c. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats adults in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in dependent adult abuse training for mandatory reporters offered by the department of health and human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

d. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats children in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in child abuse training for mandatory reporters offered by the department of health and human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154D.

**ARC 7295C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to discipline for marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts and providing an opportunity for public comment**

The Board of Behavioral Science hereby proposes to rescind Chapter 33, “Discipline for Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 154D and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154D and 272C.

*Purpose and Summary*

This proposed rulemaking provides protection to Iowans because it publicly defines disciplinary options when a mental health counselor, marital and family therapist, behavior analyst, or assistant behavior analyst fails to provide the standard of care. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, a licensee can be subject to discipline against a license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the Board of Behavioral Science and are therefore excluded from the general disciplinary chapter.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Tony Alden  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.4401  
Email: [tony.alden@dia.iowa.gov](mailto:tony.alden@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

February 13, 2024  
9:40 to 10 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9:40 to 10 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 33 and adopt the following **new** chapter in lieu thereof:

CHAPTER 33  
DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS,  
MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS,  
AND ASSISTANT BEHAVIOR ANALYSTS

**645—33.1(154D,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—33.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

**33.1(1)** Failure to comply with the national association's code of ethics.

*a. Marital and family therapists.* Failure to comply with the current American Association for Marriage and Family Therapy (AAMFT) Code of Ethics revised January 2015, which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the AAMFT's website.

*b. Mental health counselors.* Failure to comply with the current Code of Ethics of the American Counseling Association (ACA) published 2014, which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the ACA website.

*c. Behavior analysts and assistant behavior analysts.* Failure to comply with the current Behavior Analyst Certification Board (BACB) Professional and Ethical Compliance Code for Behavior Analysts published January 2023, which is hereby adopted by reference. Copies of the Professional and Ethical Compliance Code may be obtained from the BACB website.

**33.1(2)** Sexual relationships.

*a. Current clients.* A licensee shall not engage in sexual activities or sexual contact with a client, regardless of whether such contact is consensual or nonconsensual.

*b. Former clients.* A licensee shall not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A licensee shall not engage

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

in sexual activities or sexual contact with a former client, regardless of the length of time elapsed since termination of the client relationship, if the client has a history of physical, emotional, or sexual abuse or if the client has ever been diagnosed with any form of psychosis or personality disorder or if the client is likely to remain in need of therapy due to the intensity or chronicity of a problem.

c. A licensee shall not engage in sexual activities or sexual contact with a client's or former client's spouse or significant other.

d. A licensee shall not engage in sexual activities or sexual contact with a client's or former client's relative within the second degree of consanguinity (client's parent, grandparent, child, grandchild, or sibling) when there is a risk of exploitation or potential harm to a client or former client.

e. A licensee shall not provide clinical services to an individual with whom the licensee has had prior sexual contact.

**33.1(3) Physical contact.** A licensee shall not engage in physical contact with a client when there is a possibility of psychological harm to the client as a result of the contact. A licensee who engages in appropriate physical contact with a client is responsible for setting clear, appropriate, and culturally and age-sensitive boundaries which govern such contact.

This rule is intended to implement Iowa Code chapters 17A, 147, 154D and 272C.

**ARC 7537C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

**Proposing rulemaking related to licensure of barbers, cosmetologists, electrologists, estheticians, nail technologists, and instructors of barbering and cosmetology arts and sciences and providing an opportunity for public comment**

The Board of Barbering and Cosmetology Arts and Sciences hereby proposes to rescind Chapter 60, "Licensure of Cosmetologists, Electrologists, Estheticians, Manicurists, Nail Technologists, and Instructors of Cosmetology Arts and Sciences," and to adopt a new Chapter 60, "Licensure of Barbers, Cosmetologists, Electrologists, Estheticians, Nail Technologists, and Instructors of Barbering and Cosmetology Arts and Sciences," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 157.14, 272C.2A, 272C.3, 272C.4 and 272C.10 and Executive Order 10 (January 10, 2023).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 157 and 272C; 2023 Iowa Acts, House File 652; and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This proposed rulemaking sets minimum standards of entry into the barbering and cosmetology arts and sciences professions. Iowa residents, licensees, and employers benefit from the rulemaking because the rulemaking clarifies the processes by which licensees may apply for licensure as a barber and cosmetologist, nail technician, esthetician, electrologist, or instructor as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety through review of the integrity and competence of the practitioner. Requirements include the application process, educational qualifications, and examination requirements. The rulemaking also articulates the merger of the Board of Barbering with the Board of Cosmetology Arts and Sciences, providing guidance for legacy license holders.

Public comments received at the November 21, 2023, public hearing from Sue Charles and the Iowa Cosmetology School Association were reviewed by the Board. After discussion, the Board agrees

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

that licensees and the public benefit by incorporating many of the suggestions outlined below. Edits were made to ensure the term “salon” was replaced with “establishment” where appropriate. The term “barbering and” was added in front of “cosmetology arts and sciences” where applicable. Clarification of the definition of the term “shaving” was made in rule 645—60.1(157). A lettered paragraph added to subrule 60.5(1) clarifies that only a straight edge razor with a disposable blade shall be used for shaving and added the requirement for a school name and license number to be included on shaving certifications of training issued for the purpose of obtaining a Board certification in shaving. In subrule 60.5(3), chemical exfoliation certifications of training will include evidence of a safety training component. During the review, the Board also chose to add clarifying language to rule 645—60.5(157) that prescribed practice certificates for use of a specific machine, product, model or device do not require renewal. In subrules 60.5(4) and 60.5(5), language was added to clarify that the certifications of training issued for the purpose of obtaining a Board certification in laser services and intense pulsed light (IPL) hair removal treatments, respectively, must include the contact hours specific to the laser, machine, model or device and the name of the approved manufacturer or institute of laser technology that provided the training.

The Board did not incorporate the following public comments for the following reasons:

**Comments 1 and 2 related to subrule 60.4(4):** A rule restricting barbers and cosmetologists licensed after July 1, 2005, from practicing chemical peels, microdermabrasion, lasers, or IPL for hair removal (“the restricted practices”).

**Comment 1:** Remove “barber” from the rule since barbers were never trained in the restricted practices before or after July 1, 2005. **Board response:** The addition of “barber” is required by statute as outlined in 2023 Iowa Acts, House File 652. Additionally, Iowa Code chapter 157 no longer recognizes “cosmetologists” and “barbers” as separate professions; such licensees are now known as “barbers and cosmetologists.” As required by law, the Board has proposed this rule, which would ensure any person who was previously licensed as a cosmetologist or as a barber after July 1, 2005, is prohibited from engaging in the restricted practices.

**Comment 2:** Allow cosmetologists licensed after July 1, 2005, to train and be certified in the restricted practices. **Board response:** The Board cannot permit persons licensed in barbering and cosmetology after July 1, 2005, to engage in the restricted practices because this prohibition is required by law in Iowa Code chapter 157. Only the Legislature can remove this restriction.

**Comments 3 and 4 related to subrule 60.4(6):** A rule limiting the practice of pedicuring to persons licensed by the Board who possess the skill and knowledge required to perform the service.

**Comment 3:** Will the Board prescribe a minimum number of training hours on pedicuring for persons who were previously licensed as barbers? **Board response:** No. The Board is not prescribing a minimum number of training hours. Rather, any licensee engaged in the practice of pedicuring, if asked, must be able to show proof of competence.

**Comment 4:** The original rule limited pedicuring to licensed cosmetologists or nail technologists. Why has the rule been rewritten? **Board response:** As modified by 2023 Iowa Acts, House File 652, Iowa Code chapter 157 allows persons who have a license in nail technology or a license in barbering and cosmetology to practice pedicuring. Because the new, single-scope license of “barbering and cosmetology” encompasses persons who were previously licensed as barbers and who were not required to be trained in pedicuring for their original license, the Board has modified its rule to clarify that no licensee may perform pedicuring unless, if asked, the licensee can show evidence the licensee has the skill and training to perform the practice. Moreover, the Board cannot issue rules specific to “cosmetologists” since the law no longer recognizes cosmetology as a separate profession.

**Comments 5 and 6 related to subrule 60.4(7):** A rule limiting the practice of waxing to persons licensed by the Board who possess the skill and knowledge required to perform the service.

**Comment 5:** Will the Board prescribe a minimum number of training hours on waxing for persons who were previously licensed as barbers? **Board response:** No. The Board is not prescribing a minimum number of training hours. Rather, any licensee engaged in the practice of waxing, if asked, must be able to show proof of competence.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**Comment 6:** The original rule was specific to facial waxing, and the rule limited this practice to licensed cosmetologists or estheticians. Why has the rule been modified? The commenter also indicated that, in the commenter's experience, nail technologists have been known to illegally perform facial waxing. The commenter expressed concern that the updated rule would imply that nail technologists are allowed to perform waxing on areas of the body other than the hands. **Board response:** As modified by 2023 Iowa Acts, House File 652, Iowa Code chapter 157 allows persons who have a license in esthetics or a license in barbering and cosmetology to practice pedicuring. Because the new, single-scope license of "barbering and cosmetology" encompasses persons who were previously licensed as barbers and who were not required to be trained in waxing for hair removal for their original license, the Board has modified its rule to clarify that no licensee may perform waxing unless, if asked, the licensee can show evidence the licensee has the skill and training to perform the practice. Moreover, the Board cannot issue rules specific to "cosmetologists" since the law no longer recognizes cosmetology as a separate profession.

The Administrative Rules Review Committee also recognizes that Iowa Code chapter 157 limits facial waxing to estheticians and to barbers and cosmetologists, and that nail technologists are limited in the scope of waxing services they may offer. Executive Order 10 requires the Board to remove rules that are redundant with the Iowa Code, so a rule that reiterates a statutory limitation would be potentially redundant.

**Comment 7 related to subrule 60.5(1):** A rule limiting the practice of shaving to persons licensed in barbering and cosmetology who have been certified by the Board to perform the practice after either (a) showing evidence of having passed a National-Interstate Council of State Boards of Cosmetology, Inc. (NIC) or national barber practical examination or (b) completing a 40-hour shaving program. Persons previously licensed as barbers prior to July 1, 2023, are exempt from this requirement. The rule also reiterates that shaving is for hair removal on the scalp, face, or neck.

**Comment 7:** The proposed rule for 40-hour shaving courses requires the course to be taught by a licensed instructor. The commenter recommends amending this to any licensee who is experienced and knowledgeable (or similar language), at least for the interim, to ensure licensed instructors can also gain the 40 hours of training from experienced barbers who are not otherwise licensed instructors. **Board response:** The proposed rules that implement the new, combined curriculum for all licensed schools of barbering and cosmetology are planned to go into effect on August 1, 2024. The rule on 40-hour shaving courses will also be effective on the same date. If the proposed rule was modified to allow experienced barbers to teach these courses, the language would be obsolete since schools will already be required to ensure the schools are teaching the combined curriculum that includes barbering.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

A waiver provision is not included in this rule making because all administrative rules of the Board are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Venus Vendoures Walsh  
Division of Licensing  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321-1270  
Phone: 515.242.6529  
Email: [venus.vendoures-walsh@idph.iowa.gov](mailto:venus.vendoures-walsh@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
1:50 to 2:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: +1 904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[ttdt.meet/jji-jaoj-uqy?pin=4753713549740](https://ttdt.meet/jji-jaoj-uqy?pin=4753713549740)

February 14, 2024  
1:50 to 2:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: +1 904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[ttdt.meet/jji-jaoj-uqy?pin=4753713549740](https://ttdt.meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 60 and adopt the following **new** chapter in lieu thereof:

*COSMETOLOGISTS*

CHAPTER 60	LICENSURE OF BARBERS, COSMETOLOGISTS, ELECTROLOGISTS, ESTHETICIANS, NAIL TECHNOLOGISTS, AND INSTRUCTORS OF BARBERING AND COSMETOLOGY ARTS AND SCIENCES
CHAPTER 61	LICENSURE OF ESTABLISHMENTS AND SCHOOLS OF BARBERING AND COSMETOLOGY ARTS AND SCIENCES
CHAPTER 62	RESERVED
CHAPTER 63	INFECTION CONTROL FOR ESTABLISHMENTS AND SCHOOLS OF BARBERING AND COSMETOLOGY ARTS AND SCIENCES
CHAPTER 64	CONTINUING EDUCATION FOR BARBERING AND COSMETOLOGY ARTS AND SCIENCES
CHAPTER 65	DISCIPLINE FOR BARBERING AND COSMETOLOGY ARTS AND SCIENCES LICENSEES, INSTRUCTORS, AND SCHOOLS

CHAPTER 60

LICENSURE OF BARBERS, COSMETOLOGISTS, ELECTROLOGISTS, ESTHETICIANS, NAIL TECHNOLOGISTS, AND INSTRUCTORS OF BARBERING AND COSMETOLOGY ARTS AND SCIENCES

**645—60.1(157) Definitions.** In addition to the definitions included in Iowa Code sections 157.1 and 84D.2 and 29 Code of Federal Regulations (CFR) §29.5 as amended on December 19, 2016, the following definitions apply to terms used in this chapter:

*“Active license”* means a license that is current and has not expired.

*“Core curriculum”* means the basic core life sciences curriculum that is required for completion of any course of study of barbering and cosmetology arts and sciences except for manicuring.

*“Examination”* means any of the tests used to determine minimum competency prior to the issuance of a barbering and cosmetology arts and sciences license.

*“Grace period”* means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

*“Inactive license”* means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

*“Legacy curriculum”* means a course of study and curriculum offered by barbering schools or cosmetology arts and sciences schools that, as applicable, comply with the administrative rules issued by the Iowa board of barbering or by the Iowa board of cosmetology arts and sciences that were in effect on June 30, 2023.

*“Licensee”* means any person or entity licensed to perform practice disciplines governed by the board of barbering and cosmetology arts and sciences pursuant to Iowa Code chapter 157 and 645—Chapters 60 through 65.

*“Licensure by endorsement”* means the issuance of an Iowa license to practice barbering and cosmetology arts and sciences to an applicant who is or has been licensed in the District of Columbia or in another state, territory, province or foreign country and who has held an active license under the laws of such other jurisdiction for at least 12 months during the past 24 months.

*“Mentor”* means a licensee providing guidance in a mentoring program.

*“Mentoring”* means a program allowing students to experience barbering and cosmetology arts and sciences in a licensed establishment under the guidance of a mentor.

*“NIC”* means the National-Interstate Council of State Boards of Cosmetology, Inc.

*“Pedicuring”* means the practice of cleaning, shaping or polishing the toenails.

*“Practice discipline”* means the practice of electrology, esthetics, nail technology, or barbering and cosmetology as recognized by the board of barbering and cosmetology arts and sciences.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Prescribed practice*” means an area of specialty certified by the board within the scope of barbering and cosmetology arts and sciences.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—60.9(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*Shaving*” means the manual removal of hair from the face, head or neck by cutting it close to the skin.

“*Testing service*” means a national testing service selected by the board.

**645—60.2(157) Initial licensure.**

**60.2(1) Requirements for licensure.** All persons providing services in one or more practice disciplines shall hold a license issued by the board. The applicant shall:

a. Submit a completed online application and pay the nonrefundable fee specified in 645—subrule 5.5(1).

b. Demonstrate professional competence in one of the following ways:

(1) A person who is licensed in another jurisdiction may complete the licensure by endorsement application. If the applicant is licensed in another jurisdiction as an electrologist, nail technician or esthetician, then a successful applicant will receive a license in such practice discipline. If the applicant is licensed in another jurisdiction as a barber or as a cosmetologist, and the applicant is requesting licensure in the practice discipline of barbering and cosmetology, then a successful applicant will receive a license as a barber and cosmetologist. All applicants must provide a verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the licensee.

(2) A person who is licensed in another jurisdiction who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

(3) An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

c. Provide proof of completion of education.

(1) If the applicant graduated from a school that is licensed by the board, the applicant is to direct the educational program to submit to the board a diploma or an official transcript indicating date of graduation and completion of required hours in each practice discipline for which the applicant is requesting licensure.

If an applicant graduates from a licensed school after completing a course of study constituting a legacy curriculum as prescribed in 645—subrule 61.14(6), such graduation will satisfy the education requirement for the applicable practice discipline for which the applicant is requesting licensure. For purposes of this subrule, a legacy curriculum in barbering or a legacy curriculum in cosmetology will be sufficient proof of education for an applicant requesting a license to practice barbering and cosmetology.

(2) If the applicant graduated from a school that is not licensed by the board, the applicant is to direct the school to provide an official transcript showing completion of a course of study that meets the requirements of rule 645—61.14(157).

(3) If the applicant has graduated from an apprenticeship program, the applicant must direct the Iowa office of apprenticeship registered apprenticeship program to submit a certificate of completion.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(4) If the applicant was educated outside the United States, the applicant is to attach an original evaluation of the applicant's education from any accredited evaluation service.

**60.2(2) Requirements for an instructor's license.** An applicant for an instructor's license shall:

- a. Submit a completed application for licensure and the appropriate fee to the board;
- b. Be licensed in the state of Iowa in the prescribed practice discipline to be taught or be licensed as a barber and cosmetologist who possesses the skill and knowledge required to instruct in that practice discipline;
- c. Provide documentation of completion of 1,000 hours of instructor's training or two years' active practice in the field of barbering and cosmetology, esthetics, electrology, or nail technology within six years prior to application;
- d. For an instructor of electrology license, submit proof of 60 hours of practical experience, excluding school hours, in the area of electrolysis prior to application;
- e. Pass an instructor's national examination, which, effective January 1, 2008, shall be the NIC instructor examination unless the applicant is applying for an instructor's license by endorsement as outlined in paragraph 60.2(1) "b."

**60.2(3) Conditions.** The following conditions apply for all licenses:

- a. Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.
- b. Licensees who were issued their initial licenses within six months prior to the license renewal beginning date are not required to renew their licenses until the renewal month two years later.
- c. The board may issue a single license number and expiration date to licensees who hold licenses in multiple practice disciplines.

**645—60.3(157) Examination requirements.**

**60.3(1)** An applicant shall pass a national examination prescribed by the board for the particular practice discipline with a score of 75 percent or greater.

The applicant shall submit the test registration fee directly to the test service. NIC examinations are administered according to guidelines set forth by the NIC.

**60.3(2)** If applying for licensure by endorsement, an applicant who graduated from a barber or cosmetology school prior to January 1, 2000, shall have passed the state written and practical examination required by the state in which the applicant was originally licensed.

**60.3(3)** An applicant who graduated from a barber or cosmetology school after January 1, 2000, shall have passed a national theory examination for the discipline in which the applicant seeks licensure.

**60.3(4)** An applicant for the barbering and cosmetology license who graduated from a barber or cosmetology school after July 1, 2023, shall have passed a national theory examination. Shaving with a razor requires additional certification by the board.

**645—60.4(157) Criteria for licensure in prescribed practice disciplines.**

**60.4(1)** A barbering and cosmetology license is not a requirement for an electrology, esthetics, or nail technology license.

**60.4(2)** Core life sciences curriculum hours shall be transferable in their entirety from one practice discipline to another practice discipline.

**60.4(3)** Theory hours earned in each practice discipline of barbering and cosmetology arts and sciences may be used in applying for a barbering and cosmetology license.

**60.4(4)** A barber and cosmetologist licensed after July 1, 2005, is not eligible to be certified in chemical peels, microdermabrasion, laser or intense pulsed light (IPL) and shall not provide those services.

**60.4(5)** Licensees must hold a shaving certificate, or the license will be restricted from the practice of shaving. An individual who was licensed as an Iowa barber prior to July 1, 2023, is not required to hold a shaving certificate.

**60.4(6)** Pedicuring shall only be done by a licensee who possesses the skill and knowledge required to perform the service in a professionally competent manner in compliance with 645—Chapter 63.



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**60.4(7)** Waxing shall only be done by a licensee who possesses the skill and knowledge required to perform the service in a professionally competent manner in compliance with 645—Chapter 63.

**60.4(8)** An initial license to practice manicuring shall not be issued by the board after December 31, 2007. A manicurist license issued on or before December 31, 2007, may be renewed subject to licensure requirements identified by statute and administrative rule unless the license becomes inactive. A manicurist license that becomes inactive cannot be reactivated or renewed.

**60.4(9)** Any person previously licensed as a barber prior to [the effective date of this rulemaking] pursuant to 645—Chapter 21 will, upon successful renewal of such license, receive a barbering and cosmetology license.

**60.4(10)** Any person previously licensed as a cosmetologist prior to [the effective date of this rulemaking] pursuant to this chapter will, upon successful renewal of such license, receive a barbering and cosmetology license.

**645—60.5(157) Prescribed practice training requirements.** As outlined below, the board may approve a licensee to provide the prescribed practice services of shaving, microdermabrasion, chemical exfoliation, laser services, and IPL hair removal treatments once a licensee has complied with training requirements and submitted a completed application, the required supporting evidence, and applicable fees as specified in these rules. The applicant shall receive a certification following board approval. Machine-, product-, model- or device-specific certifications do not need renewal.

**60.5(1) Shaving for hair removal.**

*a.* Shaving shall only be performed by a barber and cosmetologist who is certified by the board to perform those services. A barber licensed before July 1, 2023, is exempt from this requirement.

*b.* Shaving shall only be used for hair removal on the scalp, face or neck.

*c.* Only a straight edge razor with a disposable blade shall be used for shaving.

*d.* In order to receive board certification and be eligible to perform shaving for hair removal services, the licensee must complete a shaving program or pass an exam as outlined below:

(1) Provide evidence of passing the NIC barber practical exam or a national barber practical exam,

or

(2) Complete a 40-hour shaving program from an Iowa licensed school, or a program sponsored by an Iowa licensed school, that is conducted by a licensed instructor who has specialized education, training and experience by reason of which said licensed instructor should be considered qualified concerning the subject matter of the program, then:

1. Obtain from the program a certification of training that contains the following information:

- Date, location, and course title;
- Name and license number of the instructor;
- Name and license number of the school;
- Number of contact hours;
- Evidence that the training program includes a safety training component that provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of skin care, blood-borne pathogens and infection control.

2. Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 5.5(14). The fee is nonrefundable.

**60.5(2) Microdermabrasion.**

*a.* Microdermabrasion shall only be performed by a licensed, certified esthetician or a cosmetologist who was licensed prior to July 1, 2005, and is certified by the board.

*b.* To be eligible to perform microdermabrasion services, the licensee shall:

(1) Complete 14 contact hours of education specific to the material or apparatus used for microdermabrasion. Before an additional material or apparatus is utilized in the licensee's practice, the licensee shall provide official certification of training on the material or apparatus.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, and course title;

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2. Number of contact hours;
3. Specific identifying description of the microdermabrasion machine covered by the course; and
4. Evidence that the training program includes a safety training component that provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of potential hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 5.5(14). The fee is nonrefundable.

**60.5(3) Chemical exfoliation.**

*a.* Chemical exfoliation shall only be performed by a cosmetologist who was licensed prior to July 1, 2005, and is certified by the board to perform those services. Additional certification is not required for licensed estheticians.

*b.* Chemical exfoliation procedures are limited to the removal of surface epidermal cells of the skin by using only non-medical-strength cosmetic preparations consistent with labeled instructions and as specified by these rules. This procedure is not intended to elicit viable epidermal or dermal wounding, injury, or destruction.

*c.* To be eligible to perform chemical peels, a cosmetologist who was licensed prior to July 1, 2005, shall:

(1) Complete 21 hours of training specific to the process and products to be used for chemical peels. Before an additional process or product is utilized in the licensee's practice, the licensee shall provide official certification of training on the new process or product.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, and course title;
2. Number of contact hours;
3. Specific identifying description of the chemical peel process and products covered by the course; and
4. Evidence that the training program includes a safety training component that provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of potential hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 5.5(15). The fee is nonrefundable.

**60.5(4) Laser services.**

*a.* A cosmetologist licensed after July 1, 2005, shall not use laser products.

*b.* An electrologist shall only provide hair removal services when using a laser.

*c.* Estheticians and cosmetologists shall use a laser for cosmetic purposes only.

*d.* Cosmetologists licensed prior to July 1, 2005, electrologists and estheticians must be certified to perform laser services.

*e.* When a laser service is provided to a minor by a licensed cosmetologist, esthetician or electrologist who has been certified by the board, the licensee shall work under the general supervision of a physician. The parent or guardian shall sign a consent form prior to services being provided. Written permission shall remain in the client's permanent record for a period of five years.

*f.* To be eligible to perform laser services, a cosmetologist who was licensed on or before July 1, 2005, an electrologist, or an esthetician shall:

(1) Complete 40 hours of training specific to each laser machine, model or device to be used for laser services. Before an additional machine, model or device is utilized in the licensee's practice, the licensee shall submit official certification of training on the new machine, model or device.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, and course title;
2. Number of contact hours specific to the laser machine, model or device;

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3. Name of the approved manufacturer or institute of laser technology that provided the training;
4. Specific identifying description of the laser equipment; and
5. Evidence that the training program includes a safety training component that provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of nonbeam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 5.5(14). The fee is nonrefundable.

**60.5(5) IPL hair removal treatments.**

- a. A cosmetologist licensed after July 1, 2005, shall not use IPL devices.
- b. An IPL device shall only be used for hair removal.
- c. Cosmetologists licensed prior to July 1, 2005, electrologists and estheticians must be certified to perform IPL services.

d. When IPL hair removal services are provided to a minor by a licensed cosmetologist, esthetician or electrologist who has been certified by the board, the licensee shall work under the general supervision of a physician. The parent or guardian shall sign a consent form prior to services being provided. Written permission shall remain in the client's permanent record for a period of five years.

e. To be eligible to perform IPL hair removal services, a cosmetologist who was licensed on or before July 1, 2005, an electrologist, or an esthetician shall:

(1) Complete 40 hours of training specific to each IPL machine, model or device to be used for IPL hair removal services. Before an additional machine, model or device is utilized in the licensee's practice, the licensee shall submit official certification of training on the new machine, model or device.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, and course title;
2. Number of contact hours specific to the laser machine, model or device;
3. Name of the approved manufacturer or institute of laser technology that provided the training;
4. Specific identifying description of the IPL hair removal equipment; and
5. Evidence that the training program includes a safety training component that provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of nonbeam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 5.5(14). The fee is nonrefundable.

**60.5(6) Health history and incident reporting.**

a. Prior to providing laser or IPL hair removal, microdermabrasion or chemical peel services, the cosmetologist, esthetician, and electrologist shall complete a client health history of conditions related to the application for services and include it with the client's records. The history shall include but is not limited to items listed in paragraph 60.5(6) "b."

b. A licensed cosmetologist, esthetician, or electrologist who provides services related to the use of a certified laser product, IPL device, chemical peel, or microdermabrasion shall submit a report to the board within 30 days of any incident in which provision of such services resulted in physical injury requiring medical attention. Failure to comply with this requirement shall result in disciplinary action by the board. The report shall include the following:

- (1) A description of procedures;
- (2) A description of the physical condition of the client;
- (3) A description of any adverse occurrence, including:
  1. Symptoms of any complications including, but not limited to, onset and type of symptoms;
  2. A description of the services provided that caused the adverse occurrence;
  3. A description of the procedure that was followed by the licensee;
- (4) A description of the client's condition on termination of any procedures undertaken;

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(5) If a client is referred to a physician, a statement providing the physician's name and office location, if known;

(6) A copy of the consent form.

**60.5(7)** Failure to report. Failure to comply with paragraph 60.5(6) "b" when the adverse occurrence is related to the use of any procedure or device noted in the attestation may result in the licensee's loss of authorization to administer the procedure or device noted in the attestation or may result in other sanctions provided by law.

**60.5(8)** A licensee shall not provide any services that constitute the practice of medicine.

**645—60.6(157) Licensure restrictions relating to practice.**

**60.6(1)** A certified laser product or an intense pulsed light device shall only be used on surface epidermal layers of the skin except for hair removal.

**60.6(2)** A laser hair removal product or an intense pulsed light device shall not be used on a minor unless the minor is accompanied by a parent or guardian and then shall be used only under general supervision of a physician.

**60.6(3)** Persons licensed under Iowa Code chapter 157 shall not administer any practice of removing skin by means of a razor-edged instrument.

**60.6(4)** Persons licensed under this chapter who provide hair removal, manicuring and nail technology services shall not administer any procedure in which human tissue is cut, shaped, vaporized, or otherwise structurally altered, except for the use of a cuticle nipper.

**60.6(5)** Board-certified licensees providing shaving, microdermabrasion, chemical peels, laser or IPL hair removal treatments in an establishment shall not include any practice, activity, or treatment that constitutes the practice of medicine, osteopathic medicine, chiropractic or acupuncture.

**60.6(6)** Barbers and cosmetologists licensed prior to July 1, 2005, and licensed estheticians shall only perform medical aesthetic services in a medical spa under the delegation and supervision of a medical director as set forth by the Iowa board of medicine in rule 653—13.8(148,272C). The Iowa board of barbering and cosmetology arts and sciences does not license medical aestheticians.

**60.6(7)** Persons licensed under this chapter who provide apprenticeship programs must hold an active license sufficient to provide on-the-job training, must operate in an actively licensed establishment, and must comply with relevant Iowa office of apprenticeship laws and regulations for the operation of an apprenticeship program.

**60.6(8)** Licensees may only perform those services for which they possess the skill and knowledge required to perform the service in a professionally competent manner as set forth in Iowa Code chapter 157 and the related administrative rules and regulations.

**645—60.7(157) Consent form requirements.** A licensed esthetician, barber and cosmetologist, or electrologist, prior to providing services relating to a certified laser product, intense pulsed light device, chemical peel, or microdermabrasion, shall obtain from a client a consent form that:

1. Specifies in general terms the nature and purpose of the procedure(s);
2. Lists known risks associated with the procedure(s) if reasonably determinable;
3. States an acknowledgment that disclosure of information has been made and that questions asked about the procedure(s) have been satisfactorily answered;
4. Includes a signature of either the client for whom the procedure is performed or, if that client for any reason lacks legal capacity to consent, includes the signature of a person who has legal authority to consent on behalf of that client in those circumstances.

**645—60.8(157) License renewal.**

**60.8(1)** The biennial license renewal period for a license to practice cosmetology arts and sciences shall begin on April 1 of one year and end on March 31 two years later. All licensees shall renew on a biennial basis.

*a.* The board may send a renewal notice by regular mail to each licensee at the address on record prior to the expiration of the license.

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*b.* The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

*c.* A new or reactivated license granted by the board to a licensee who holds a current license in another practice discipline in barbering and cosmetology arts and sciences may have the same license expiration date as the licensee's other license(s). If the licensee does not have another active license with the board, the license expiration date shall be in the current renewal period unless the license is issued within six months of the end of the renewal cycle and subrule 60.8(2) applies.

**60.8(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

**60.8(3)** License renewal.

*a.* A licensee seeking renewal shall:

(1) Meet the continuing education requirements of rule 645—64.2(157). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

(2) Submit the completed online renewal application and renewal fee and upload certificate(s) of completion for related continuing education before the license expiration date.

*b.* Licensees currently licensed in Iowa but practicing exclusively in another state or serving honorably as active duty military or the spouse of active duty military service personnel may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state where the licensee practices. Those licensees living and practicing exclusively in a state that has no continuing education requirement for renewal of a license shall not be required to meet Iowa's continuing education requirement but shall pay all renewal fees when due (Iowa Code section 272C.2(4)).

**60.8(4)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**60.8(5)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.5(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**60.8(6)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice barbering and cosmetology arts and sciences in Iowa until the license is reactivated. A licensee who practices barbering and cosmetology arts and sciences in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**60.8(7)** Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

**645—60.9(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**60.9(1)** Submit a reactivation application on a form provided by the board.

**60.9(2)** Pay the reactivation fee that is due as specified in rule 645—5.5(147,157).

**60.9(3)** Provide verification of current competence to practice barbering and cosmetology arts and sciences by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly

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from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of six hours of continuing education that meet the continuing education standards defined in rule 645—64.3(157,272C) within two years of application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation..

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 12 hours of continuing education that meet the continuing education standards defined in rule 645—64.3(157,272C) within two years of application for reactivation.

**60.9(4)** Licensees who are instructors of barbering and cosmetology arts and sciences shall obtain an additional six hours of continuing education in teaching methodology as prescribed in 645—Chapter 64.

**645—60.10(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—60.9(17A,147,272C) prior to practicing barbering and cosmetology arts and sciences in this state.

These rules are intended to implement Iowa Code chapters 157 and 272C.

**ARC 7538C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure of establishments and schools of barbering and cosmetology arts and sciences and providing an opportunity for public comment**

The Board of Barbering and Cosmetology Arts and Sciences hereby proposes to rescind Chapter 61, "Licensure of Salons and Schools of Cosmetology Arts and Sciences," and to adopt a new Chapter 61, "Licensure of Establishments and Schools of Barbering and Cosmetology Arts and Sciences," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 157.14, 272C.2A, 272C.3, 272C.4 and 272C.10.

*State or Federal Law Implemented*

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This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 157 and 272C.

*Purpose and Summary*

This proposed rulemaking clarifies the processes by which an individual may apply for licensure of establishments and schools in order to provide barbering and cosmetology arts and sciences services, as directed in statute. The rulemaking outlines the process for licensure, including renewal and reinstatement, for fixed and readily movable establishments. The rulemaking ensures public safety through identification of the limited services allowed outside of a licensed establishment and the requirement to inform the public when services are provided by nonlicensees, such as blow-dry stylists, students and apprentices, where applicable.

For the schools, the rulemaking describes the application process, course of study requirements, and physical requirements for schools of barbering and cosmetology arts and sciences, including minimum equipment requirements, classroom use, public notices, recordkeeping for student attendance, accelerated learning policies, and mentoring contracts.

The rulemaking also provides guidance for legacy license holders and legacy schools following the merger of the Board of Barbering with the Board of Cosmetology Arts and Sciences.

Public comment received at the November 21, 2023, public hearing from Sue Charles and the Iowa Cosmetology School Association was reviewed by the Board. After discussion, the Board agrees that licensees and the public benefit by incorporating many of the suggestions outlined below. Edits were made to ensure the term “salon” was replaced with “establishment” where appropriate. The term “barbering and” was added in front of “cosmetology arts and sciences” where applicable. In paragraph 61.2(2)“a,” language that was redundant with subparagraph 61.2(2)“a”(1) was removed. Duplicative language was stricken from rule 645—61.24(157) and moved to rule 645—61.6(157). The Board incorporated public comment requesting that rule 645—61.16(157) require the student instructor to be a license holder. Since the rule also requires student instructors to be under the direct supervision of a licensed instructor, schools will be responsible for ensuring their student instructors are teaching disciplines commensurate with the student instructor’s training and education.

The Board did not incorporate the following public comments for the following reasons.

**Comment 1 related to subrule 61.4(1):** A subrule stating the biennial license renewal period for establishments as January 1 on every odd-numbered year and December 31 two years later.

**Comment 1:** How will this rule apply to barbershop licenses which were issued with biennial renewal periods that occur in even-numbered years from July 1 to June 30? **Board response:** All current expiration and renewal dates remain in force until further notice from the Department of Inspections, Appeals, and Licensing.

**Comment 2 related to paragraph 61.12(3)“d”:** A paragraph stating that dispensaries must include sanitation equipment required by 645—Chapter 63 and the list of potentially required items includes “sterilization equipment.” Sterilizing equipment is an outdated practice and does not need to be in the rules. **Board response:** There are services, such as electrolysis, that still require the use of sterilization equipment pursuant to 645—Chapter 63.

**Comments 3 and 4 related to subrule 61.15(2):** A subrule relating to instructors of shaving, microdermabrasion, chemical peels, lasers, and intense pulsed light services.

**Comment 3:** The proposed rule says that persons licensed as barbers prior to July 1, 2023, are not required to hold a shaving certificate to engage in the practice of shaving. The commenter says this language is redundant since this exception is already provided in subrule 60.4(5). **Board response:** The Board agrees the language is repetitive but recommends preserving the language since it provides greater clarity during this transition period. It also provides clarity about the state-issued certifications that employees of nonlicensed persons who own establishments may or may not be required to obtain in the employees’ course of employment.

**Comment 4:** A subrule prohibits instructors from performing services on school premises, except for demonstration purposes. This subrule should be removed because it conflicts with the new law in 2023 Iowa Acts, House File 652, which allows school spaces to be used for purposes other than instruction. **Board response:** The subrule has been modified to clarify that, for example, continuing

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education classes may be taught by an instructor in a school so long as the continuing education classes are consistent with rule 645—61.23(157), the new rule that prohibits disruptive activities in schools. However, the Board requested the commenter provide amplifying information explaining what kind of services they expect/desire instructors to be able to provide in schools. The Iowa Cosmetology School Association provided the example of allowing an off-duty instructor to rent a chair and provide services to the public inside the school on the clinic floor. The Board desires further comment from the public on this subrule, and whether the proposed subrule will be modified or remain the same will be determined at the next meeting of the Board.

**Comments 5 and 6 related to rule 645—61.23(157):** A rule authorizing licensed schools to engage in activities other than instruction so long as the activities do not disrupt class, then providing a nonexhaustive list of activities that would be disruptive.

**Comment 5:** One of the example activities that is inherently disruptive is “activities that usurp the space available for barbering and cosmetology arts and sciences instruction.” This contradicts the legal authorization for other activities since any activity unrelated to instruction would, by definition, “usurp” space that could be used for instruction. **Board response:** The Board is open to changing this to read “unreasonably usurp” or something similar. However, the Board requested additional information from the commenter on what kind of activities the commenter would like to be authorized under this rule. The Iowa Cosmetology School Association provided the example of allowing an off-duty instructor to rent a chair and provide services to the public inside the school on the clinic floor. The Board desires further comment from the public on this rule, and whether the proposed rule will be modified or remain the same will be determined at the next meeting of the Board.

**Comment 6:** This rule could be eliminated since the law already says that schools may engage in noninstruction activities, so long as they are not disruptive. **Board response:** The law also says that the Board must issue rules implementing the legal authorization for nondisruptive activities. Rather than trying to predict every potential kind of disruptive activity, the Board recommends repeating the statutory law mostly verbatim and leaving the meaning of “disruptive” open to the Board’s reasonable interpretation on a case-by-case basis.

The Iowa Cosmetology School Association provided the example of allowing an off-duty instructor to rent a chair and provide services to the public inside the school on the clinic floor. The Board replied by redirecting the Iowa Cosmetology School Association to Iowa Code chapter 157, which defines a “school license” and an “establishment license,” stating that the school is not precluded from obtaining an establishment license for a space that would not be considered part of the licensed school. This comment is still under review by the Assistant Attorney General.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the Board are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Venus Vendoures Walsh  
 Division of Licensing  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321-1270  
 Phone: 515.242.6529  
 Email: [venus.vendoures-walsh@idph.iowa.gov](mailto:venus.vendoures-walsh@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 1:50 to 2:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: +1 904.330.1060  
 PIN: 744 558 427#  
 More phone numbers:  
[t.meet/jji-jaoj-uqy?pin=4753713549740](https://t.meet/jji-jaoj-uqy?pin=4753713549740)

February 14, 2024  
 1:50 to 2:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: +1 904.330.1060  
 PIN: 744 558 427#  
 More phone numbers:  
[t.meet/jji-jaoj-uqy?pin=4753713549740](https://t.meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 61 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 61

LICENSURE OF ESTABLISHMENTS AND SCHOOLS OF BARBERING AND COSMETOLOGY  
ARTS AND SCIENCES

**645—61.1(157) Definitions.** In addition to the definitions included in Iowa Code sections 157.1 and 84D.2 and 29 Code of Federal Regulations (CFR) §29.5 as amended on December 19, 2016, the following definitions apply to terms used in this chapter:

“*Change in ownership*” means any of the following: a new owner of a sole proprietorship; the addition, removal, or replacement of any co-owner(s) in a partnership; or a change of controlling interest in any corporation.

“*Clinic area*” means the area of the school where the paying customers will receive services.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Dispensary*” means a separate area to be used for storing and dispensing of supplies and sanitizing of all implements.

“*Establishment license*” means a license issued to an Iowa establishment, as defined in Iowa Code section 157.1(10A), to provide barbering and cosmetology arts and sciences services.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Legacy curriculum*” means a course of study and curriculum offered by barbering schools or cosmetology arts and sciences schools that, as applicable, comply with the administrative rules issued by the Iowa board of barbering or by the Iowa board of cosmetology arts and sciences that were in effect on June 30, 2023.

“*Mentor*” means a licensee providing guidance in a mentoring program.

“*Mentoring*” means a program allowing students in a school to experience barbering and cosmetology arts and sciences in a licensed establishment under the guidance of a mentor.

“*On-the-job trainer*” means the individual providing instruction and supervision of the apprenticeship program practical hours. This individual must be a licensee of the board in the discipline for which the individual is training, and the training must occur in a licensed establishment.

“*School*” means a school of barbering and cosmetology arts and sciences.

“*School license*” means a license issued to an establishment that is a fixed location for the instruction of students in barbering and cosmetology arts and sciences.

**645—61.2(157) Establishment licensing.** No person shall operate an establishment unless the owner has obtained a license issued by the board. A separate enclosed area inside an establishment that is operated as an independent business for the purpose of providing barbering and cosmetology services shall be considered its own establishment and shall not operate unless an establishment license is obtained. To determine what defines an independent contractor versus an employee, persons should contact the Iowa division of labor.

**61.2(1)** The owner shall complete a board-approved application form accompanied by the appropriate fees payable by check or money order to the board of barbering and cosmetology arts and sciences. The fees are nonrefundable. The application shall be completed according to the instructions contained in the application and submitted 30 days prior to the anticipated opening day. If the application is not completed according to the instructions, the application will not be reviewed by the board.

**61.2(2)** Each establishment shall meet the requirements for sanitary conditions established in 645—Chapter 63 to be eligible for licensing. The establishment may be inspected for compliance with sanitation rules within 12 months following the issuance of the establishment license.

*a.* The establishment license may be for a fixed location or a location that is readily movable.

(1) Stationary establishment. A stationary establishment license shall be issued for a specific location. A change in location or site of a stationary establishment shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by 645—subrule 5.2(7). A change of address without a change of actual location shall not be construed as a new site.

(2) Readily movable establishment. A readily movable establishment license shall be issued for a permanent physical address. The licensee is required to provide a permanent physical address for board correspondence. A readily movable establishment may operate in a legal parking spot or on private property, with the permission of the owner or the owner’s designee, anywhere in the state of Iowa, provided the readily movable establishment is operating in compliance with applicable federal and state transportation, environmental, and sanitary regulations, including those in this chapter and in 645—Chapter 63.

*b.* Establishment owner’s contact information. The listed owner of either a stationary or readily movable establishment must update the board within 30 days of a change in contact information, which includes telephone number, email address, and mailing address.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**61.2(3)** Business may commence at the establishment following activation of the license.

**61.2(4)** Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records will be maintained after two years only if the applicant submits a written request to the board.

**61.2(5)** An establishment license is not transferable.

*a.* A change in ownership of an establishment shall require the issuance of a new license.

*b.* An establishment cannot be sold if disciplinary actions are pending.

*c.* If an establishment owner sells the establishment, that owner must send the license certificate and a report of the sale to the board within ten days of the date on which the sale is final. The owner of the establishment on record shall retain responsibility for the establishment until the notice of sale is received in the board office.

*d.* The board may request legal proof of the ownership transfer.

*e.* If the name or the address of an establishment changes, the owner shall notify the board within 30 days of such change. Additionally, the owner shall return the current certificate and pay the reissued certificate fee as specified in rule 645—5.5(147,157).

**645—61.3(157) Readily movable establishment.** A mobile home, motor home, trailer, or other recreational vehicle may be used as a readily movable establishment if it complies with the following:

**61.3(1)** The owner shall possess a current readily movable establishment license issued by the board.

**61.3(2)** The owner shall complete a board-approved application.

**61.3(3)** The readily movable establishment's owner's telephone number, email address, and permanent address must be included on the application for licensure and must be updated and accurate.

**61.3(4)** No service may be performed on a client in a moving vehicle. Services shall be performed in a readily movable establishment that is parked in a legal parking spot.

**61.3(5)** Readily movable establishments must provide:

*a.* A supply of hot and cold water;

*b.* Adequate lighting;

*c.* A floor surface in the service area that is nonabsorbent and easily cleanable;

*d.* Work surfaces that are easily cleanable;

*e.* Cabinets secured with safety catches wherein all chemicals shall be stored when the vehicle is moving;

*f.* A first-aid kit that includes adhesive dressing, gauze and antiseptic, tape, triple antibiotics, eyewash, and gloves.

**61.3(6)** A readily movable establishment must comply with all rules in 645—Chapter 63, "Infection Control for Establishments and Schools of Barbering and Cosmetology Arts and Sciences," except rules 645—63.6(157) through 645—63.8(157).

**645—61.4(157) Establishment license renewal.**

**61.4(1)** The biennial license renewal period for an establishment license shall begin on January 1 of every odd-numbered year and end on December 31 two years later.

**61.4(2)** A renewal of license notice shall be electronically mailed to the owner of the establishment prior to the expiration of the license. Failure to receive the renewal notice shall not relieve the owner of the obligation to pay the biennial renewal fee on or before the renewal date.

**61.4(3)** An establishment that is issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

**61.4(4)** The establishment owner shall submit the completed application with the renewal fee to the board office before the license expiration date.

**61.4(5)** An establishment shall be in full compliance with this chapter and 645—Chapter 63 to be eligible for renewal. When all requirements for license renewal are met, the establishment shall be issued a license renewal.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**61.4(6)** If the renewal fee and renewal application are received in the office after the license expiration date, but within 30 days following the expiration date, the late fee for failure to renew before expiration shall be charged.

**645—61.5(272C) Inactive establishment license.**

**61.5(1)** An establishment that has not renewed the establishment license within the required time frame will have an inactive license and shall not provide barbering and cosmetology arts and sciences services until the license is reactivated.

**61.5(2)** To reactivate an establishment license, the reactivation application and fee shall be submitted to the board office.

**645—61.6(157) Display requirements for establishments.**

**61.6(1)** Every establishment shall have a sign visible outside the entrance designating the place of business.

**61.6(2)** The most current establishment license proof of renewal shall be posted in the establishment front entrance area to provide the public a full, unobstructed view of the license.

**61.6(3)** The most current license proof of renewal for each licensee working in the establishment shall be posted in the establishment front entrance area to provide the public a full, unobstructed view of the license.

**61.6(4)** If the licensee works in more than one establishment, the current proof of renewal shall be posted in the primary place of practice, and the licensee shall be able to provide the renewal upon request.

**61.6(5)** If a licensed establishment is operating an apprenticeship program, a sign shall be clearly displayed in the entrance of such establishment that indicates in prominent lettering that apprentices are employed at the establishment and may perform services under the supervision of a licensed apprenticeship supervisor.

**61.6(6)** If any blow-dry stylist(s) engage in the practice of blow-dry styling at a licensed establishment, a sign shall be clearly displayed in the entrance of such establishment that indicates in prominent lettering that blow-dry stylist(s) perform limited services, as defined in Iowa Code section 157.12C, in the licensed establishment.

**61.6(7)** Each licensee, blow-dry stylist and apprentice shall have a valid U.S. government-issued photo ID to provide to an agent of the board upon request as proof of identity.

**645—61.7(147) Duplicate certificate for establishments.**

**61.7(1)** A duplicate certificate shall be required if the current certificate is lost, stolen or destroyed. A duplicate certificate shall only be issued under such circumstances.

**61.7(2)** A duplicate establishment certificate shall be issued upon receipt of a completed application and receipt of the fee as specified in 645—subrule 5.5(5).

**61.7(3)** If the board receives a completed application stating that the owner of the establishment has not received the certificate within 60 days after the certificate is mailed by the board, no fee shall be required for issuing the duplicate certificate.

**645—61.8(157) Licensure for schools of barbering and cosmetology arts and sciences.**

**61.8(1)** An application for a school license shall be submitted 90 days prior to the anticipated opening day of the school. Prior to board review, the application shall include:

*a.* The exact location of the proposed school including a copy of the essential parts of the lease or other documents to provide proof that the owner of the school has occupancy rights for a minimum of one year; a complete plan of the physical facilities; and an explanation detailing how the facilities will be utilized relative to classrooms, clinic space, and a mentoring program;

*b.* A list of the names of licensed instructors including the school director(s) for the proposed school if the instructors and school director(s) have been hired by the school at the time of application;

*c.* Copies of the catalog, brochure, enrollment contract, student policies, and cancellation and refund policies that will be used by the school or distributed by the school to students and the public; and

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*d.* The school's course of study and curriculum, which shall meet the course of study requirements outlined in rule 645—61.14(157).

**61.8(2)** Prior to issuance of the school license, the school shall:

*a.* Submit a final list of licensed instructors and director(s) hired for the school. The number of instructors must meet the requirement outlined in Iowa Code section 157.8, with the exception of instructors for the mentoring program; and

*b.* Meet the requirements of this chapter and 645—Chapter 63 and pass the board's inspection of the facility.

**61.8(3)** The school owner may be interviewed by the board during the review of the application.

**61.8(4)** After all criteria have been met, the school license shall be granted for the location identified in the school's application.

**61.8(5)** Instruction of students shall not begin until the school license is activated.

**61.8(6)** The school must provide proof of registration with the Iowa college student aid commission.

**61.8(7)** Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records shall be maintained after two years only if the applicant submits a written request to the board.

**61.8(8)** Existing school license, new location. A change of location shall require submission of an application for a new school license and payment of the license fee 90 days in advance of the anticipated date of opening. A change of address without a change of actual location shall not be construed as a new site.

**61.8(9)** Existing school license, new name. The owner shall notify the board in writing of a change of name within 30 days after the occurrence. In addition, the owner shall return the current certificate and pay the reissued certificate fee as specified in rule 645—5.5(147,157).

**61.8(10)** Existing school license, change of ownership. A school license is not transferable. A change in ownership of a school shall require the issuance of a new license. A school cannot be sold if disciplinary actions are pending.

*a.* The board may request legal proof of the ownership transfer.

*b.* If a school owner sells the school, that owner must send the license certificate and a report of the sale to the board within ten days of the date on which the sale is final. The owner of the school on record shall retain responsibility for the school until the new school owner has been issued an active school license.

*c.* The new school owner shall follow all requirements as outlined in rule 645—61.8(157).

**61.8(11)** Any school licensed as a barber school under rule 645—23.2(158) prior to [the effective date of this rulemaking] will, upon successful renewal, receive a license as a school of barbering and cosmetology arts and sciences. Any school licensed as a cosmetology arts and sciences school under this chapter prior to [the effective date of this rulemaking] will, upon successful renewal, receive a license as a school of barbering and cosmetology arts and sciences.

This rule is intended to implement Iowa Code sections 147.80, 157.6 and 157.8.

**645—61.9(157) School license renewal.**

**61.9(1)** The annual license renewal period for a school license shall begin on July 1 and end on June 30 one year later.

*a.* The online renewal application and renewal fee shall be submitted before the license expiration date.

*b.* Schools shall be in full compliance with this chapter and 645—Chapter 63 to be eligible for renewal. When all requirements for license renewal are met, the school shall be issued a license renewal.

*c.* Schools shall successfully complete the annual inspection pursuant to Iowa Code sections 157.6 and 157.8.

**61.9(2)** A school that is issued a license within six months of the license renewal date will not be required to renew the license until the next renewal one year later.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**61.9(3)** If the renewal fee and renewal application are submitted after the license expiration date, but within 30 days following the expiration date, the late fee for failure to renew before expiration shall be charged.

**645—61.10(272C) Inactive school license.**

**61.10(1)** If the renewal application and fee are not received in the office within 30 days after the license expiration date, the school license is inactive. To reactivate the school license, the reactivation application and fee shall be submitted to the board.

**61.10(2)** A school that has not renewed the school license within the required time frame will have an inactive license and shall not provide schooling or services until the license is reactivated.

**645—61.11(157) Display requirements for schools.**

**61.11(1)** Every school shall have a sign visible outside the entrance designating the place of business.

**61.11(2)** A school license and the current proof of renewal shall be posted in the school's front entrance area to provide the public a full unobstructed view of the license.

**61.11(3)** The current license proof of renewal for each instructor working at the school shall be posted in the school's front entrance area to provide the public a full unobstructed view of the license.

**61.11(4)** Advertisements for a school of barbering and cosmetology arts and sciences shall indicate that all services are performed by students under the supervision of instructors.

**61.11(5)** A sign shall be clearly displayed in the entrance of a school of barbering and cosmetology arts and sciences that indicates in prominent lettering that students perform all services under the supervision of instructors.

**645—61.12(157) Physical requirements for schools of barbering and cosmetology arts and sciences.**

The school shall meet the following physical requirements:

**61.12(1)** The school premises shall have a minimum floor space of 3,000 square feet.

**61.12(2)** Each school shall provide a minimum of 100 square feet per student. When the enrollment in a school exceeds 30 students, additional floor space of 30 square feet shall be required for each additional student enrolled in the school.

**61.12(3)** Each licensed school offering a full barbering and cosmetology arts and sciences curriculum shall provide the following:

*a.* At least one clinic area where the paying public will receive services. The clinic area shall be confined to the premises occupied by the school.

*b.* A theory classroom(s) separate from the clinic area.

*c.* A library that is maintained for students and consists of textbooks, current trade publications and business management materials.

*d.* A separate area that shall be used as a dispensary. The dispensary shall be equipped with a lavatory, shelves or drawers for storing chemicals, cleansing agents and items, sterilization equipment and any other sanitation items required by 645—Chapter 63. Clean items and dirty items in the dispensary must be kept separated as required by 645—Chapter 63.

*e.* Two restrooms that are equipped with toilets, lavatories, soap and disposable paper towel dispensers.

*f.* A laundry room that is separated from the clinic area by a full wall or partition. Students may not lounge, eat, practice or study in the laundry room.

*g.* A separate room that is equipped for the practice of esthetics and electrology.

*h.* An administrative office.

**61.12(4)** Each licensed school offering a single discipline barbering and cosmetology arts and sciences curriculum shall provide the same physical space as outlined in subrule 61.12(3). Single discipline schools are exempt from paragraph 61.12(3) "g" if the board did not originally approve an electrology or esthetics course of study in the curriculum.

This rule is intended to implement Iowa Code sections 157.6 and 157.8.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—61.13(157) Minimum equipment requirements.** Each school of barbering and cosmetology arts and sciences shall have the following minimum equipment:

1. Workstations equipped with chair, workstation, closed drawer or container for sanitized articles, and mirror (maximum of two students per unit);
2. Treatment room(s) when electrology or esthetics or both are offered;
3. One set of hard-copy or electronic textbooks for each student and instructor;
4. Adequate number of shampoo bowls and chairs with headrests located in the clinic area and readily accessible for students and clients if the school offers a curriculum course in barbering and cosmetology;
5. Adequate equipment to perform all services in a safe and sanitary manner;
6. Audiovisual equipment available for each classroom;
7. Chair and table area for each student in the classroom;
8. One set of files maintained for all required records; and
9. Labeled bottles and containers showing intended use of the contents.

This rule is intended to implement Iowa Code sections 157.6 and 157.8.

**645—61.14(157) Course of study requirements.** A school of barbering and cosmetology arts and sciences shall not be approved by the board of barbering and cosmetology arts and sciences unless it complies with the course of study requirements as provided below.

**61.14(1) Requirements for hours.**

*a. Barbering and cosmetology curriculum.* Supervised practical instruction, theory and demonstrations totaling 1,550 hours must include core life sciences hours and all practices within the scope of Iowa Code section 157.1(1).

Core life sciences	150 hours
Barbering and cosmetology theory (including business and management related to the practice of barbering and cosmetology)	440 hours
Total core life sciences and barbering and cosmetology theory:	590 hours
Applied practical instruction	960 hours
Total course of study	1550 hours (51 semester credit hours)

*b. Electrology curriculum.* Supervised practical instruction, theory and demonstrations totaling 425 hours must include core life sciences hours and all practices within the scope of Iowa Code section 157.1(10).

Core life sciences	150 hours
Electrology theory	50 hours
Applied practical instruction	225 hours
Total course of study	425 hours (14 semester credit hours)

*c. Esthetics curriculum.* Supervised practical instruction, theory and demonstrations must include core life sciences hours and all practices within the scope of Iowa Code section 157.1(13).

Core life sciences	150 hours
Esthetics theory	115 hours
Applied practical instruction	335 hours
Total course of study	600 hours (20 semester credit hours)

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*d. Nail technology curriculum.* Supervised practical instruction, theory and demonstrations must include core life sciences hours and all practices within the scope of Iowa Code section 157.1(25).

Core life sciences	150 hours
Nail technology theory	50 hours
Applied practical instruction	125 hours
Total course of study	325 hours (11 semester credit hours)

Proof of curriculum requirements may be submitted to the board by either the clock hour or semester credit hour standard. Semester credit hours or the equivalent thereof shall be determined pursuant to administrative rules and regulations promulgated by the U.S. Department of Education.

**61.14(2)** Curriculum requirements.

*a.* Theory instruction shall be taught from a standard approved textbook but may be supplemented by other related textbooks. Online coursework is allowed for theory instruction.

*b.* Course subjects taught in the school curriculum, including skills and business management, shall relate to the specific practice discipline.

*c.* Required hours for theory and applied practical hours do not have to be obtained from one school.

*d.* Core life sciences curriculum hours shall be transferable in their entirety from one practice discipline to another practice discipline. Online coursework is allowed for core life sciences instruction.

*e.* Clock hours may be converted to credit hours using a standard, recognized method of conversion. Only hours from accredited or board-approved school programs will be accepted.

**61.14(3)** Core life sciences curriculum. The core life sciences curriculum shall contain the following instruction:

- a.* Human anatomy and physiology:  
Cell, metabolism and body systems,  
Human anatomy;
- b.* Bacteriology;
- c.* Infection control practices:  
Universal precautions,  
Sanitation,  
Sterilization,  
Disinfection;
- d.* Basic chemistry;
- e.* Matter;
- f.* Elements:  
Compounds and mixtures;
- g.* Basic electricity;
- h.* Electrical measurements:  
Reproduction of light rays,  
Infrared rays,  
Ultraviolet rays,  
Visible rays/spectrum;
- i.* Safety;
- j.* Hygiene and grooming:  
Personal and professional health;
- k.* Professional ethics;
- l.* Public relations; and
- m.* State and federal law, administrative rules and standards.

**61.14(4)** The school shall maintain a copy of the curriculum plan as directed by the school's accrediting agency or, if not subject to an accrediting agency, for a minimum of three years after the curriculum plan was taught by the school.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**61.14(5)** A school initially licensed after [the effective date of this rulemaking] must offer a curriculum and course of study for one or more practice disciplines as prescribed in subrules 61.14(1) through 61.14(3).

**61.14(6)** For a school licensed prior to [the effective date of this rulemaking], the following provisions apply:

*a.* Students enrolling in the school on or after August 1, 2024, must be taught a curriculum and course of study for one or more practice disciplines as prescribed by subrules 61.14(1) through 61.14(3).

*b.* Students enrolling in the school prior to August 1, 2024, may either be taught:

(1) A curriculum and course of study for one or more practice disciplines as prescribed by subrules 61.14(1) through 61.14(3); or

(2) A legacy curriculum in one or more practice disciplines. Any student graduating from a school after completing a legacy curriculum pursuant to this subrule will satisfy the education requirement for licensure as provided in 645—subparagraph 60.2(1)“c”(1).

**645—61.15(157) Instructors.** All instructors in a school of barbering and cosmetology arts and sciences shall be licensed by the department.

**61.15(1)** An instructor teaching a course in electrology, esthetics or nail technology shall also hold a license in that practice discipline or hold a barbering and cosmetology license that shows proof of having completed training in those practices equivalent to that of a license holder in that practice.

**61.15(2)** An instructor teaching a course in shaving, microdermabrasion, chemical peels, intense pulsed lights (IPLs) and lasers shall be certified by the state of Iowa to provide each of the services, as set forth in rule 645—60.4(157). An individual who was licensed as an Iowa barber prior to July 1, 2023, is not required to hold an Iowa board-issued shaving certificate.

**61.15(3)** A minimum of two instructors shall be employed on a full-time basis for up to 30 students and an additional instructor for each additional 15 students.

*a.* The number of instructors for each school of barbering and cosmetology arts and sciences shall be based upon total enrollment.

*b.* A student instructor shall not be used to meet licensed instructor-to-student ratios.

*c.* A school with less than 30 students enrolled may have one licensed instructor on site in the school if offering only clinic services or only theory instruction in a single classroom and less than 15 students are present.

*d.* If a school is offering clinic services and theory instruction simultaneously to less than 15 students, at least two licensed instructors must be on site.

*e.* Area community colleges operating a school prior to September 1, 1982, with only one instructor per 15 students are not subject to this subrule and may continue to operate with the ratio of one instructor to 15 students. A student instructor shall not be used to meet licensed instructor-to-student ratios.

**61.15(4)** An instructor shall:

*a.* Be responsible for and in direct charge of all physical and virtual core and theory classrooms and practical classrooms and clinics at all times;

*b.* Familiarize students with the different standard supplies and equipment used in establishments; and

*c.* Not perform barbering and cosmetology arts and sciences services, with or without compensation, on the school premises except for demonstration purposes, such as continuing education classes consistent with rule 645—61.23(157).

This rule is intended to implement Iowa Code chapter 157.

**645—61.16(157) Student instructors.** A student instructor shall be a license holder in the barbering and cosmetology arts and sciences. Each student instructor shall be under the direct supervision of a licensed instructor at all times.

**645—61.17(157) Students.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**61.17(1)** A school of barbering and cosmetology arts and sciences shall, prior to the time a student is obligated for payment, inform the student of all provisions set forth in Iowa Code section 714.25. The school shall retain a copy of the signed statement for two years following the student's graduating or leaving the program.

**61.17(2)** Students shall:

- a. Wear clean and neat uniforms at all times during school hours and during the mentoring program;
- b. Be supervised by a licensed instructor at all times except in a mentoring program when the students shall be under the guidance of a mentor;
- c. Be provided regularly scheduled breaks and a minimum of 30 minutes for lunch;
- d. Attend school no more than eight hours a day. Schools may offer additional hours to students who submit a written request for additional hours;
- e. Receive no compensation from the school for services performed on clients;
- f. Provide services to the public only after completion of a minimum of 10 percent of the course of study;
- g. Not be called from theory class to provide services to the public;
- h. Not be required to perform janitorial services or be allowed to volunteer for such services. Sanitation of the bathroom area shall be limited to replacing products and disinfecting the vanity and mirror surfaces. Sanitation of the toilet and bathroom floor areas is not to be performed by the student and is excluded from student sanitation duty; and
- i. Receive no credit or hours for decorating for marketing or merchandising events or for participating in demonstrations of cosmetology arts and sciences when the sole purpose of the event is to recruit students and the event is outside the curriculum course.

**645—61.18(157) Attendance requirements.**

**61.18(1)** A school of barbering and cosmetology arts and sciences shall have a written, published attendance policy.

**61.18(2)** Schools shall ensure:

- a. Students complete the hours required for each course of study set forth in rule 645—61.14(157).
- b. Student attendance policies are applied uniformly and fairly for all physical and virtual classes.
- c. Appropriate credit is given for all hours earned.
- d. All retake tests and projects to be redone are completed without benefit of additional hours earned. Time scheduled for such work will be scheduled at the school's discretion.
- e. Hours or credit is not added to the cumulative student record as an award or deducted from the cumulative student record as a penalty.
- f. Work that must be done for missed hours must be allowed. The student must be given full credit for hours earned.

**61.18(3)** Pursuant to the federal Department of Education and accrediting standards agency, the school may adopt an absence policy not to exceed 10 percent of required coursework for doctor's excuses and life events. In no way shall this policy create a penalty for the student nor excuse the student from the remaining 10 percent of required coursework.

This rule is intended to implement Iowa Code chapter 157.

**645—61.19(157) Accelerated learning.**

**61.19(1)** A school may adopt an accelerated learning policy that includes the acceptance of life experience, prior knowledge learned and test-out procedures.

**61.19(2)** If the school has an accelerated learning policy, the policy shall be a written, published policy that clearly outlines the criteria for acceptance and hours or credit granted or for test-out procedures. The hours or credit granted for accelerated learning shall not exceed 20 percent of the student's entire course of study and shall be documented in the participating student's file.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* After completion of all entrance requirements, a student may elect to sit for one or more academic written tests to evaluate the knowledge about subject matter gained from life experience or prior learning experience.

*b.* A student in a barbering and cosmetology arts and sciences course of study may be allowed to test out of a subject by sitting for final examinations covering the basic knowledge gained by a student who attends class sessions, or the school may accept and grant hours for prior or concurrent education and life experience.

*c.* A student who wishes to receive test-out credit or be granted hours for prior or concurrent education or life experience shall have maintained the academic grades and attendance policy standards set by the school.

*d.* The school may limit the number of times a student is allowed to sit for a test-out examination of a subject.

**645—61.20(157) Mentoring program.** Each barbering and cosmetology arts and sciences school must have a contract between the student, the school and the establishment mentor that includes scheduling, liability insurance and purpose of the mentoring program.

**61.20(1)** Students shall not begin the mentoring program until they have completed a minimum of 50 percent of the total contact or credit hours and other requirements of the mentoring program established by the school.

**61.20(2)** Students may participate in a mentoring program for no more than 5 percent of the total contact or credit hours.

**61.20(3)** Students shall be under supervision of the mentor at all times. Students may perform the following: drape, shampoo, remove color and perm chemicals, remove perm rods, remove rollers, apply temporary rinses, apply reconditioners and rebuilders with the recommendation of the mentor, remove nail polish, file nails, perform hand and arm massage, remove cosmetic preparations, act as receptionist, handle retail sales, sanitize establishment, consult with client (chairside manners), perform inventory, order supplies, prepare payroll and pay monthly bills, and hand equipment to the mentor.

**61.20(4)** The establishment mentor's responsibilities include the following: introduce the student to the establishment and the client, record the time of the student's attendance in establishment, prepare evaluation, discuss performance, and allow the student to shadow.

**61.20(5)** An establishment or school shall not compensate students when the students are participating in the mentoring program.

**645—61.21(157) Graduate of a school of barbering and cosmetology arts and sciences.**

**61.21(1)** A student shall be considered a graduate when the student has completed the required course of study and met the minimum attendance standard.

**61.21(2)** Students shall be given a final examination upon completion of the course of study but before graduation.

**61.21(3)** After passage of the final examination and completion of the entire course of study including all project sheets, students shall be issued a certificate of completion of hours required for the course of study.

**645—61.22(157) Records requirements.**

**61.22(1)** Each school of barbering and cosmetology arts and sciences shall maintain a complete set of student records. Individual student hours shall be kept on file at the school for two years following graduation.

**61.22(2)** Each school shall maintain daily teaching logs for all instructors, which shall be kept on file at the school for two years.

**61.22(3)** Prior to closure, the controlling school shall establish agreements with another school to maintain student and graduate transcripts and records. Prior to closure, the controlling school shall also notify the board in writing of the location of student records as established by the maintenance agreements

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

and shall submit a copy of the maintenance agreements to the board. Provisions in the agreement must include maintenance of student transcript records for a period of no less than two years.

**645—61.23(157) Classrooms used for other educational purposes.** The licensed school of barbering and cosmetology arts and sciences may be used during scheduled theory or applied practical time for any use other than for student instruction so long as these activities do not disrupt classes. Activities that disrupt classes include but are not limited to:

**61.23(1)** Persons attending other educational classes passing through a classroom or clinic area (en masse) while it is in use.

**61.23(2)** Activities with noise levels that are disruptive to other classes.

**61.23(3)** Activities that usurp the space available for barbering and cosmetology arts and sciences instruction.

These rules are intended to implement Iowa Code chapters 157 and 272C.

**ARC 7539C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to infection control for establishments and schools of barbering and cosmetology arts and sciences and providing an opportunity for public comment**

The Board of Barbering and Cosmetology Arts and Sciences hereby proposes to rescind Chapter 63, “Infection Control for Salons and Schools of Cosmetology Arts and Sciences,” and to adopt a new Chapter 63, “Infection Control for Establishments and Schools of Barbering and Cosmetology Arts and Sciences,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.76, 157.14, 272C.3, 272C.4 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 157 and 272C.

*Purpose and Summary*

The rulemaking publicly establishes the responsibilities of the establishment and school owners and service providers and the processes for keeping clean and used items separated, cleaning and disinfecting implements, storing and dispensing supplies, and disposing of porous instruments. The rulemaking also outlines infection control methods for the use of creams, cosmetics, and applicators and the practices consistently used to prevent exposure to blood-borne pathogens and the transmission of disease.

Iowa residents, the public, licensees, and employers benefit from the proposed rulemaking because the rulemaking clarifies the infection control processes by which service providers may ensure the protection of public health as directed in statute.

Public comment received at the November 21, 2023, public hearing from Sue Charles and the Iowa Cosmetology School Association was reviewed by the Board. After discussion, the Board agrees that licensees and the public benefit from the incorporation of many of the suggestions outlined below. Edits were made to ensure that the term “barbering and” was added in front of “cosmetology arts and sciences” where applicable. Updates were incorporated in rule 645—63.18(157) regarding the sanitary protection of a client’s neck. In subrule 63.22(1), clarifications were made by changing the phrase “events and services” to read “services.” The phrase “licensed practitioner” has been amended to read “licensee.” In subrule 63.22(2), a clarification was made to indicate blow-dry stylists must complete a two-hour course on Iowa law, rules, and infection control every two years. Regarding rule 645—63.23(157), the Board

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

clarified with the commenter that while every room where electrolysis or esthetics occurs is not required to have a sink or running water, there must be reasonable access to running water. For example, people in the room can access water in an emergency. The Board cannot provide an exhaustive rule determining what constitutes reasonable access since any physical location should be addressed on a case-by-case basis as needed.

The Board did not incorporate the public comments requesting rules for certification of blow-dry stylists or related fees. While subrule 63.22(2) relates to recordkeeping for the employment of blow-dry stylists, the Board does not have legal authority to create a certificate for blow-dry stylists. Rather, this subrule is intended to notify employers of what records they are required by law to maintain if employers employ persons exclusively engaged in the practice of blow-dry styling.

During review, the Board chose not to reserve rule 645—63.15(157) and adjusted the numbering of the rules accordingly. The renumbering is reflected in the references within the public comment summary.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

A waiver provision is not included in this rule making because all administrative rules of the Board are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
Division of Licensing  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321-1270  
Phone: 515.242.6529  
Email: [venus.vendoures-walsh@idph.iowa.gov](mailto:venus.vendoures-walsh@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
1:50 to 2:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

February 14, 2024  
1:50 to 2:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 1.904.330.1060  
PIN: 744 558 427#

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

More phone numbers:

[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 63 and adopt the following **new** chapter in lieu thereof:

CHAPTER 63

INFECTION CONTROL FOR ESTABLISHMENTS AND SCHOOLS OF BARBERING AND  
COSMETOLOGY ARTS AND SCIENCES

**645—63.1(157) Definitions.** For purposes of these rules, the following definitions shall apply:

“*Cleaning*” refers to removing visible debris and disposable parts, washing the surface or item with water and soap or detergent, rinsing the surface or item thoroughly and drying the surface or item. Cleaning must occur before disinfection can begin.

“*Disinfectant*” means a U.S. Environmental Protection Agency (EPA)-registered bactericidal, virucidal, fungicidal, pseudomonacidal chemical solution, spray or wipe that is effective against HIV-1 and human hepatitis B virus and is intended to destroy or irreversibly inactivate specific viruses, bacteria, or pathogenic fungi, but not necessarily their spores, on nonporous items and surfaces.

“*Disinfection*” means the procedure that kills pathogenic microorganisms, but not necessarily their spores.

“*Dispensary*” means a separate physical location or area in an establishment or school to be used for the storing and dispensing of supplies and cleaning and disinfecting of all implements. The dispensary is where products, chemicals and disinfectants are prepared, measured, mixed, portioned, and disposed of.

“*FDA*” means the federal Food and Drug Administration.

“*Germicide*” means an agent that destroys germs.

“*Nonporous*” means an item that lacks minute openings or crevices that allow air, water and bacteria to enter the item.

“*Porous*” means an item that contains minute openings or crevices that allow air, water and bacteria to enter the item, such as untreated wood, paper and cardboard.

“*School*” means a school of barbering and cosmetology arts and sciences.

“*Service provider*” means any person regulated by Iowa Code chapter 157, including but not limited to establishment owners, licensees, students, blow-dry stylists and apprentices.

“*Sterilization*” means the procedure that kills all microorganisms, including their spores.

“*Universal precautions*” means practices consistently used to prevent exposure to blood-borne pathogens and the transmission of disease.

“*Wash hands*” means the process of thoroughly washing hands and the exposed portions of the arms up to the elbow with soap or detergent and water and drying with a single-use towel or air dryer. Bar soap shall not be set out for common use.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—63.2(157) Infection control rules and inspection report.** Upon request, the licensee shall make Chapter 63, “Infection Control for Establishments and Schools of Barbering and Cosmetology Arts and Sciences,” and the most recent inspection report available to the board, agents of the board, all persons employed or studying in an establishment or school, and the general public.

**645—63.3(157) Responsibilities of establishment owners.** Each establishment owner shall ensure the following:

1. The establishment owner holds a current and active establishment license issued by the board that reflects the current name, address and owner information;
2. Individuals employed for barbering and cosmetology arts and sciences services or other licensees working in the establishment hold a current and active license issued by the board of barbering and cosmetology arts and sciences;
3. Licensees employed by the establishment or other licensees and service providers working in the establishment do not exceed their scope of practice; and
4. License renewal cards are properly displayed in the front entrance area at eye level. No license that has expired or become invalid for any reason shall be displayed in connection with the practices of the establishment.

**645—63.4(157) Responsibilities of licensees.** Licensees are responsible for:

1. Their own station areas;
2. Holding a current and active license issued by the board of barbering and cosmetology arts and sciences; and
3. Ensuring that they do not exceed their scope of practice.

**645—63.5(157) Joint responsibility.** Establishment owners and licensees are jointly responsible for all service and common areas.

**645—63.6(157) Building standards.** Establishments and schools shall have and maintain:

1. A service area that is equipped with exhaust fans or air filtration equipment that is of sufficient capacity to be capable of removing chemical fumes from the air;
2. A dispensary;
3. A reception area;
4. Hot and cold running water and clean lavatory facilities;
5. Safe drinking water;
6. Hand-washing facilities;
7. Adequate lighting;
8. Work surfaces that are easily cleanable; and
9. A complete first-aid kit in a readily accessible location on the premises. At a minimum, the first-aid kit must include adhesive dressings, gauze and antiseptic, tape, triple antibiotics, eyewash, and gloves.

**645—63.7(157) Establishments in residential buildings.**

**63.7(1)** An establishment located in a residential building shall comply with all requirements in rule 645—63.5(157).

**63.7(2)** A separate entrance shall be maintained for establishment rooms in a residential building. An exception is that an entrance may allow passage through a nonliving area of the residence, i.e., hall, garage or stairway. Any door leading directly from the licensed establishment to any portion of the living area of the residence shall be closed at all times during business hours.

**645—63.8(157) Establishments adjacent to other businesses.** An establishment operated adjacent to any other business shall be separated by at least a partial partition. When the establishment is operated immediately adjacent to a business where food is handled, the business shall be entirely separated, and any doors between the establishment and the business shall be rendered unusable except in an emergency.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—63.9(157) Smoking.** All establishments licensed by the board shall comply with the smokefree air Act found in Iowa Code chapter 142D.

**645—63.10(157) Personal cleanliness.** Any service provider engaged in serving the public shall be neat and clean in person and attire.

**645—63.11(157) Universal precautions.** Any service provider shall practice universal precautions consistently by observing the following:

**63.11(1)** Thoroughly wash hands after smoking, vaping, eating, using the restroom, etc., and before providing services to each client. Hand sanitizers or gloves are not an acceptable substitute for hand washing.

**63.11(2)** Maintain biohazard sharps container for disposing of used needles, razor blades and other sharp instruments in establishments. These containers shall be located as close to the use area as is practical. These containers shall not be filled above the designated “fill line” and shall be disposed of in accordance with guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

**63.11(3)** Wear disposable gloves or may refuse to provide the service when encountering clients with open sores. Gloves shall only be used on a single client and shall be disposed of after the client’s service. Any time gloves are used during a service, wash hands both before gloves are worn and after they are removed.

**63.11(4)** Refrain from all direct client care and from handling client-care equipment if the service provider has open sores that cannot be effectively covered.

**63.11(5)** Clean and disinfect instruments and implements pursuant to rule 645—63.13(157).

**63.11(6)** Place instruments and supplies that have been used on a client or soiled in any manner in the proper receptacles clearly labeled “used.” All used items shall be kept separate from items that are disinfected and ready for use.

**63.11(7)** Store disinfectant solution in the dispensary.

**645—63.12(157) Blood exposure procedures.**

**63.12(1)** If a service provider injures oneself, the following steps shall be taken before returning to service:

- a. Stop service.
- b. Clean the injured area by washing the area with soap and water. Use antiseptic or ointment as appropriate.
- c. In the case of mucous membrane exposure, wash or rinse the affected area with sufficient water.
- d. Cover the injury with the appropriate dressing.
- e. Clean the client and station as necessary. First, remove all visible debris and then clean the client with an antiseptic that is appropriate for the skin and clean the station with disinfectant.
- f. Bag any blood-soiled porous articles and dispose of articles in the trash.
- g. Wash and disinfect all nonporous items.
- h. Wash hands before returning to service.

**63.12(2)** If a client injury occurs, the service provider shall take the following steps:

- a. Stop service.
- b. Glove hands.
- c. Clean injured area and use antiseptic or ointment as appropriate.
- d. Cover the injury with the appropriate dressing to prevent further blood exposure.
- e. Clean station by removing all visible debris and using disinfectant that is appropriate for the soiled surface.
- f. Bag any blood-soiled porous articles and dispose of articles in the trash.
- g. Wash and disinfect all nonporous items.
- h. Wash hands before returning to service.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—63.13(157) Disinfecting and sterilizing instruments and equipment.** All nonporous tools and implements must be either disinfected or sterilized according to the requirements of this rule before use upon a client in schools and establishments.

**63.13(1) Disinfection.**

*a.* Nonporous tools and implements.

(1) Immersion method. After each use, all immersible nonporous tools and implements shall be disinfected by cleaning the tools and implements followed by complete immersion in a disinfectant. Disinfectant solutions shall be mixed according to manufacturer label instructions. The manufacturer's listed contact time for effectively eliminating all pathogens shall be adhered to at all times.

(2) Nonimmersion method. After each use, any nonporous item that cannot be immersed in a disinfectant shall be cleaned with soap or detergent and water to remove all organic material and then sprayed or wiped with disinfectant. Minimum disinfectant contact time as listed on the manufacturer's label shall be followed. Nonimmersible tools and implements include but are not limited to scissors, trimmers, clippers, handles of hair dryers and curling/flat irons.

*b.* Disinfected implements shall be stored in a disinfected, dry, covered container and shall be isolated from contaminants. Such container shall be disinfected at least once each week and whenever visibly dirty.

*c.* Disinfectant solutions shall be changed as instructed on the solution's manufacturer label or whenever visibly dirty.

*d.* Electric file bits.

(1) After each use, all visible debris shall be removed from diamond, carbide, natural and metal bits by cleaning with either an ultrasonic cleaner or immersion of each bit in acetone for five to ten minutes.

(2) After they are cleaned, diamond, carbide, natural and metal bits shall be disinfected by complete immersion in an appropriate disinfectant. Minimum disinfectant contact time as listed on the manufacturer's label shall be followed.

**63.13(2) Sterilization.** Ultraviolet (UV) light boxes are prohibited and are not an acceptable method of sterilization.

*a.* Tools and implements may be sterilized by one of the following methods:

(1) Steam sterilizer, registered and listed with the FDA and used according to the manufacturer's instructions. If steam sterilization, or moist heat, is utilized, heat exposure shall be at a minimum of 121°C/250°F for at least 30 minutes;

(2) Dry heat sterilizer, registered and listed with the FDA and used according to the manufacturer's instructions. If dry heat sterilization is utilized, heat exposure shall be at a minimum of 171°C/340°F for at least 60 minutes;

(3) Autoclave sterilization equipment, calibrated to ensure that it reaches the temperature required by the manufacturer's instructions. If autoclave sterilization equipment is utilized, spore testing by a contracted independent laboratory shall be performed at least every 30 days. If a positive spore test is received, the autoclave may not be used until a negative spore test is received. The establishment must maintain a log of each autoclave use, all testing samples and results, and a maintenance log of all maintenance performed on the device. Maintenance shall be performed according to the manufacturer's instructions. The establishment must have available for inspection the autoclave maintenance log for the most recent 12 months; or

(4) Chemical sterilization with a hospital grade liquid which, if used, shall be used according to the directions on the label. When chemical sterilization is used, items shall be fully submerged for at least ten minutes.

*b.* Sterilization equipment shall be maintained in working order. The equipment shall be checked at least monthly and calibrated to ensure that it reaches the temperature required by the manufacturer's instructions.

This rule is intended to implement Iowa Code section 157.6.

**645—63.14(157) Porous instruments and supplies that cannot be disinfected.** Porous instruments and supplies that come into direct contact with a client cannot be disinfected. These instruments and

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

supplies include but are not limited to cotton pads, sponges, wooden applicators, emery boards, pumice stones, nail buffers, buffing bits, arbor or sanding bands, sleeves, toe separators and neck strips. These are single-use items and shall be disposed of in a waste receptacle immediately after use.

**645—63.15(157) Infection control methods for creams, cosmetics and applicators.**

**63.15(1)** Liquids, creams, waxes, powders and cosmetics used for clients must be kept in closed, labeled containers.

**63.15(2)** All fluids, semifluids and powders must be dispensed with an applicator or from a shaker, dispenser pump, or spray-type container.

*a.* Applicators made of a washable, nonabsorbent material shall be cleaned and disinfected before being used on a client and shall only be dipped into the container one time before being cleaned and disinfected again.

*b.* Applicators made of wood shall be discarded after a single dip, which would be one use.

*c.* Roll-on wax products are prohibited.

*d.* The use of a styptic pencil is strictly prohibited; its presence in the workplace shall be prima facie evidence of its use. Any material used to stop the flow of blood shall be used in liquid or powder form.

*e.* Neck dusters, brushes, and common shaving mugs and soap shall not be used in any establishment or school.

**645—63.16(157) Events and services provided outside of a licensed establishment.**

**63.16(1)** Licensed barber and cosmetologists, nail technicians, and estheticians may provide limited services at certain locations (e.g., weddings) outside of a licensed establishment. Limited services:

*a.* Include makeup application, strip lashes, polish removal and application, and hairstyling.

*b.* Do not include the use of chemicals, lasers, or other machines.

*c.* May include haircutting, subject to the limitations on location provided in subrule 63.16(2).

**63.16(2)** Licensees may provide limited services outside of a licensed establishment as follows:

*a.* Limited services may not be provided unless scheduled through a licensed establishment.

*b.* Limited services must be within the scope of practice of the licensed barber and cosmetologist, nail technician, or esthetician.

*c.* Limited services including haircutting may be provided at:

(1) The temporary or permanent residence of a client.

(2) The hospital, health care facility, nursing home or convalescent home of a client.

*d.* Limited services excluding haircutting may be provided at special events such as, but not limited to, weddings and photo shoots.

**645—63.17(157) Prohibited hazardous substances and use of products and equipment.**

**63.17(1)** No establishment or school shall have on the premises cosmetic products containing substances that have been banned or otherwise deemed hazardous or deleterious by the FDA for use in cosmetic products. Prohibited products include, but are not limited to, any product containing liquid methyl methacrylate monomer and methylene chloride. No product shall be used in a manner that is not approved by the FDA. Presence of a prohibited product in an establishment or school is prima facie evidence of that product's use in the establishment or school.

**63.17(2)** Pedicure instruments designed to remove skin from the bottoms and sides of feet, including but not limited to razor-edged, grating or rasp microplaners, are prohibited. The presence of such equipment is prima facie evidence of the equipment's use.

**63.17(3)** Procedures involving any animal (e.g., fish, leeches, snails) are prohibited in establishments and schools.

**63.17(4)** No establishment or school may have chamois buffers. If chamois buffers are observed in the workplace, their presence is prima facie evidence of their use.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**63.17(5)** No establishment or school may use plastic sleeves or envelopes to store cleaned and disinfected implements unless the implements stored in the plastic sleeves or envelopes have actually been sterilized pursuant to paragraph 63.13(2)“a.”

**645—63.18(157) Proper protection of neck.** A properly laundered or disposable cape, haircloth, or similar article may be placed directly against the neck of a client. A cape, haircloth, or similar article that has not been sanitized or properly laundered shall be kept from direct contact with the client's neck by means of a paper neckband, clean towel, or cloth neckbands. A paper neckband shall not be used more than once. Towels or cloth neckbands shall not be used more than once without proper laundering. Neckbands of a nonporous material must be properly cleaned and disinfected after each use and stored in a closed container.

**645—63.19(157) Proper laundering and storage.** All cloth towels, robes, and similar items shall be laundered in a washing machine with laundry detergent used according to the manufacturer’s directions. All linens shall be dried until hot to the touch. No moisture shall be left in laundered items. A clean storage area shall be provided for clean towels and linens, and a covered hamper or receptacle marked “used” shall be provided for all soiled towels, robes, and linens.

**645—63.20(157) Animals.** Dogs, cats, birds, or other animals are not permitted in establishments or schools. This rule does not apply to service animals as defined by the Americans with Disabilities Act or to fish in an aquarium provided the aquarium is maintained in a sanitary condition.

**645—63.21(157) General maintenance.** All areas of the establishment and school shall be clean and in good repair.

**63.21(1)** Walls, floors, and fixtures must be kept clean and in good repair at all times.

**63.21(2)** Carpeting shall only be allowed in the reception and hooded dryer areas.

**645—63.22(157) Records.** Client records, appointment records, and employment records shall be maintained for a period of not less than three years following the last date of entry. Proper safeguards shall be provided to ensure the safety of these records from destructive elements.

**63.22(1)** Records for services provided outside of a licensed establishment must include:

- a. Client name and contact information.
- b. Date, time and location of the service(s) provided.
- c. Name and license number of the licensee performing the service.
- d. A signed and dated waiver stating that the client understands this limited service shall not include the use of chemicals, must be provided by a licensee and that all infection control procedures shall be followed.

**63.22(2)** Records for employment of blow-dry stylists must include:

- a. Name and contact information of the employee.
- b. Record of completion of a course on Iowa law, rules and infection control prior to employment, and within every two-year period thereafter as outlined in Iowa Code section 157.12C.
- c. Hire date and termination date.
- d. A signed and dated waiver stating that the employee understands blow-dry stylist services may only be performed in a licensed establishment upon completion of a course on Iowa law, rules and infection control. This waiver must be completed every two years as a condition of employment.

**63.22(3)** Foot spa service area records are outlined in subrule 63.24(3).

**645—63.23(157) Establishments and schools providing electrology or esthetics.** An establishment or school in which electrology or esthetics is practiced shall follow the infection control rules and requirements pertaining to all establishments and schools and shall also meet the following requirements:

1. The electrology or esthetics room shall have adequate space, lighting and ventilation.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

2. The floors in the immediate area where the electrology or esthetics is performed shall have an impervious, smooth, washable surface.
3. All service table surfaces shall be constructed of impervious, easily disinfected material.
4. Needles, probes and lancets shall be single-client use and disposable.
5. Licensees providing electrology services shall wear gloves.
6. Adequate access to a sink or running water shall be provided.

**645—63.24(157) Cleaning and disinfecting circulating and noncirculating tubs, bowls, and spas.**

**63.24(1)** After use for each client, a service provider shall do the following:

- a. Drain the water and remove any visible debris;
- b. Clean the surfaces according to the manufacturer's instructions, use a brush to remove all film, and rinse the tub, bowl, or spa basin;
- c. Fill the tub, bowl, or spa basin with water and add disinfectant;
- d. Allow the disinfectant to stand for noncirculating tubs, bowls, or basins or to circulate for circulating tubs, bowls, or basins for the time specified according to the manufacturer's instructions; and
- e. After disinfection, drain and rinse with clean water.

**63.24(2)** At the end of the day, a service provider shall remove all removable parts from circulating tubs, such as filters, screens, drains, and jets, and clean and disinfect the removable parts as follows:

- a. Scrub with a brush and soap or detergent until free from debris, and then rinse.
- b. Completely immerse in disinfectant.
- c. Rinse and air dry.
- d. Replace the disinfected parts into the tubs, bowl, or basin or store the parts in a disinfected, dry, covered container that is isolated from contaminants.

**63.24(3)** Foot spa service area records. For each foot spa service, including but not limited to pedicures, a record shall be made of the date and time of the daily cleaning and disinfecting for all circulating and noncirculating tubs, bowls or basins. This record shall be made at or near the time of cleaning and disinfecting. Records of cleaning and disinfecting shall be made available upon request by a client, inspector or investigator. The record must be signed by a licensee and include the licensee's license number beside each recorded cleaning event. Foot spa records shall be maintained for two years from the date of the cleaning.

**645—63.25(157) Paraffin wax.** Paraffin wax shall be used according to the manufacturer's instructions and shall be used in such a manner so as not to contaminate the remaining wax in the paraffin bath. The following procedures apply:

1. The client shall be free of broken skin or any skin disorder;
2. Hands or feet of a client shall be cleaned before being dipped into paraffin wax. The client's hands and feet shall not be dipped into the original wax container. The wax shall be removed from the original container and placed in a single-use bag before dipping. Any unused wax remaining in the single-use bag shall be discarded after dipping;
3. Paraffin wax that has been removed from a client's hands or feet shall be discarded after each use; and
4. Paraffin wax shall be kept free of any debris and kept covered when not in use.

These rules are intended to implement Iowa Code section 147.7 and chapter 157.

**ARC 7540C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education for barbering and cosmetology arts and sciences and providing an opportunity for public comment**

The Board of Barbering and Cosmetology Arts and Sciences hereby proposes to rescind Chapter 64, “Continuing Education for Cosmetology Arts and Sciences,” and to adopt a new Chapter 64, “Continuing Education for Barbering and Cosmetology Arts and Sciences,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.76, 157.14, 272C.3, 272C.4 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 157 and 272C.

*Purpose and Summary*

This proposed rulemaking sets forth continuing education requirements for barbers, cosmetologists, nail technicians, estheticians, electrologists, and instructors. The rulemaking includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rules, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that licensees stay up to date with infection control, laws, rules, and industry standards and, as a result, provide high-quality services to Iowans.

One public comment was received during the November 21, 2023, public hearing. The commenter asked how subrule 64.2(1) will apply to persons previously licensed as barbers who have had a different reporting period. The Board responded that all current expiration and renewal dates remain in force until further notice from the Department of Inspections, Appeals, and Licensing.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

A waiver provision is not included in this rule making because all administrative rules of the Board are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Venus Vendoures Walsh  
 Division of Licensing  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321-1270  
 Phone: 515.242.6529  
 Email: [venus.vendoures-walsh@idph.iowa.gov](mailto:venus.vendoures-walsh@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 1:50 to 2:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: 1.904.330.1060  
 PIN: 744 558 427#  
 More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

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 Or dial: 1.904.330.1060  
 PIN: 744 558 427#  
 More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 64 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 64

## CONTINUING EDUCATION FOR BARBERING AND COSMETOLOGY ARTS AND SCIENCES

**645—64.1(157) Definitions.** For the purpose of these rules, the following definitions shall apply:

“Active license” means a license that is current and has not expired.

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

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

“Board” means the board of barbering and cosmetology arts and sciences.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person or entity licensed to practice pursuant to Iowa Code chapter 157 and 645—Chapters 60 to 65.

“*Practice discipline*” means the practice of electrology, esthetics, nail technology, or barbering and cosmetology as recognized by the board of barbering and cosmetology arts and sciences.

“*Prescribed practice*” means an area of specialty certified by the board within the scope of barbering and cosmetology arts and sciences.

**645—64.2(157) Continuing education requirements.**

**64.2(1)** The biennial continuing education compliance period shall begin on April 1 of one year and end on March 31 two years later.

**64.2(2)** Each biennium:

*a.* A licensee in this state shall be required to complete a minimum of six hours of continuing education that meets the requirements of rule 645—64.3(157,272C). A minimum of four of the six hours shall be in the prescribed practice discipline and a minimum of two of the six hours shall be in the content areas of Iowa barbering and cosmetology law and rules and sanitation. Individuals holding more than one active license shall obtain four hours of continuing education in each prescribed practice discipline and an additional two hours in the content areas of Iowa barbering and cosmetology law and rules and infection control.

*b.* A licensee who is an instructor of barbering and cosmetology arts and sciences shall obtain six hours in teaching methodology in addition to meeting all continuing education requirements for renewal of the instructor’s practice license. A licensee must comply with all conditions of licensure including obtaining a minimum of two hours each biennium specific to Iowa barbering and cosmetology law and administrative rules as specified in subrule 64.3(2).

*c.* A licensee currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state or states where the licensee practices. The licensee living and practicing in a state that has no continuing education requirement for renewal of a license shall not be required to meet Iowa’s continuing education requirement but shall pay all renewal fees when due.

*d.* A licensee shall be deemed to have complied with the continuing education requirements of this state during periods that the licensee:

- (1) Serves honorably on active duty in the military services, or
- (2) Is the spouse of an active duty military service person, or
- (3) Is a government employee working in the person’s licensed specialty and assigned to duty outside of the United States, or
- (4) Is engaged in active practice and absent from the state, as approved by the board.

**64.2(3)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**64.2(4)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

**64.2(5)** No hours of continuing education shall be carried over into the next biennium. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**64.2(6)** It is the responsibility of each licensee to finance the cost of continuing education.

**64.2(7)** Requirements for blow-dry stylists are outlined in Iowa Code section 157.12C.

**645—64.3(157,272C) Standards.**

**64.3(1) General criteria.** A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

*a.* Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

*b.* Pertains to subject matters that integrally relate to the practice of the profession;

*c.* Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.

At the time of audit, the board may request the qualifications of presenters;

*d.* Fulfills stated program goals, objectives, or both; and

*e.* Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s), sponsor(s);

(2) Number of program contact hours; and

(3) Evidence of successful completion of the course provided by the course sponsor.

**64.3(2) Specific criteria.** The licensee may obtain the minimum continuing education hours of credit outlined in paragraph 64.2(2)“a” by:

*a.* Attending workshops, trade shows, conferences or symposiums.

*b.* Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.

*c.* Attending programs on product knowledge, methods and systems. Continuing education shall be directly related to the technique and theory specific to the practice of barbering and cosmetology arts and sciences. No direct selling of products is allowed as part of a continuing education offering.

*d.* Attending business classes specific to owning or managing an establishment are acceptable. In addition to fulfilling the requirements in rule 645—64.2(157), for each prescribed practice license held by a licensee, the licensee is to complete four hours in each area.

**64.3(3) Specific criteria for providers and sponsors of continuing education.**

*a.* Continuing education shall be obtained by attending programs that meet the criteria in subrule 64.3(1). Individuals or groups may offer continuing education programs for any prescribed practice within the barbering and cosmetology arts and sciences that meet the criteria in rule 645—64.3(157,272C) offered by or with express sponsorship in advance of delivery by the following organization(s):

(1) Barbering and cosmetology arts and sciences organizations, including:

1. National, state or local associations;

2. Schools and institutes;

3. Textbook publishers.

(2) Universities, colleges or community colleges;

(3) If intense pulsed light (IPL) or microdermabrasion is within the licensee’s prescribed practice as outlined in rule 645—60.5(157), manufacturers or institutes of laser technology.

*b.* A licensee who is a presenter of a continuing education program that meets the criteria in rule 645—64.3(157,272C) may receive credit once per biennium for the initial presentation of the program. The presenter may receive the same number of hours granted the attendees.

These rules are intended to implement Iowa Code section 272C.2 and chapter 157.



**ARC 7541C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to discipline for barbering and cosmetology arts and sciences licensees, instructors, establishments, and schools and providing an opportunity for public comment**

The Board of Barbering and Cosmetology Arts and Sciences hereby proposes to rescind Chapter 65, “Discipline for Cosmetology Arts and Sciences Licensees, Instructors, Salons, and Schools,” and to adopt a new Chapter 65, “Discipline for Barbering and Cosmetology Arts and Sciences Licensees, Instructors, Establishments, and Schools,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.76, 157.14, 272C.3, 272C.4 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 157 and 272C.

*Purpose and Summary*

This proposed rulemaking provides protection to Iowans because the rulemaking publicly defines disciplinary options when a licensee fails to act in a manner consistent with professional standards for licensees. This is important to both the public and the licensee because the rulemaking creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against the licensee’s license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the barbering and cosmetology arts and sciences professions and are therefore excluded from the general disciplinary chapter.

No public comments were received at the November 21, 2023, public hearing.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

A waiver provision is not included in this rulemaking because all administrative rules of the Board are subject to the waiver provisions accorded under 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Venus Vendoures Walsh  
 Division of Licensing  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321-1270  
 Phone: 515.242.6529  
 Email: [venus.vendoures-walsh@idph.iowa.gov](mailto:venus.vendoures-walsh@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 1:50 to 2:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: 1.904.330.1060  
 PIN: 744 558 427#  
 More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

February 14, 2024  
 1:50 to 2:10 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Or dial: 1.904.330.1060  
 PIN: 744 558 427#  
 More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 65 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 65

DISCIPLINE FOR BARBERING AND COSMETOLOGY ARTS AND SCIENCES LICENSEES,  
INSTRUCTORS, ESTABLISHMENTS, AND SCHOOLS**645—65.1(157,272C) Definitions.**

“*Board*” means the board of barbering and cosmetology arts and sciences.

“*Discipline*” means any sanction the board may impose upon barbering and cosmetology arts and sciences licensees, instructors, blow-dry stylists, establishments, and schools.

“*Licensure*” means the granting of a license to any person or entity licensed to practice pursuant to Iowa Code chapter 157 and 645—Chapters 60 to 65.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—65.2(157,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in 645—Chapter 13 when the board determines that any of the acts or offenses listed in such chapter or in Iowa Code section 147.55 or any of the following have occurred:

**65.2(1)** Misappropriation of funds.

**65.2(2)** Failure to return the salon license to the board within 30 days of discontinuance of business under that license.

**65.2(3)** Permitting an unlicensed employee or person under the licensee's or the licensed school's or establishment's control to perform activities that require a license.

**65.2(4)** Permitting a licensed person under the licensee's or the licensed school's or establishment's control to practice outside the scope of the person's license.

**65.2(5)** A person is determined by the investigator to be providing barbering and cosmetology services and leaving a salon at the time of inspection, which shall be prima facie evidence that an unlicensed person is providing services for which a license is required.

**65.2(6)** Performing any of those practices coming within the jurisdiction of the board pursuant to Iowa Code chapter 157, with or without compensation, in any place other than a licensed establishment or a licensed school of barbering and cosmetology arts and sciences.

EXCEPTION: A licensee may practice at a location that is not a licensed establishment or school of barbering and cosmetology arts and sciences when:

*a.* Providing a service authorized under Iowa Code section 157.4 (Temporary Permits).

*b.* Providing a service under rule 645—63.17(157), "Events and services provided outside of a licensed establishment" (Iowa Code section 157.13(1) "a").

*c.* Extenuating circumstances related to the physical or mental disability or death of a customer prevent the customer from seeking services at the licensed establishment or school.

**645—65.3(157,272C) Unlawful practices.** Practices by an unlicensed person or establishment that are subject to civil penalties include, but are not limited to:

**65.3(1)** Acts or practices by unlicensed persons that require licensure to practice barbering and cosmetology arts and sciences under Iowa Code chapter 157.

**65.3(2)** Acts or practices by unlicensed establishments that require licensure as an establishment or school of barbering and cosmetology arts and sciences under Iowa Code chapter 157.

These rules are intended to implement Iowa Code chapters 147, 157 and 272C.

**ARC 7542C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure of dietitians  
and providing an opportunity for public comment**

The Board of Dietetics hereby proposes to rescind Chapter 81, "Licensure of Dietitians," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 152A and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152A and 272C.

*Purpose and Summary*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The intended benefit of proposed Chapter 81 is to set minimum standards for entry into the dietetics profession. Iowa residents, licensees, and employers benefit from the chapter because it articulates the processes by which individuals apply for licensure as a dietitian in the state of Iowa, as directed in statute. The chapter publicly illustrates the process that will be used to license dietitians, including renewal and reinstatement, to ensure public safety through review of the integrity and competence of the practitioner. The chapter describes the application process, educational qualifications, and examination requirements.

No public comments were received at the November 21, 2023, public hearing.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
Division of Licensing  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321-1270  
Phone: 515.242.6529  
Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
2:10 to 2:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

February 14, 2024  
2:10 to 2:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 81 and adopt the following **new** chapter in lieu thereof:

*DIETITIANS*

CHAPTER 81	LICENSURE OF DIETITIANS
CHAPTER 82	CONTINUING EDUCATION FOR DIETITIANS
CHAPTER 83	DISCIPLINE FOR DIETITIANS

CHAPTER 81  
LICENSURE OF DIETITIANS

**645—81.1(152A) Definitions.**

*“Active license”* means a license that is current and has not expired.

*“Board”* means the board of dietetics.

*“Consultation”* means the practice of providing professional advice to another dietitian or other professional in a particular case and for a limited time, in affiliation with, and at the request of, a dietitian licensed in this state.

*“Dietetics”* means the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and from behavioral and social sciences to achieve and maintain an individual's health.

*“Grace period”* means the 30-day period following expiration of a license when the license is still considered to be active.

*“Inactive license”* means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

*“Licensee”* means any person licensed to practice as a dietitian in the state of Iowa.

*“License expiration date”* means the fifteenth day of the birth month every two years following initial licensure.

*“Nutrition assessment”* means the evaluation of the nutrition needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition.

*“Nutrition counseling”* means advising and assisting individuals or groups, with consideration of cultural background and socioeconomic status, about appropriate nutritional intake by integrating information from the nutrition assessment with information about food and other sources of nutrients and meal preparation.

*“Reactivate”* or *“reactivation”* means the process as outlined in rule 645—81.15(17A,147,272C) by which an inactive license is restored to active status.

*“Reciprocal license”* means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of dietetics to license persons who have the same or similar qualifications as those required in Iowa.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*“Registered dietitian”* means a dietitian who has met the standards and qualifications of the Commission on Dietetic Registration, a member of the National Commission for Certifying Agencies.

*“Reinstatement”* means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

*“Supervision of nonlicensees”* means any of the following: delegation of duties, direct oversight, or indirect oversight of employees or other persons not licensed by the board.

**645—81.2(152A) Nutrition care.** The primary function of dietetic practice is the provision of nutrition care services that include:

1. Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting.
2. Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints.
3. Providing nutrition counseling concerning health and disease.
4. Developing, implementing, and managing nutrition care systems.
5. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

**645—81.3(152A) Requirements for licensure.** The following criteria apply to licensure:

**81.3(1)** Submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.6(147,152A).

**81.3(2)** No application will be considered by the board until the applicant satisfactorily completes the registration examination for dietitians administered by the Commission on Dietetic Registration (CDR). The board will accept the passing score set by the CDR. Verification of satisfactory completion may be established by one of the following:

- a. The applicant sends to the board a copy of the CDR registration card;
- b. The CDR sends an official letter directly to the board to verify that the applicant holds registration status; or
- c. The CDR posts web-based verification that the applicant holds registration status.

**81.3(3)** A license is not required for dietitians who are in this state for the purpose of consultation, in accordance with rule 645—81.1(152A), when they are licensed in another state, U.S. territory, or country, or have received at least a baccalaureate degree in human nutrition from a U.S. regionally accredited college or university.

**81.3(4)** Incomplete applications that have been on file in the board office for more than two years will be considered invalid and destroyed.

**645—81.4(152A) Educational qualifications.**

**81.4(1)** The applicant shall possess a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university with a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management, or in an equivalent major course of study, that meets minimum academic requirements as established by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND) and is approved by the board.

**81.4(2)** A foreign-trained dietitian shall:

a. Provide an official letter sent directly from the Commission on Dietetic Registration (CDR) to the board to verify that the applicant has met the minimum academic and didactic program requirements of the CDR. Foreign degree equivalency evaluation requirements of the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND) are listed on the ACEND website, and

b. Provide evidence of meeting all other requirements in these rules.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—81.5(152A) Supervised experience.** The applicant shall complete an accredited competency-based supervised experience program approved by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND).

**645—81.6(152A) Licensure by endorsement.** An applicant who has been a licensed dietitian under the laws of another jurisdiction may file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

**81.6(1)** Meets the requirements of rule 645—81.4(152A).

**81.6(2)** Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

**645—81.7(152A) License renewal.**

**81.7(1)** The biennial license renewal period begins on the sixteenth day of the licensee's birth month and ends on the fifteenth day of the licensee's birth month two years later. The licensee is responsible for renewing the license prior to its expiration.

**81.7(2)** An initial license issued by the board may be valid for an 18- to 29-month period. When an initial license is renewed, it will be placed on a two-year renewal period identified in subrule 81.9(1).

**81.7(3)** A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—82.2(152A) and the mandatory reporting requirements of subrule 81.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

**81.7(4)** Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children and dependent adults in Iowa will complete the applicable department of health and human services training relating to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3) "b."

b. Written documentation of training completion should be maintained for three years.

c. The requirement for mandatory training for identifying and reporting child and dependent adult abuse is suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in rule 645—4.14(272C).

d. The board may select licensees for audit of compliance with the requirements in paragraphs 81.9(4) "a" and "b."

**81.7(5)** Upon receiving the information required by this rule and the required fee, a two-year license will be administratively issued. In the event the board receives adverse information on the renewal application, the renewal license will be issued but the board may refer the adverse information for further consideration or disciplinary investigation.

**81.7(6)** The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**81.7(7) *Late renewal.*** A license not renewed by the expiration date will be assessed a late fee as specified in 645—subrule 5.6(3). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license.

**81.7(8) *Inactive license.*** A license not renewed by the end of the grace period is inactive. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a dietitian in Iowa until the license is reactivated. A licensee who practices as a dietitian in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**81.7(9) *Renewal of a reactivated license.*** A licensee who reactivates the license in accordance with rule 645—81.15(17A,147,272C) will not be required to renew the license until the next renewal two years later if the license is reactivated within six months prior to the license renewal date.

**645—81.8(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**81.8(1)** Submit a reactivation application and pay the reactivation fee as specified in 645—Chapter 5.

**81.8(2)** Provide verification of current competence to practice dietetics by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 30 hours of continuing education within two years of the application for reactivation.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 60 hours of continuing education within two years of application for reactivation.

**645—81.9(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—81.15(17A,147,272C) prior to practicing dietetics in this state.

**645—81.10(152A,272C) Telehealth visits.** A licensee may provide dietetic services to an individual or a group utilizing a telehealth visit if the dietetic services are provided in accordance with all the requirements of this chapter.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**81.10(1)** “Telehealth visit” means the provision of dietetic services by a licensee to an individual or a group using technology where the licensee and the individual or group are not at the same physical location for the therapy session.

**81.10(2)** A licensee engaged in a telehealth visit will utilize technology that is secure and HIPAA-compliant pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104–191, August 21, 1996, 110 Stat. 1936, and any amendments as of December 15, 2023, and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the individual or group. A licensee may use non-real-time technologies to prepare for a session or to communicate with an individual or a group between sessions.

**81.10(3)** A licensee engaged in a telehealth visit will be held to the same standard of care as a licensee who provides in-person dietetic services. A licensee will not utilize a telehealth visit if the standard of care for the particular services cannot be met by using technology.

**81.10(4)** Any licensee who provides a telehealth visit to an individual or a group located in Iowa shall be licensed in Iowa.

**81.10(5)** Prior to the first telehealth visit, a licensee is to obtain informed consent from the individual or group specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the individual or group of the following:

- a. The risks and limitations of the use of technology to provide dietetics services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

**81.10(6)** A licensee will identify in the clinical record when dietetic services are provided utilizing a telehealth visit.

These rules are intended to implement Iowa Code chapters 17A, 147, 152A, and 272C.

**ARC 7543C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education for dietitians  
and providing an opportunity for public comment**

The Board of Dietetics hereby proposes to rescind Chapter 82, “Continuing Education for Dietitians,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 152A and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152A and 272C.

*Purpose and Summary*

Proposed Chapter 82 sets forth continuing education requirements for dietitians. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that dietitians maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

No public comments were received at the November 21, 2023, public hearing.

*Fiscal Impact*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
 Division of Licensing  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321-1270  
 Phone: 515.242.6529  
 Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 2:10 to 2:30 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

February 14, 2024  
 2:10 to 2:30 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 82 and adopt the following **new** chapter in lieu thereof:

CHAPTER 82  
CONTINUING EDUCATION FOR DIETITIANS

**645—82.1(152A) Definitions.**

“*Active license*” means the license is current and has not expired.

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

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

“*Board*” means the board of dietetics.

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

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

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a dietitian in the state of Iowa.

“*Webinar*” means a web-based seminar, presentation, lecture, or workshop that is transmitted over the web.

**645—82.2(152A) Continuing education requirements.**

**82.2(1)** The biennial continuing education compliance period will extend for a two-year period beginning on the sixteenth day of the licensee’s birth month and ending on the fifteenth day of the birth month two years later. Each biennium, each person who is licensed to practice as a dietitian in this state will be required to complete a minimum of 30 hours of continuing education approved by the board.

**82.2(2)** Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

**82.2(3)** Hours of continuing education credit may be obtained in accordance with the definitions and standards in these rules.

**82.2(4)** No hours of continuing education will be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**82.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—82.3(152A,272C) Standards.**

**82.3(1)** *General criteria.* A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that integrally relate to the practice of the profession;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*c.* Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of the presenters;

*d.* Fulfills stated program goals, objectives, or both; and

*e.* Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**82.3(2) Specific criteria.**

*a.* Continuing education hours of credit may be obtained by completing programs/activities that reflect the educational needs of the dietitian and the nutritional needs of the consumer. Continuing education programs/activities that are scientifically founded and offered at a level beyond entry-level dietetics for professional growth will be accepted for continuing education.

*b.* The licensee may engage in other types of activities identified in the individual licensee's professional development portfolio for Commission on Dietetic Registration (CDR) certification.

*c.* The licensee may engage in programs/activities via webinars and independent study, in accordance with the definitions and standards in these rules.

*d.* The licensee may submit completed training to comply with mandatory reporter training requirements, as specified in 645—subrule 81.9(4). Hours reported for credit will not exceed the hours required to maintain compliance with required training.

*e.* The following areas are appropriate for continuing education credit:

(1) Sciences related to dietetic practice, education, or research including biological sciences, food and resource management and behavioral and social sciences to achieve and maintain people's health.

(2) Dietetic practice related to assessment, counseling, teaching, or care of clients in any setting.

(3) Management or quality assurance of nutritional care delivery systems.

(4) Dietetic practice related to community health needs.

*f.* Criteria for hours of credit are as follows:

(1) Academic coursework. Coursework for credit must be completed at a regionally accredited U.S. college or university. In order for the licensee to receive continuing education credit, the coursework must be beyond entry-level dietetics.

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(2) Scholarly publications. Publication may be approved if submitted in published form in the continuing education documentation file of the licensee. All publications must appear in refereed professional journals. Material related to work responsibilities, such as diet and staff manuals, and publications for the lay public are unacceptable. Continuing education credit hours may be reported using the following guidelines:

1. Senior author: first of two or more authors listed.

2. Coauthor: second of two authors listed.

3. Contributing author: all but senior of the three or more authors.

4. Research papers:

● Single author 10 hours

● Senior author 8 hours

● Coauthor 5 hours

● Contributing author 3 hours

5. Technical articles:

● Single author 5 hours

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- Senior author 4 hours
- Coauthor 3 hours
- Contributing author 2 hours
- 6. Information-sharing articles: 1 hour
- 7. Abstracts:
  - Senior author 2 hours
  - Coauthor 1 hour

(3) Poster sessions. Continuing education credit may be obtained for attending juried poster sessions at national meetings that meet the criteria for appropriate subject matter as required in these rules. One hour of continuing education credit is allowed for each 12 posters reviewed not to exceed six hours in a continuing education biennium.

(4) Presenters. Presenters may receive continuing education credit. Presentations to the lay public will not receive credit for continuing education. For each 50-minute hour of presentation, two hours of credit for continuing education will be earned. Presenters of poster sessions at national professional meetings will receive a maximum of two hours of credit per topic. A copy of the abstract or manuscript and documentation of the peer review process must be included in the licensee's documentation list.

(5) Staff development training. Staff development training that meets the criteria in this subrule will be credited on the basis of the defined hour of continuing education stated in these rules.

These rules are intended to implement Iowa Code section 272C.2 and chapter 152A.

**ARC 7544C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to discipline for dietitians  
and providing an opportunity for public comment**

The Board of Dietetics hereby proposes to rescind Chapter 83, "Discipline for Dietitians," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 152A and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152A and 272C.

*Purpose and Summary*

Proposed Chapter 83 defines actions that are inconsistent with professional standards for licensees, which are established to protect the consumer and colleagues. Actions inconsistent with professional standards could result in disciplinary actions against a practitioner's license.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. Proposed Chapter 83 contains only those disciplinary grounds that are unique to the dietetics licensees and are therefore excluded from the general disciplinary chapter.

No public comments were received at the November 21, 2023, public hearing.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
Division of Licensing  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321-1270  
Phone: 515.242.6529  
Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
2:10 to 2:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

February 14, 2024  
2:10 to 2:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 83 and adopt the following new chapter in lieu thereof:

CHAPTER 83  
DISCIPLINE FOR DIETITIANS

**645—83.1(152A,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

Failure to comply with the Academy of Nutrition and Dietetics/Commission on Dietetic Registration, Code of Ethics for the Profession of Dietetics and Process for Consideration of Ethics Issues, effective January 1, 2010, hereby adopted by reference. Copies may be obtained from the Academy of Nutrition and Dietetics/Commission on Dietetic Registration website at [www.eatright.org/code-of-ethics-for-rdns-and-ndtrs](http://www.eatright.org/code-of-ethics-for-rdns-and-ndtrs).

This rule is intended to implement Iowa Code chapters 147, 152A and 272C.

**ARC 7531C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to practice of funeral directors, funeral establishments, and cremation establishments and providing an opportunity for public comment**

The Board of Mortuary Science hereby proposes to rescind Chapter 100, “Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76 and 156.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 156; 2023 Iowa Acts, Senate File 193; and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This proposed rulemaking proposes promulgation of Chapter 100. This rulemaking implements Iowa Code chapter 156 and 2023 Iowa Acts, Senate File 193, in accordance with the goals and directives of Executive Order 10. This rulemaking sets minimum standards for licensure as a funeral director and for funeral and cremation establishments in Iowa. Iowa residents, licensees, and employers benefit from the rulemaking because it articulates the processes by which individuals apply for licensure, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public or establishment doing business with the public has minimum competency. Requirements include the application process, minimum educational qualifications, and exam requirements.

Public comments were received from the Iowa Funeral Directors Association (IFDA) in response to the published Regulatory Analysis. Language suggested by the IFDA and pertinent to this chapter is set forth in subrule 100.4(3). Public comments were also received from the mortuary science program chair at Des Moines Area Community College (DMACC), who suggested adding “intern, or removal technician” to subrule 100.3(1) and clarifying that “[if] a registered intern or registered removal technician first takes custody of a decedent, the funeral director from whom they were delegated that

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

authority is responsible for compliance with (record retention)” in rule 645—100.11(156). Those suggested revisions were also incorporated.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Emily DeRonde  
Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 1:30 p.m.	6200 Park Avenue Des Moines, Iowa
February 14, 2024 1:30 p.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 100 and adopt the following **new** chapter in lieu thereof:

*FUNERAL DIRECTORS*

CHAPTER 100	PRACTICE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND CREMATION ESTABLISHMENTS
CHAPTER 101	LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND CREMATION ESTABLISHMENTS
CHAPTER 102	CONTINUING EDUCATION FOR FUNERAL DIRECTORS
CHAPTER 103	RESERVED
CHAPTER 104	DISCIPLINARY PROCEEDINGS
CHAPTER 105	ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

CHAPTER 100  
PRACTICE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS,  
AND CREMATION ESTABLISHMENTS

**645—100.1(156) Definitions.**

“*Alternative container*” means an unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, that is designed for the encasement of human remains and that is made of fiberboard, pressed wood, composition materials (with or without an outside covering) or like materials that prevents the leakage of body fluid.

“*Authorized person*” means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements including, but not limited to, embalming, cremation, funeral services, and the disposition of human remains pursuant to Iowa Code section 144C.5.

“*Autopsy*” means the postmortem examination of a human remains.

“*Board*” means the board of mortuary science.

“*Body parts*” means appendages or other portions of the anatomy that are from a human body.

“*Burial.*” See “*Interment.*”

“*Burial transit permit*” means a legal document authorizing the removal and transportation of a human remains.

“*Casket*” means a rigid container that is designed for the encasement of human remains and that is usually constructed of wood, metal, fiberglass, plastic or like material and ornamented and lined with fabric.

“*Cemetery*” means an area designated for the final disposition of human remains.

“*Columbarium*” means a structure, room or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.

“*Cremated remains*” means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization that leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of any foreign matter including casket material, bridgework or eyeglasses that were cremated with the human remains.

“*Cremation*” means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation will include the processing, and may include the pulverization, of the bone fragments.

“*Cremation authorization form*” means a form, completed and signed by a funeral director and authorized person, to accompany all human remains accepted for cremation.

“*Cremation chamber*” means the enclosed space within which a cremation takes place.

“*Cremation establishment*” means any person, partnership or corporation that is licensed by the board and provides any aspect of cremation services.

“*Cremation permit*” means a permit issued by a medical examiner allowing cremation for human remains.

“*Cremation room*” means the room in which the cremation chamber is located.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Crypt*” means a chamber in a mausoleum of sufficient size to contain casketed human remains.

“*Custody*” means immediate charge and control exercised by a person or an authority.

“*Dead body.*” See “*Human remains.*”

“*Death certificate*” means a legal document containing vital statistics pertaining to the life and death of the decedent.

“*Decedent.*” See “*Human remains.*”

“*Disinterment*” means to remove a human remains from its place of final disposition.

“*Disinterment permit*” means a permit from the department of health and human services that allows the removal of a human remains from its original place of burial, entombment or interment for the purpose of autopsy or reburial.

“*Disinterment permit number*” means the number assigned to a disinterment permit by the department of health and human services, giving the funeral director the authority to remove a human remains from its place of final disposition.

“*Embalming*” means the disinfection or temporary preservation of human remains, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by surface application into or on the organs or cavities for the purpose of temporary preservation or disinfection.

“*Embalming record*” means a record completed by the licensed funeral director or registered intern for each body embalmed in Iowa, or otherwise prepared for disposition by the licensee. “*Embalming record*” includes, at a minimum, a case analysis and a detailed listing of the procedures or treatments or both performed on the deceased.

“*Entombment*” means to place a casketed body or an urn containing cremated remains in a structure such as a mausoleum, crypt, tomb or columbarium.

“*Final disposition*” means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

“*Funeral ceremony*” means a service commemorating the decedent.

“*Funeral director*” means a person licensed by the board to practice mortuary science.

“*Funeral establishment*” means a place of business as defined and licensed by the board devoted to providing any aspect of mortuary science.

“*Funeral rule*” means the Federal Trade Commission Funeral Rule, 16 CFR §453.4, as amended to 1994.

“*Funeral services*” means any services that may be used to (1) care for and prepare human remains for burial, cremation or other final disposition; and (2) arrange, supervise or conduct the funeral ceremony or final disposition of human remains.

“*Holding facility*” means an area isolated from the general public that is designated for the temporary retention of human remains.

“*Human remains*” means a deceased human being for which a death certificate or fetal death certificate is required.

“*Interment*” means to place a casketed human remains or an urn containing cremated remains in the ground.

“*Intern*” means a person registered by the board to practice mortuary science under the direct supervision of a preceptor certified by the board.

“*Mausoleum*” means an aboveground structure designed for entombment of human remains.

“*Medical examiner*” means a public official whose primary function is to investigate and determine the cause of death when death may be thought to be from other than natural causes.

“*Memorial ceremony*” means a service commemorating the decedent.

“*Niche*” means a recess or space in a columbarium or mausoleum used for placement of cremated human remains.

“*Preparation room*” means a room in a funeral establishment where human remains are prepared, sanitized, embalmed or held for ceremonies and final disposition.

“*Pulverization*” means a process following cremation that reduces identifiable bone fragments into granulated particles.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Removal*” means the act of taking a human remains from the place of death or place where the human remains is being held to a funeral establishment or other designated place.

“*Removal technician*” means a person registered with the board to perform removals.

“*Scattering area*” means a designated area where cremated remains may be commingled with other cremated remains.

“*Temporary cremation container*” means a durable receptacle designed for short-term retention of cremated remains.

“*Their own dead*” refers to the legal authority the authorized person has regarding a human remains.

“*Topical disinfection*” means the direct application of chemical substances on the surface of a human remains for the purpose of temporary preservation or disinfection.

“*Transfer.*” See “*Removal.*”

“*Universal precautions*” means a concept of care based upon the assumption that all blood and body fluids, and materials that have come into contact with blood or body fluids, are potentially infectious as prescribed by the Centers for Disease Control and Prevention (CDC).

“*Urn*” means a receptacle designed for permanent retention of cremated remains.

**645—100.2(156) Funeral director duties.**

**100.2(1)** Practices requiring a funeral director’s license include but are not limited to:

- a. Removal as specified in rule 645—100.4(142,156).
- b. Embalming human remains as specified in rule 645—100.6(156) and completing embalming records as specified in paragraph 100.11(2) “d.”
- c. Conducting funeral arrangements as specified in subrule 100.7(2).
- d. Conducting funeral services when contracted to do so, including:
  - (1) Direct supervision of visitation and viewing.
  - (2) Funeral and memorial ceremonies.
  - (3) Committal and final disposition services.
- e. Conducting cremation services as specified in rule 645—100.10(156).
- f. Signing death certificates and performing associated duties under Iowa Code chapter 144.

**100.2(2)** *Delegation of professional tasks.*

a. Registered interns. Registered interns may provide funeral director services identified in paragraphs 100.2(1) “a” through “f” under the direct supervision of an Iowa-licensed preceptor. A registered intern will not sign a death certificate.

b. A funeral director may delegate solely the transportation of unembalmed human remains to a registered removal technician pursuant to subrule 100.4(3).

**100.2(3)** CDC universal precautions and OSHA standards. The funeral director will observe current guidelines of universal precautions as prescribed by the Centers for Disease Control (CDC) as well as Occupational Safety and Health Administration (OSHA) standards.

**100.2(4)** Funeral directors who provide mortuary science services from funeral establishments located in another state. A funeral director who holds an active Iowa funeral director’s license and whose practice is conducted from a funeral establishment located in another state may provide mortuary science services in Iowa if the establishment holds a current license in the state in which it is located, if such a license is required.

**100.2(5)** Withholding human remains. A funeral director will not withhold human remains based solely on nonpayment of fees.

**645—100.3(156) Permanent identification tag.**

**100.3(1)** The funeral director, intern, or removal technician who assumes possession of a human remains will attach a permanent identification tag.

**100.3(2)** The identification tag will initially contain, at a minimum, the name of the deceased.

**100.3(3)** Before final disposition, the identification tag will contain the name of the deceased and the date of birth, date of death and social security number of the deceased and the name and license number of the funeral establishment in charge of disposition.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**100.3(4)** The identification tag will be attached to the human remains throughout the entire time the human remains are in the possession of the funeral establishment and will remain with the human remains.

**645—100.4(142,156) Removal and transfer of human remains.**

**100.4(1)** Removal and transfer of human remains. The funeral director will perform the following duties upon notification of a death:

*a.* Comply with jurisdictional authority, with respect to medicolegal responsibilities, regarding the removal of the human remains.

*b.* Provide signature and license number when removing a human remains from a hospital, nursing establishment or any other institution involved with the care of the public.

**100.4(2)** After the funeral director has assumed custody of the human remains, the funeral director may delegate the task of transferring the human remains to an unlicensed employee, intern, or agent. Prior to transfer, the funeral director will typically disinfect the body, secure all body orifices to retain all secretions, place the human remains in a leakproof container for transfer that will control odor and prevent the leakage of body fluids, and issue a burial transit permit.

**100.4(3)** A funeral director may delegate the removal and transportation of unembalmed human remains to an unlicensed employee, a removal technician, or an agent without first assuming custody and without typically disinfecting or securing body orifices if all of the following are true:

*a.* The transportation is to or from the medical examiner's office, or otherwise at the direction of the medical examiner;

*b.* The remains are placed in a leakproof container by medical examiner personnel; and

*c.* The employee, removal technician, or agent is issued a burial transit permit or other evidence of authorization.

**100.4(4)** A removal technician referred to in subrules 100.4(2) and 100.4(3) must complete the annual OSHA training related to blood-borne pathogens, training on in-person equipment and disposition of remains; and ethics and professional boundaries.

**645—100.5(135,144) Burial transit permits.** A licensed funeral director may issue a burial transit permit for the removal and transfer of human remains, according to state law and the administrative rules promulgated by the department of health and human services.

**645—100.6(156) Preparation and embalming activities.**

**100.6(1)** The funeral director will perform the following duties prior to and during embalming according to commonly accepted industry standards.

*a.* Obtain authorization for embalming from an authorized person. If permission to embalm cannot be obtained from the authorized person, the funeral director may proceed with the embalming if necessary to comply with subrule 100.6(3).

*b.* Embalm entirely in private. No one except the funeral director, intern, immediate family, or student will be allowed in the preparation room without the written permission of the authorized person. A student must be under the direct physical supervision of the funeral director and currently enrolled and attending a program of mortuary science that is recognized by the board to be allowed in the preparation room without written permission during the embalming.

*c.* Keep the human remains properly covered at all times.

*d.* Conduct a preembalming case analysis of the human remains. Recognize the potential chemical effects on the body and select the proper embalming chemicals based upon the analysis.

*e.* Position the human remains on the preparation table and pose the facial features.

*f.* Select points of drainage and injection, and raise the necessary vessels.

*g.* Embalm by arterial and cavity injection of embalming chemicals. If the condition of the human remains does not allow arterial and cavity injection of embalming chemicals, topical embalming, using appropriate chemicals and procedures, will be performed.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*h.* Evaluate the distribution of the embalming chemicals and perform treatment for discoloration, vascular difficulties, decomposition, dehydration, purge and close any incisions once the arterial and cavity injection of the embalming chemicals is complete.

**100.6(2)** Postembalming activities. The funeral director will perform the following duties at the conclusion of the embalming activities if necessary.

- a.* Pack or otherwise secure all body orifices with material that will absorb and retain all secretions.
- b.* Apply chemicals topically and perform hypodermic treatments.
- c.* Bathe, disinfect and reposition the human remains.
- d.* Clean and disinfect the embalming instruments, equipment and preparation room.
- e.* Perform any restorative treatments.
- f.* Select and apply the appropriate cosmetic treatments.
- g.* Prepare the human remains for viewing.

**100.6(3)** Care of the unembalmed human remains.

*a.* Embalming may be omitted provided that interment or cremation is performed within 72 hours after death or within 24 hours of taking custody if a human remains was previously in the custody of others, whichever is longer.

*b.* If refrigeration is utilized, embalming or final disposition may be extended up to 72 hours longer than the maximum period provided in paragraph 100.6(3) "a." The body must be kept between 38 and 42 degrees Fahrenheit.

*c.* If viewing of the unembalmed human remains is requested, the human remains will be topically disinfected and all body orifices will be packed or otherwise secured with material that will absorb and retain all secretions.

**645—100.7(156) Arranging and directing funeral and memorial ceremonies.**

**100.7(1)** *The Federal Trade Commission.* The funeral director will observe current guidelines of the Federal Trade Commission (FTC) funeral rule.

**100.7(2)** *Arrangement conference activities.* If responsible, the funeral director will perform the following duties associated with arranging ceremonies and the final disposition of a human remains.

*a.* Gather necessary statistical and biographical information relating to the decedent and explain the varied use of the information gathered.

*b.* Present, discuss and explain the mandated FTC price lists and assist or provide the consumer with:

- (1) The types of ceremony or final disposition.
- (2) The specific goods and services.
- (3) The prices of any goods and services.
- (4) The written, itemized statement of the funeral goods and services.
- (5) A general price list.

At the conclusion of arrangements, the itemized statement will be signed by the purchaser and the funeral director.

**100.7(3)** *Directing of funeral and memorial ceremonies.* If responsible, the funeral director will perform the following duties:

- a.* Direct and supervise ceremonies.
- b.* Direct and supervise final disposition.

**645—100.8(142,156) Unclaimed human remains for scientific use.**

**100.8(1)** A human remains is unclaimed when:

*a.* The decedent did not express a desire to be interred, entombed or cremated.

*b.* Relatives or friends of the decedent did not request that the decedent's human remains be interred, entombed or cremated.

**100.8(2)** Friend distinguished from casual acquaintance. A friend will be distinguished from a casual acquaintance by the friend's having been closely associated with the decedent during the decedent's lifetime.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**100.8(3)** Delivery of human remains for scientific purposes. The funeral director, the medical examiner or managing officer of a public health institution, hospital, county home, penitentiary or reformatory will notify the department of health and human services as soon as any unclaimed human remains that may be suitable for scientific purposes will come into the person's custody.

**100.8(4)** Department instructions. When the department of health and human services receives notice, the funeral director will be instructed as to the proper disposition of a human remains.

**100.8(5)** Expenses incurred by funeral director. The expenses incurred by the funeral director for the transportation of a human remains to a medical college will be paid by the medical college receiving the human remains.

**645—100.9(144) Disinterments.** A funeral director in charge of a disinterment will ensure that the disinterment is performed in accordance with rules promulgated by the department of health and human services and will first secure a disinterment permit issued by the department of health and human services.

**100.9(1)** No person will disinter a human remains or cremated remains unless the funeral director in charge of the disinterment has a numbered disinterment permit that has been issued by the department of health and human services or by an order of the district court of the county in which the human remains or cremated remains are interred or entombed.

**100.9(2)** All disinterment permits will be requested and provided by the department of health and human services.

**100.9(3)** All disinterment permits will be signed by the authorizing person.

**100.9(4)** Disinterment permits will be furnished upon request from the department of health and human services and will remain valid for 30 days after issuance.

**100.9(5)** Disinterment permits will only be issued to the funeral director, and the disinterment must be done under the direct supervision of the funeral director.

**100.9(6)** Disinterment permits will be required for any relocation of a human remains from the original site of interment or entombment if the purpose is for autopsy or reburial.

**100.9(7)** No disinterment permit is necessary to remove a human remains or cremated remains from a holding facility for interment or entombment in the same cemetery where being temporarily held.

**100.9(8)** A funeral director may await a court order before proceeding with disinterment if the funeral director is aware of a dispute among:

*a.* Persons who are members of the same class of persons described in 641—subrule 97.14(4) as having authority to control the human remains; or

*b.* Persons who are authorized pursuant to 641—subrule 97.14(4) and the executor named in the decedent's will or personal representative appointed by the court.

**645—100.10(156) Cremation of human remains.**

**100.10(1)** *Record keeping.*

*a. Delivery receipt.*

(1) When a human remains is delivered to a cremation establishment, the cremation establishment will furnish to the delivery person a delivery receipt containing:

1. The name, address, age, gender, and cause of death of the decedent whose human remains are delivered to the cremation establishment.

2. The date and time of delivery and the type of container that contains the human remains.

3. If applicable, the name of the funeral director who sent the human remains and the name and license number of the funeral director's associated funeral establishment.

4. The signature of the person who delivered the human remains.

5. The signature of the person receiving the human remains on behalf of the cremation establishment.

6. The name and business address of the cremation establishment.

(2) The cremation establishment will retain a copy of the delivery receipt in its permanent records.

*b. Receiving receipt.*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(1) The cremation establishment will furnish to any person who receives the cremated remains from the cremation establishment a receiving receipt containing:

1. The name of the decedent whose cremated remains are released from the cremation establishment.
2. The date and time when the cremated remains were released from the cremation establishment.
3. The name of the person to whom the cremated remains are released and the name and license number of the funeral establishment, cemetery, family or other person or entity with which that person is affiliated.
4. The signature of the person who receives the cremated remains.
5. The signature of the person who released the cremated remains on behalf of the cremation establishment.
6. The name of the cremation establishment operator and the date and time of the cremation.

(2) The cremation establishment will retain a copy of the receiving receipt in its permanent records.

*c. Permanent record.* A cremation establishment will maintain at its place of business a permanent record that includes the following:

- (1) Name of the deceased person.
- (2) Date and time of the cremation.
- (3) Copies of the delivery receipt and the receiving receipt.
- (4) Disposition of the cremated remains.
- (5) Cremation authorization.
- (6) Cremation permit if required in the jurisdiction of death.

**100.10(2)** *Employment of a funeral director by a cremation establishment.* No aspect of these rules will be construed to require a funeral director to supervise or perform any functions at a cremation establishment not otherwise required by law to be performed by a funeral director. The cremation establishment will contract only with a licensed funeral establishment and will not contract directly with the general public.

**100.10(3)** *Authorizing person and preneed cremation arrangements.* The authorized person has legal authority and may make decisions regarding the final disposition of the decedent.

**100.10(4)** *Authorization to cremate.*

*a.* The cremation establishment will have the authority to cremate human remains upon the receipt of the following:

(1) Cremation authorization form signed by the authorized person. The cremation authorization form will contain the following:

1. The name, address, age and gender of the decedent whose human remains are to be cremated.
2. The date, time of death and cause of death of the decedent.
3. The name and license number of the funeral establishment and of the funeral director who obtained the cremation authorization form signed by the authorized person.
4. The signature of the funeral director.
5. The name and address of the cremation establishment authorized to cremate a human remains.
6. The name and signature of the authorized person granting permission to cremate the human remains and the authorized person's relationship to the decedent.
7. A representation that the authorized person has the right to authorize the cremation of the decedent in accordance with this rule.
8. A representation that in the event there is another person who has superior priority right to that of the authorized person, the authorized person has made all reasonable efforts to contact that person and has no reason to believe that the person would object to the cremation of the decedent.
9. A representation that a human remains does not contain any material or implants that may be potentially hazardous to equipment or persons performing the cremation.
10. A representation that the authorized person has made a positive identification of the decedent or, if the authorized person is unavailable or declines, there are alternative means of positive identification.
11. The name of the person, funeral establishment or funeral establishment's designee to which the cremated remains are to be released.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

12. The manner of the final disposition of the cremated remains.
13. A listing of all items of value and instructions for their disposition.
- (2) The cremation permit if required in the jurisdiction of death.
- (3) Any other documentation required by this state.

*b.* If the authorized person is not available to execute the cremation authorization form in person, the funeral director may accept written authorization by facsimile, email, or such alternative written or electronic means the funeral director reasonably believes to be reliable and credible.

*c.* The authorized person may revoke the authorization and instruct the funeral director or funeral establishment to cancel the cremation. The cremation establishment will honor any instructions from a funeral director or funeral establishment under this rule if the cremation establishment receives instructions prior to beginning the cremation.

**100.10(5) Cremation procedures.**

*a.* A cremation establishment will cremate human remains within 24 hours of issuance of the delivery receipt as defined in subrule 100.10(1).

*b.* No cremation establishment will cremate human remains when it has actual knowledge that the human remains contain a pacemaker or have any other implants or materials that will present a health hazard to those performing the cremation and processing and pulverizing the cremated remains.

*c.* No cremation establishment will refuse to accept human remains for cremation because such human remains are not embalmed.

*d.* Whenever a cremation establishment is unable or unauthorized to cremate human remains immediately upon taking custody of the remains, the cremation establishment will place the human remains in a holding facility in accordance with the cremation establishment rules and regulations and within the parameters of rules 645—100.5(135,144) and 645—100.6(156).

*e.* No cremation establishment will accept human remains unless they are delivered to the cremation establishment in a container that prevents the leakage of body fluids.

*f.* Under no circumstances will an alternative container or casket be opened at the cremation establishment except to facilitate proper cremation.

*g.* The container in which a human remains is delivered to the cremation establishment will be cremated with the human remains or safely destroyed.

*h.* The simultaneous cremation of the human remains of more than one person within the same cremation chamber, without the prior written consent of the authorized person, is prohibited. Nothing in this rule, however, will prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the cremation establishment from multiple sources, or the use of cremation equipment that contains more than one cremation chamber.

*i.* No unauthorized person will be permitted in the holding facility or cremation room while any human remains are being held there awaiting cremation, being cremated, or being removed from the cremation chamber.

*j.* A cremation establishment will not allow removal of any dental gold, body parts, organs, or any item of value prior to or subsequent to a cremation without previously having received specific written authorization from the authorized person and written instructions for the delivery of these items to the authorized person.

*k.* Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process will be removed from the cremation chamber.

*l.* If all of the recovered cremated remains will not fit within the receptacle that has been selected, the remainder of the cremated remains will be returned to the authorized person or this person's designee in a separate container. The cremation establishment will not return to an authorized person or this person's designee more or less cremated remains than were removed from the cremation chamber.

*m.* A cremation establishment will not knowingly represent to an authorized person or this person's designee that a temporary cremation container or urn contains the cremated remains of a specific decedent when it does not.

*n.* Cremated remains will be shipped only by a method that has an internal tracing system available and that provides a receipt signed by the person accepting delivery.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*o.* A cremation establishment will maintain an identification system that will ensure the identity of human remains in the cremation establishment's possession throughout all phases of the cremation process. A noncombustible tag or disc that includes the name and license number of the cremation establishment and the city and state where the cremation establishment is located will be attached to the plastic bag with the cremated remains or placed in amongst the cremated remains.

**100.10(6) *Disposition of cremated remains.*** If responsible, the funeral director will supervise the final disposition of the cremated remains as follows:

*a.* Cremated remains may be disposed of by placing them in a grave, crypt, or niche or by scattering them in a scattering area as defined in these rules, or they may remain in the personal care and custody of the authorized person. After supervising the transfer of cremated remains to the authorized person or place of final disposition, the funeral director will be discharged.

*b.* Upon the completion of the cremation process, the cremation establishment will release the cremated remains to the funeral establishment or the authorized person or the authorized person's designee. Upon the receipt of the cremated remains, the individual receiving them may transport them in any manner in this state without a burial transit permit and may dispose of them in accordance with this rule. After releasing the cremated remains, the cremation establishment will be discharged from any legal obligation or liability concerning the cremated remains.

*c.* If, after a period of 60 days from the date of the cremation, the authorizing person or designee has not instructed the funeral director to arrange for the final disposition of the cremated remains, the funeral director may dispose of the cremated remains in any manner permitted by this rule. The funeral establishment, however, will keep a permanent record identifying the site of final disposition. The authorizing person will be responsible for reimbursing the funeral establishment for all reasonable expenses incurred in disposing of the cremated remains. Any entity that was in possession of cremated remains prior to the effective date of these rules may dispose of them in accordance with this rule.

*d.* Except with the express written permission of the authorizing person, no funeral director or cremation establishment will:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition will not apply to the scattering of cremated remains in an area located in a cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary cremation container or urn.

**100.10(7) *Scope of rules.*** These rules will be construed and interpreted as a comprehensive cremation statute, and the provisions of these rules will take precedence over any existing laws containing provisions applicable to cremation, but that do not specifically or comprehensively address cremation.

**645—100.11(156) Records to be retained by a funeral establishment.** To ensure a permanent record of the licensed activity relating to the custody of each decedent, each funeral director will create and the funeral establishment will maintain the records identified in this rule. If a registered intern or registered removal technician first takes custody of a decedent, the funeral director from whom they were delegated that authority is responsible for compliance with the rules in this chapter. Funeral directors and funeral establishments will comply with the rules adopted by the department of health and human services under Iowa Code section 144.49.

**100.11(1)** At a minimum, the following information, if applicable, relating to each human remains that enters the custody of the establishment/licensee will be maintained as the permanent record of licensed activity:

- a.* Name of the deceased;
- b.* Date, time, and place of death (institution or other place, city, state, zip);
- c.* Name and address of the person or funeral establishment to whom a human remains is released;
- d.* Date and from whom the funeral director assumed custody, including the name of the institution or other place of death releasing a human remains;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*e.* Date, time, and name of the licensed funeral director or registered intern completing embalming or other preparation for final disposition;

*f.* Date, place and method of final disposition of a human remains.

**100.11(2)** Each funeral establishment will create and maintain the following records for a period of ten years:

- a.* General price list required by the funeral rule, beginning on the most recent effective date;
- b.* Each completed statement of goods and services required by the funeral rule, beginning on the date the statement is signed;
- c.* Cremation records (see rule 645—100.10(156));
- d.* Embalming records;
- e.* Each preneed contract (pursuant to Iowa Code chapter 523A), beginning on the date of death.

**100.11(3)** The funeral records maintained by the funeral establishment as required in subrules 100.11(1) and 100.11(2) will be made available by the manager, funeral director or owner of the funeral establishment to:

- a.* Any person or entity assuming a new ownership interest or any person newly assuming the position of manager, at least ten days prior to a change in ownership or manager, unless otherwise mutually agreed upon by the parties;
- b.* Any licensed funeral director who practiced funeral directing while under the employment of, or while acting as an agent of, the funeral establishment; and
- c.* The state registrar of vital statistics and the board.

**100.11(4)** In the event a funeral establishment ceases to do business, the owner or manager of the funeral establishment will identify the person or entity that will be responsible for records to be maintained by a funeral establishment as required in subrules 100.11(1) and 100.11(2). The funeral establishment will notify the board if funeral records are moved from the funeral establishment to another location and identify the person responsible for their safekeeping.

These rules are intended to implement Iowa Code chapters 147, 156, and 272C.

**ARC 7532C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to licensure of funeral directors, funeral establishments, and cremation establishments and providing an opportunity for public comment**

The Board of Mortuary Science hereby proposes to rescind Chapter 101, “Licensure of Funeral Directors, Funeral Establishments, and Cremation Establishments,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 147, 156 and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 156; 2023 Iowa Acts, Senate File 193; and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This proposed rulemaking proposes promulgation of Chapter 101. This rulemaking implements Iowa Code chapter 156 and 2023 Iowa Acts, Senate File 193, in accordance with the goals and directives of Executive Order 10. This rulemaking sets minimum standards for licensure as a funeral director and for

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

funeral and cremation establishments in Iowa. Iowa residents, licensees, and employers benefit from the chapter because it articulates the processes by which individuals apply for licensure, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the public or establishment doing business with the public has minimum competency. Requirements include the application process, minimum educational qualifications, and examination requirements.

Public comments were received from the Iowa Funeral Directors Association (IFDA) in response to the published Regulatory Analysis. The IFDA's suggestions were generally incorporated, with the exception of substantive limitations on a funeral director's ability to utilize removal technicians that are more restrictive than current practice and appear to exceed the rulemaking authority granted by the Legislature in 2023 Iowa Acts, Senate File 193, including minimum years of practice needed for funeral directors to utilize removal technicians.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 1:30 p.m.	6200 Park Avenue Des Moines, Iowa
February 14, 2024 1:30 p.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 101 and adopt the following **new** chapter in lieu thereof:

CHAPTER 101  
LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND  
CREMATION ESTABLISHMENTS

**645—101.1(156) Definitions.** For purposes of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of mortuary science.

“*Change of ownership*” means a change of controlling interest ((1) an interest in a partnership of greater than 50 percent; or (2) greater than 50 percent of the issued and outstanding shares of a stock of a corporation) in a funeral establishment or cremation establishment.

“*Full time*” means a minimum of a 35-hour work week.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a funeral director in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years following initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice mortuary science to an applicant who is or has been licensed in another state.

“*Occupational Safety and Health Act*” means the Occupational Safety and Health Act of 1970, 29 U.S.C. §651 et seq.

“*Outer burial container*” means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—101.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice mortuary science to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of mortuary science to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

**645—101.2(156) Requirements for licensure.**

**101.2(1)** The applicant will be eligible to apply for a license to practice mortuary science by the board pursuant to subrule 101.2(2) when the applicant has completed the educational requirements and examination requirements, followed by a completed internship as prescribed below, in the following alphabetical order:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* Educational qualifications.

(1) A minimum of 60 hours of college credit as indicated on the transcript from a regionally accredited college or university with a minimum of a 2.0 or “C” grade point average. The 60 college semester hours will not include any technical mortuary science course; and

(2) A program in mortuary science from a school accredited by the American Board of Funeral Service Education; and

(3) A college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed services.

*b.* Examination requirements. The board will accept a certificate of examination issued by the International Conference of Funeral Service Examining Boards, Inc., indicating a passing score on both the arts and sciences portions of the examination.

*c.* Internship requirements as outlined in rule 645—101.3(147,156).

**101.2(2)** The applicant will complete an online application packet on the Iowa board of mortuary science website and pay the nonrefundable application fee.

*a.* If licensed in another jurisdiction, the applicant will complete the licensure by endorsement application. Submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

*b.* An application that is not completed according to guidelines will not be reviewed by the board.

*c.* A person who is licensed in another jurisdiction but who is unable to satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

*d.* An application will not be considered until official copies of the academic transcripts has been directly transmitted from the college to the board office that demonstrates the applicant has completed a program at an approved college of mortuary science.

*e.* Licensees who were issued their initial licenses within six months prior to the renewal will not be required to renew their licenses until the renewal month two years later.

*f.* Incomplete applications that have been on file in the board office for more than two years will be:

(1) Considered invalid and will be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

**101.2(3)** Foreign-trained funeral directors will:

*a.* Provide an equivalency evaluation of their educational credentials by International Education Research Foundation, Inc. The professional curriculum must be equivalent to that stated in these rules. A candidate will bear the expense of the curriculum evaluation.

*b.* Provide a copy of the certificate or diploma awarded to the applicant from a mortuary science program in the country in which the applicant was educated.

*c.* Receive a final determination from the board regarding the application for licensure.

*d.* Successfully complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

**645—101.3(147,156) Internship and preceptorship.****101.3(1) Internship.**

*a.* The intern must serve a minimum of one year of internship under the direct supervision of an Iowa board-certified preceptor. The beginning and ending dates of the internship will be indicated on the internship certificate. The intern will engage in the practice of mortuary science only during the time indicated on the internship certificate.

*b.* The intern will, during the internship, be a full-time employee with the funeral establishment at the site of internship except as provided in paragraph 101.3(2) “i.”

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. No licensed funeral director will permit any person in the funeral director's employ or under the funeral director's supervision or control to serve an internship in funeral directing unless that person has a certificate of registration as a registered intern from the department of inspections, appeals, and licensing. The registration will be posted in a conspicuous place in the intern's primary place of practice.

d. Registered interns will not advertise or hold themselves out as funeral directors or use the degree F.D. or any other title or abbreviation indicating that the intern is a funeral director.

e. The intern will, during the internship, complete the requirements outlined in subrule 101.3(3), including to embalm not fewer than 25 human remains and direct or assist in the direction of not fewer than 25 funerals under the direct supervision of the certified preceptor and to submit reports on forms furnished by the department of inspections, appeals, and licensing. Work on the first 5 embalming cases, first 5 funeral arrangements, and first 5 funeral or memorial services must be completed in the physical presence of the preceptor. The first 12 embalming cases and the first 12 funeral case reports must be completed and submitted by the completion of the sixth month of the internship.

f. Before being eligible for licensure, the intern must have filed the 25 completed embalming and funeral directing case reports and a 6-month and a 12-month evaluation form with the department of inspections, appeals, and licensing. These reports will be answered in full and signed by both the intern and preceptor.

g. When, for any valid reason, the board determines that the education a registered intern is receiving under the supervision of the present preceptor might be detrimental to the intern or the profession at large, the intern may be required to serve the remainder of the internship under the supervision of a licensed funeral director who is approved by the board.

h. The length of an internship may be extended if the board determines that the intern requires additional time or supervision in order to meet the minimum proficiency in the practice of mortuary science.

i. The board views a one-year internship completed in a consecutive 12-month period as the best training option. If an internship is interrupted, the internship must be completed within 24 months of the date it started in order to be readily accepted by the board. Internships that are not completed within 24 months will be preapproved by the board on such terms as the board deems reasonable under the circumstances. The board may require any or all of the following:

(1) Completion of a college course or continuing education course covering mortuary science laws and rules;

(2) Additional case reports;

(3) Extension of an internship up to an additional 12 months depending on such factors as the number of months completed during the internship, length of time that has lapsed since the intern was actively involved in the internship program, and the experience attained by the intern.

j. Application for change of preceptor or any other alteration must be made in writing and approval granted by the board before the status of the intern is altered.

k. The intern will complete on a form provided by the board a confidential evaluation of the preceptorship program at the end of the internship. This form will be submitted before a funeral director license is issued to the intern.

l. The intern must be approved and licensed following a successful internship before the intern may practice mortuary science.

**101.3(2) Preceptorship.**

a. A preceptor must have completed a training course within five years prior to accepting an intern. This training course will cover Iowa law and rule content areas including, but not limited to, Iowa law and rules governing licensure and the practice of mortuary science and human resource issues. The training course may be counted toward the continuing education hours required for the licensure biennium in which the training course was completed.

b. Any duly Iowa-licensed funeral director who has been practicing for a minimum of five years and who has not had any formal disciplinary action within the past five years with the board of mortuary science and has completed a preceptor training course detailed in paragraph 101.3(2) "a" will be eligible to be a preceptor.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. The preceptor will be affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

d. The preceptor will certify that the intern engages in the practice of mortuary science only during the time frame designated on the official intern certificate.

e. A preceptor's duties will include the following:

(1) Ensure the intern completes the training program outlined in subrule 101.3(3);  
(2) Be physically present and supervise the first five embalming cases, first five funeral arrangements, and first five funeral or memorial services;

(3) Familiarize the intern in the areas specified by the preceptor training outline;

(4) Read, add appropriate comments to, and sign each of the 25 embalming reports and the 25 funeral directing reports completed by the intern;

(5) Complete a written six-month report of the intern on a form provided by the board. This report is to be reviewed with and signed by the intern and submitted to the board before the end of the seventh month; and

(6) At the end of the internship, complete a confidential evaluation of the intern on a form provided by the board. This evaluation will be submitted within two weeks of the end of the internship. The 12-month report will be submitted to the board for review and approval prior to the board's approval of the intern for licensure.

f. Failure of a preceptor to fulfill the requirements set forth by the board, including failure to remit the required six-month progress report, as well as the final evaluation, will result in an investigation of the preceptor by the board and may result in actions which may include, but not be limited to, the loss of preceptor status for current and future interns or discipline or both.

g. If a preceptor does not serve the entire year, the board will evaluate the situation; and if a certified preceptor is not available, a licensed funeral director may serve with the approval of the board.

h. No licensed funeral director or licensed funeral establishment will have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, with a maximum of two interns per funeral establishment.

i. With prior board approval, an intern may serve under the supervision of more than one preceptor under the following terms and conditions:

(1) A single preceptor must act in the role of the primary preceptor.

(2) The primary preceptor is responsible for coordinating all intern training and activities.

(3) The intern will be a full-time employee of the funeral establishment of the primary preceptor; however, compensation may be shared between preceptors.

(4) The primary preceptor may make arrangements with a maximum of two additional preceptors to share preceptor responsibilities for such purposes as providing an intern with a higher-volume practice or a broader range of intern experiences.

(5) Each preceptor will be individually responsible for directly supervising the intern's activities performed under the preceptor's guidance, but the primary preceptor remains responsible for coordinating the intern's activities and submitting all forms to the board.

**101.3(3) Intern training requirements.**

a. The board-approved preceptor will ensure that the intern is knowledgeable of each of the following items during the internship:

(1) The requirements of the Federal Trade Commission Funeral Rule.

(2) The requirements of the Occupational Safety and Health Act.

(3) The requirements of the Americans with Disabilities Act.

(4) The benefits of the Social Security and Veterans Health Administrations.

(5) The requirements of Iowa funeral law and forms (for example, preneed in Iowa Code chapter 523A, death certificates and Iowa burial transit permits in Iowa Code chapter 144, authorized person in Iowa Code chapter 144C, Iowa department of inspections, appeals, and licensing law and rules governing funeral practice, and the board's laws and rules).

b. The board-approved preceptor will ensure that the intern performs each of the following under the preceptor's direct supervision:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (1) Assists with or performs a minimum of ten transfers of human remains.
- (2) Performs 25 embalmings of human remains to include:
  1. Obtaining permission to embalm.
  2. Placement of human remains on preparation table.
  3. Pre-embalming analysis.
  4. Primary disinfection.
  5. Setting features.
  6. Selection of injection/drainage sites and raising those vessels.
  7. Selection and mixing of embalming chemicals and operation of the embalming machine.
  8. Injection and drainage methods.
  9. Cavity treatment.
  10. Suturing techniques.
- (3) Prepares a minimum of ten human remains for viewing to include:
  1. Dressing.
  2. Cosmetizing.
  3. Casketing.
- (4) Assists with cremation procedures to include:
  1. Contacting the medical examiner.
  2. Completing required cremation forms.
  3. Preparing human remains for cremation.
- (5) Makes complete funeral arrangements with a minimum of ten families to include each of the following, as applicable:
  1. Presentation of funeral goods, products and services.
  2. Presentation of payment options for families.
  3. Contacting third-party suppliers of goods and services, such as clergy, cemetery personnel, outer burial container provider, cremation establishment, florist, and musicians.
  4. Completing the obituary.
  5. Presentation of general price list and associated price lists.
  6. Preparation and presentation of statement of funeral goods and services.
- (6) Coordinates, at a minimum, ten visitations to include:
  1. Preparing the chapel, visitation room or other facility.
  2. Setting up floral arrangements.
  3. Setting up register book and memorial folders or prayer cards.
- (7) Directs a minimum of 25 funerals or memorial services to include, as applicable:
  1. Greeting funeral attendees.
  2. Assisting casket bearers.
  3. Preparing for funeral procession.
  4. Driving a vehicle in procession.
  5. Assisting at graveside committal.
  6. Transporting flowers.
  7. Coordinating with officiant and family.

**645—101.4(156) Student practicum.**

**101.4(1)** A student may participate in a student practicum in a licensed funeral establishment in Iowa if the student's school is accredited by and in good standing with the American Board of Funeral Service Education (ABFSE). The student practicum must meet the requirements of the ABFSE.

**101.4(2)** Students serving a practicum in Iowa will be under the direct physical supervision of a funeral director who meets the following requirements:

- a. Has completed the Iowa preceptor training course within the immediately preceding five years.
- b. Has not had any formal disciplinary action within the past five years.
- c. Is affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—101.5(156) Funeral establishment license or cremation establishment license.**

**101.5(1)** A place of business devoted to providing any aspect of mortuary science or cremation services will hold an establishment license issued by the board. An establishment license will not be issued more than 30 days prior to the opening of a new establishment.

*a.* A funeral establishment or a cremation establishment will not be operated until it has obtained a license from the board. Each establishment will timely renew the license in order to continue operations.

*b.* A funeral or cremation establishment will surrender its license to the board if the establishment fails to engage in or ceases to engage in the business for which the license was issued, pursuant to Iowa Code section 156.15(2)“*d.*”

*c.* A funeral or cremation establishment license is not transferable or assignable.

*d.* A change in ownership will require the issuance of a new license. A change in ownership will be reported to the board prior to the date ownership will change or, in the case of change of ownership by death or other unexpected event, within 30 days following change of ownership. The board may request legal proof of the ownership transfer.

*e.* An establishment license will be issued for a specific physical location. A change in location or site of an establishment will require the submission of an application for a new license and payment of the fee required by 645—subrule 5.9(9). A new establishment license must be issued prior to the commencement of business in a new location.

*f.* A change in the name of an establishment will be reported to the board within 30 days. The establishment owner will pay the fee for reissuing the license.

*g.* A change in address or of the funeral director in responsible charge will be reported to the board within 30 days.

*h.* An establishment will have an employment or other relationship with one or more licensed funeral directors who will perform all mortuary science services for which licensure as a funeral director is required by Iowa Code chapter 156. A cremation establishment is not, however, required to employ or contract with a funeral director on an ongoing basis because a cremation establishment will not offer services directly to the general public. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment will designate the funeral director who will be in responsible charge of all mortuary science services performed at the funeral establishment. The funeral establishment will report to the board any change of the funeral director in responsible charge within 30 days of the change.

*i.* The board will not routinely issue more than one establishment license for a single location, but the board may do so if the multiple applicants provide proof, satisfactory to the board, that the establishments are wholly separate except for the sharing of facilities. If the board issues more than one establishment license for a single location, the licensees will ensure that the public will not be confused or deceived as to the establishment with which the public is interacting. A facility may have a funeral establishment license and a separate cremation establishment license at a single location.

*j.* The establishment license will be displayed in a conspicuous place at the location of the establishment.

*k.* Failure to comply with any of these rules will constitute grounds for discipline pursuant to 645—Chapter 104 or civil penalties for unlicensed practice pursuant to 645—Chapter 105.

**101.5(2)** A funeral establishment or cremation establishment will be subject to applicable local, state and federal health and environmental requirements and will obtain all necessary licenses and permits from the agencies with jurisdiction.

**101.5(3)** License application. Complete an online application on the Iowa board of mortuary science website and pay the nonrefundable funeral or cremation application fee. If there is both a funeral establishment and a cremation establishment at the same location, two establishment license applications will be required, along with the payment of two establishment application fees. The application will contain all of the following:

*a.* The name, mailing address and telephone number of the applicant.

*b.* The physical location of the establishment.

*c.* The mailing address, telephone number, fax number and email address of the establishment.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- d.* The name, home address and telephone number of the individual in charge who has the authority and responsibility for the establishment's compliance with laws and rules pertaining to the operation of the establishment.
- e.* The name and address of all owners and managers of the establishment (e.g., sole proprietor, partner, director, officer, managing partner, member, or shareholder with 10 percent or more of the stock).
- f.* The legal name of the establishment and all trade names, assumed names, or other names used by the establishment.
- g.* The signature of the responsible authority at the site of the establishment and an acknowledgment of the funeral director in responsible charge of mortuary science services at the funeral establishment that the funeral director is aware of and consents to the designation.
- h.* The names and license numbers of all funeral directors employed by or associated with the establishment through contract or otherwise who provide mortuary science services at or for the establishment. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment will designate the funeral director who will have responsible charge of all mortuary science services performed at the funeral establishment. No funeral establishment will be issued a license if it fails to designate the funeral director in responsible charge of the mortuary science services to be performed at the establishment.
- i.* All felony or misdemeanor convictions of the applicant and all owners and managing officers of the applicant (except minor traffic offenses with fines of less than \$500).
- j.* All disciplinary actions against any professional or occupational license of the applicant by any jurisdiction including, but not limited to, disciplinary action by the Iowa insurance division under Iowa Code chapter 523A or 523 or action by the Federal Trade Commission.
- k.* Further information that the board may reasonably require, such as whether the establishment includes a preparation room.

**645—101.6(156) Renewal of funeral director license.**

**101.6(1)** The biennial license renewal period for a license to practice as a funeral director will begin on the sixteenth day of the licensee's birth month and end on the fifteenth day of the licensee's birth month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

**101.6(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal, with 2 of the 24 hours covering current Iowa law and rules as identified in 645—paragraph 102.3(2)“f.”

**101.6(3)** A licensee seeking renewal will:

- a.* Meet the continuing education requirements of rule 645—102.2(272C). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b.* Complete an online renewal application on the board of mortuary science website and pay the renewal fee before the license expiration date.
- c.* Persons licensed to practice funeral directing will keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

**101.6(4)** Upon receiving the information required by this rule and the required fee, board staff will administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**101.6(5)** A person licensed to practice as a funeral director will keep the license certificate displayed in a conspicuous public place at the primary site of practice.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**101.6(6)** Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. The licensee will be assessed a late fee as specified in 645—subrule 5.14(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

**101.6(7)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a funeral director in Iowa until the license is reactivated. A licensee who practices as a funeral director in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—101.7(272C) Renewal of a funeral establishment license or a cremation establishment license.****101.7(1)** Renewal.

- a. The renewal cycle will be triennial beginning July 1 and ending on June 30 of the third year.
- b. The renewal will be to complete an online renewal application on the Iowa board of mortuary science website and pay the renewal fee.

**101.7(2)** Failure to receive notice from the board will not relieve the license holder of the obligation to pay triennial renewal fees on or before the renewal date.

**101.7(3)** Funeral and cremation establishments will keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

**101.7(4)** Late renewal. If the renewal fee and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration will be charged.

**101.7(5)** When all requirements for license renewal are met, the licensee will be sent a license renewal card by email.

**645—101.8(272C) Inactive funeral establishment license or cremation establishment license.**

**101.8(1)** If the renewal application and fee are not postmarked within 30 days after the license expiration date, the funeral establishment license or cremation establishment license is inactive. To reactivate a funeral establishment license or cremation establishment license, complete an online reactivation application on the Iowa board of mortuary science website and pay the reactivation fee.

**101.8(2)** A funeral establishment or a cremation establishment that has not renewed the funeral establishment license or cremation establishment license within the required time frame will have an inactive license and will not provide mortuary science services until the license is reactivated.

**645—101.9(17A,147,272C) Reinstatement of a funeral establishment license or a cremation establishment license.** For a funeral or cremation establishment license that has been revoked, suspended, or voluntarily surrendered, the owner must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—101.9(272C) prior to offering mortuary science services from that establishment in this state.

**645—101.10(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee will:

**101.10(1)** Complete an online reactivation application on the Iowa board of mortuary science website and pay the reactivation fee.

**101.10(2)** Provide verification of current competence to practice as a funeral director by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) If licensed in another jurisdiction, the applicant will submit a licensure verification document from every jurisdiction the applicant is or has been licensed that discloses if disciplinary action was taken.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(2) Verification of completion of 24 hours of continuing education that meet continuing education standards defined in rule 645—102.3(156,272C) within two years prior to filing the application for reactivation; and

(3) Verification of completion of 2 hours of continuing education in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. These 2 hours will be included as a part of the 24 hours required in subparagraph 101.11(3)“a”(2).

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) If licensed in another jurisdiction, the applicant will submit a licensure verification document from every jurisdiction the applicant is or has been licensed that discloses if disciplinary action was taken.

(2) Verification of completion of 48 hours of continuing education that meet continuing education standards defined in 645—subrule 102.3(1) and 645—paragraphs 102.3(2)“a,” “b,” “c,” and “e,” within two years prior to filing the application for reactivation. Independent study identified in 645—paragraph 102.3(2)“f” will not exceed 24 hours of the 48 hours; and

(3) Verification of completion of a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

**645—101.11(17A,147,272C) Reinstatement of a funeral director license.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—101.11(17A,147,272C) prior to practicing as a funeral director in this state. The owner of a funeral home establishment whose establishment license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the establishment license and must apply for and be granted reactivation of the establishment license prior to reopening the funeral home establishment.

**645—101.12(156) Removal technician education and training requirements.**

**101.12(1)** A removal technician will complete an in-person education training program that is approved by the board of mortuary science and provides education and training on the following:

*a.* Requirements of the Federal Trade Commission Funeral Rule as defined in rule 645—100.1(156);

*b.* Requirements of the Occupational Safety and Health Act relevant to the removal technician’s duties;

*c.* Iowa laws and rules relevant to removal technicians; and

*d.* Pertinent equipment.

**101.12(2)** It is the responsibility of the removal technician to maintain documentation of successful completion of the education training program described in subrule 101.12(1).

**645—101.13(156) Removal technician supervision and requirements.**

**101.13(1)** A removal technician will serve under the direct supervision of an Iowa licensed funeral director, will only perform removals at the direction of the supervising funeral director, and may act in place of a funeral director only in performing a removal.

**101.13(2)** Any Iowa-licensed funeral director who meets the following conditions is eligible to be a supervisor:

*a.* Has been practicing for a minimum of five years;

*b.* Has not had any formal disciplinary action within the past five years with the board of mortuary science; and

*c.* Is affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**101.13(3)** A removal technician seeking registration will complete an application on forms provided by the board and remit a fee in the amount of \$50 to the board. The application will include the applicant's full name, date of birth, and home address; the name and license number of the removal technician's supervising funeral director; and the name and address of the funeral establishment primarily employing the removal technician. A registration is effective for five years and may be renewed within 60 days of expiration. A removal technician will advise the board in writing of any change in supervisor or funeral establishment within 30 days.

**101.13(4)** The supervising funeral director will:

- a. Ensure the removal technician completes the education training program described in rule 645—101.12(156) and is registered as a removal technician with the board;
- b. Be physically present and directly supervise the removal technician's first five removals;
- c. Ensure the removal technician performs its duties as outlined in subrule 101.13(2);
- d. Not supervise more than two removal technicians; and
- e. Not have more than four registered removal technicians employed by the same funeral establishment, or any funeral establishment owned, operated, or affiliated with that funeral establishment.

**101.13(5)** Removal technicians will:

- a. Be employed full- or part-time by the Iowa-licensed funeral establishment;
- b. Complete the requirements of rule 645—101.12(156) and have their first five removals completed in the physical presence of and directly supervised by their supervising Iowa licensed funeral director;
- c. Comply with subrule 100.4(1) on behalf of their supervising licensed funeral director, including providing their signature and registration number when removing a human remains from a hospital, nursing establishment, or any other institution involved with the care of the public.

**101.13(6)** Removal technicians will not:

- a. Advertise or hold themselves out as a funeral director or use the acronym "F.D." or any other title or abbreviation indicating that the removal technician is a funeral director;
- b. Engage in any duties of a funeral director outside of performing a removal, including but not limited to:
  - (1) Discussing funeral or cremation arrangements;
  - (2) Embalming or acquiring permission for embalming;
  - (3) Overseeing a funeral service; or
  - (4) Overseeing a burial.

These rules are intended to implement Iowa Code chapters 17A, 147, 156 and 272C.

**ARC 7533C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education for funeral directors  
and providing an opportunity for public comment**

The Board of Mortuary Science hereby proposes to rescind Chapter 102, "Continuing Education for Funeral Directors," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 156 and sections 147.36 and 147.76.

*State or Federal Law Implemented*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 156 and 272C; 2023 Iowa Acts, Senate File 193; and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This proposed rulemaking proposes promulgation of Chapter 102. This rulemaking implements Iowa Code chapters 17A, 147, 156, and 272C and 2023 Iowa Acts, Senate File 193, in accordance with the goals and directives of Executive Order 10. This rulemaking includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to maintain and improve a licensee's knowledge and skills to improve the safety and welfare delivered to the public.

Public comments were received from the Iowa Funeral Directors Association (IFDA) in response to the published regulatory analysis. The IFDA suggested additional continuing education requirements for registered removal technicians. The suggestions were not incorporated because they were inconsistent with Occupational Safety and Health Administration (OSHA) requirements.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 1:30 p.m.	6200 Park Avenue Des Moines, Iowa
February 14, 2024 1:30 p.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 102 and adopt the following **new** chapter in lieu thereof:

CHAPTER 102  
CONTINUING EDUCATION FOR FUNERAL DIRECTORS

**645—102.1(272C) Definitions.** For the purpose of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

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

“*Board*” means the board of mortuary science.

“*Continuing education*” means planned, organized learning acts that are designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public and that meet the standards set forth in these rules.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of continuing education.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in these rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a funeral director in the state of Iowa.

**645—102.2(272C) Continuing education requirements.**

**102.2(1)** The biennial continuing education compliance period will extend for a two-year period beginning on the fifteenth day of the licensee's birth month and ending on the fifteenth day of the licensee's birth month. Each biennium, a person who holds an active license will be required to complete a minimum of 24 hours of continuing education activity. Two of the 24 hours of continuing education will be in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. A minimum of 12 hours of the 24 hours of continuing education required for renewal will be earned by completing a program in which an instructor conducts the class employing either in-person or live, real-time interactive media.

**102.2(2)** Requirements of new licensees. Continuing education is not required in the first renewal period. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal.

**102.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity as stipulated in rule.

**102.2(4)** No hours of continuing education will be carried over into the next biennium except as stated in subrule 102.2(2). A licensee whose license was reactivated during the current renewal

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**102.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—102.3(156,272C) Standards.**

**102.3(1) General criteria.** A continuing education activity must meet the following criteria:

*a.* Constitute an organized program of learning that contributes directly to the professional competency of the licensee;

*b.* Pertain to subject matters that integrally relate to the practice of the profession;

*c.* Be conducted by individuals who have specialized education, training and experience concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters.

*d.* Fulfill stated program goals, objectives, or both; and

*e.* Provide proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

All licensees must retain the information identified in paragraph 102.3(1)“e” for two years after the biennium has ended.

**102.3(2) Specific criteria.**

*a.* The following categories of continuing education are accepted:

(1) Public health and technical: chemistry, microbiology and public health, anatomy, pathology, restorative art, arterial and cavity embalming.

(2) Business management: accounting, funeral home and crematory management and merchandising, computer application, funeral directing, and small business management.

(3) Social sciences/humanities: psychology of grief, counseling, sociology of funeral service, history of funeral service, communication skills, and philosophy.

(4) Legal, ethical, regulatory: mortuary law; business law; ethics; Federal Trade Commission, OSHA, ADA, and EPA regulations; preneed regulation; social services; veterans affairs benefits; insurance; state and county benefits; legislative concerns. Insurance will be related to life insurance and will not exceed 8 hours each biennium.

*b.* Academic coursework that meets the criteria set forth in the rule is accepted. Continuing education credit equivalents are as follows:

1 academic semester hour = 10 continuing education hours

1 academic trimester hour = 8 continuing education hours

1 academic quarter hour = 7 continuing education hours

A course description and an official school transcript indicating successful completion of the course must be provided by the licensee to receive credit for an academic course if continuing education is audited.

*c.* Attendance at or participation in a program or course that is offered or sponsored by a state or national funeral association that meets the criteria in subrule 102.3(1) and paragraph 102.3(2)“a” is accepted.

*d.* Independent study credits, including those obtained by television viewing, Internet, video- or sound-recorded programs, or correspondence work or by other similar means that meet the criteria in paragraph 102.3(2)“a,” must be accompanied by a certificate from the sponsoring organization that indicates successful completion of the test. Continuing education credit obtained by independent study will not exceed 12 hours of the 24 hours required during the compliance period.

*e.* Presentations of a structured continuing education program or a college course that meets the criteria established in standards for approval may receive 1.5 times the number of hours granted the attendees. These hours will be granted only once per biennium for identical presentations.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*f.* Two of the 24 hours of continuing education will be in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

**645—102.4(272C) Automatic exemption.** A licensee will be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
3. Was absent from the state but engaged in active practice under circumstances that are approved by the board.

These rules are intended to implement Iowa Code section 272C.2 and chapter 156.

**ARC 7526C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to disciplinary proceedings  
and providing an opportunity for public comment**

The Board of Mortuary Science hereby proposes to rescind Chapter 103, "Disciplinary Proceedings," and Chapter 104, "Enforcement Proceedings Against Nonlicensees," and to adopt a new Chapter 104, "Disciplinary Proceedings," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76 and 156.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 156 and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

Proposed Chapter 104 provides protection to Iowans because it publicly defines required professional standards for the practice of mortuary science. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in Iowa. When professional standards are not met, it can subject a licensee to discipline against their license. Iowans have the ability to submit a complaint to the Board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected. This can include restrictions, suspension, or revocation of a license to practice. The proposed chapter also creates a process to place a licensee on probation for the purpose of protecting the public, who rely upon these licensed individuals and establishments for the performance of mortuary science services.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. Proposed Chapter 104 contains only those disciplinary grounds that are unique to the mortuary sciences profession and are therefore excluded from the general disciplinary chapter.

No public comments were received at the November 21, 2023, public hearing.

*Fiscal Impact*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Michele Royer  
Iowa Department of Inspections, Appeals, and Licensing/Bureau of Board Support  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.5234  
Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 1:30 p.m.	6200 Park Avenue Des Moines, Iowa
February 14, 2024 1:30 p.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **645—Chapter 103**.

ITEM 2. Rescind 645—Chapter 104 and adopt the following **new** chapter in lieu thereof:

CHAPTER 104  
DISCIPLINARY PROCEEDINGS

**645—104.1(156) Definitions.**

“Board” means the board of mortuary science.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*“Discipline”* means any sanction the board may impose upon licensees.

*“Licensee”* means an individual licensed pursuant to Iowa Code section 156.4 to practice as a funeral director in Iowa and a person issued an establishment license pursuant to Iowa Code section 156.14 to establish, conduct, or maintain a funeral establishment or cremation establishment in Iowa.

**645—104.2(17A,147,156,272C) Disciplinary authority.** The board is empowered to administer Iowa Code chapters 17A, 147, 156, and 272C and related administrative rules for the protection and well-being of those persons who may rely upon licensed individuals and establishments for the performance of mortuary science services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of licensees, to determine whether disciplinary proceedings are warranted, to initiate and prosecute disciplinary proceedings, to establish standards of professional conduct, and to impose discipline pursuant to Iowa Code sections 17A.13, 147.55, 272C.3 to 272C.6 and 272C.10 and chapter 156.

**645—104.3(17A,147,156,272C) Grounds for discipline against funeral directors.** The board may initiate disciplinary action against a licensed funeral director based on Iowa Code section 156.9 and any of the following grounds:

**104.3(1)** Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

*a.* False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed when making application for a license in this state, or

*b.* Attempting to file or filing with the board or the department of inspections, appeals, and licensing any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

**104.3(2)** Professional incompetency. Professional incompetency includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standards of acceptable and prevailing practice of a funeral director in this state.

**104.3(3)** Deceptive practices. Deceptive practices are grounds for discipline, whether or not actual injury is established, and include:

*a.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of mortuary science.

*b.* Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

*c.* Acceptance of any fee by fraud or misrepresentation.

*d.* Falsification of business records through false or deceptive representations or omissions.

*e.* Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.

*f.* Knowingly misrepresenting any material matter to a prospective purchaser of funeral merchandise, furnishings, or services.

*g.* Representing oneself as a funeral director when one’s license has been suspended, revoked, or surrendered, or when one’s license is on inactive status.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- h.* Permitting another person to use the licensee's license for any purposes.
- i.* Misrepresenting the legal need or other requirement for embalming.
- j.* Fraud in representations as to skill or ability.

**104.3(4)** Unethical, harmful or detrimental conduct. Licensees engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct which are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

- a.* Practice outside the scope of the profession which requires licensure by a different professional licensing board.
- b.* Any violation of Iowa Code chapter 144.
- c.* Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of mortuary science or such behavior otherwise provides a reasonable basis for the board to conclude that such behavior would place the public at risk within the practice of mortuary science.
- d.* Betrayal of a professional confidence.
- e.* Engaging in a professional conflict of interest.
- f.* Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.
- g.* Embalming or attempting to embalm a deceased human body without first having obtained authorization from a family member or representative of the deceased, except where embalming is done to meet the requirements of applicable state or local law. However, a funeral director may embalm without authority when, after due diligence, no authorized person can be contacted and embalming is in accordance with legal or accepted standards in the community, or the licensee has good reason to believe that the family wishes embalming. The order of priority for those persons authorized to permit embalming is found in Iowa Code section 144C.5. If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the prohibition in this paragraph.
- h.* Failure to keep and maintain records as required by Iowa Code chapter 156 and associated rules.

**104.3(5)** Unlicensed practice.

- a.* Practicing mortuary science when one's license has been suspended, revoked, or surrendered, or when one's license is on inactive status.
- b.* Practicing mortuary science within an unlicensed funeral or cremation establishment.
- c.* Permitting an unlicensed employee or other person under the licensee's control or supervision to perform activities requiring a license.
- d.* Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice mortuary science, or aiding or abetting a licensee, license applicant or unlicensed person in committing any act or omission which is grounds for discipline under this rule or is an unlawful act by a nonlicensee under Iowa Code section 156.16.

**104.3(6)** Lack of proper qualifications.

- a.* Continuing to practice as a funeral director without satisfying the continuing education mandated by 645—Chapter 102.
- b.* Acting as a preceptor or continuing education provider without proper board approval or qualification.
- c.* Habitual intoxication or addiction to the use of drugs, or impairment which adversely affects the licensee's ability to practice in a safe and competent manner.
- d.* Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications which are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b."

**104.3(7)** Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes:

- a.* A failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*b.* Any conduct, practice or condition which impairs a licensee's ability to safely and skillfully practice the profession.

**104.3(8)** Professional misconduct.

*a.* Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

*b.* Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of mortuary science, including, but not limited to, Iowa Code chapters 272C, 144, 147, 156, 523A, 523I, 566, and 566A; board rules, including rules of professional conduct set forth in 645—Chapter 100; and regulations promulgated by the Federal Trade Commission relating to funeral services or merchandise, or funeral or cremation establishments, as applicable to the profession. Any violation involving deception, dishonesty or moral turpitude shall be deemed related to the practice of mortuary science.

*c.* Engaging in any conduct that subverts or attempts to subvert a board investigation, or failure to fully cooperate with a licensee disciplinary investigation or investigation against a nonlicensee, including failure to comply with a subpoena issued by the board or to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the licensee's last address on file at the board office.

*d.* Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated.

**104.3(9)** Willful or repeated violations. The willful or repeated violation of any provision of Iowa Code chapter 147, 156, or 272C.

**104.3(10)** Failure to report.

*a.* Failure by a licensee or an applicant for licensure to report in writing to the board any revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action.

*b.* Failure of a licensee or an applicant for licensure to report, within 30 days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action.

*c.* Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

*d.* Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

*e.* Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

*f.* Failure to report a change of name or address within 30 days after it occurs.

**104.3(11)** Failure to comply with board order.

*a.* Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

*b.* Failure to pay costs assessed in any disciplinary action.

**104.3(12)** Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.

**104.3(13)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

**104.3(14)** Failure to comply with conditions of Iowa Code sections 142C.10 and 142C.10A.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—104.4(17A,147,156,272C) Grounds for discipline against funeral establishments and cremation establishments.** The board may initiate disciplinary action against a funeral establishment or cremation establishment, at time of license application or thereafter, based on all grounds set forth in Iowa Code section 156.15, summarized as follows:

**104.4(1)** The licensee or applicant has been convicted of a felony or any crime related to the practice of mortuary science or implicating the establishment's ability to safely perform mortuary science services, or if the applicant is an association, joint stock company, partnership, or corporation, the managing officer or owner has been convicted of such a crime under the laws of this state, another state, or the United States.

**104.4(2)** The licensee or applicant, or any owner or employee of the establishment has violated Iowa Code chapter 156, rule 645—104.3(17A,147,156,272C), or any other rule promulgated by the board.

**104.4(3)** The licensee or applicant knowingly aided, assisted, procured, or allowed a person to unlawfully practice mortuary science.

**104.4(4)** The licensee or applicant failed to engage in or ceased to engage in the business described in the application for licensure.

**104.4(5)** The licensee or applicant failed to keep and maintain records as required by Iowa Code chapter 156 or rules promulgated by the board.

**104.4(6)** The licensee or owner of the establishment has violated the smokefree air Act, Iowa Code chapter 142D.

**645—104.5(17A,147,156,272C) Method of discipline.** The board has the authority to impose the following disciplinary sanctions:

1. Revoke a license.
2. Suspend a license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the licensee's engaging in specified procedures, methods, or acts.
4. Place a licensee on probation and impose such conditions as the board may reasonably impose including, but not limited to, requiring periodic reporting to the board designated features of the licensee's practice of mortuary science.
5. Require additional education or training. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for license renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a license.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1,000 against an individual licensed as a funeral director, or not to exceed \$10,000 against a licensed funeral establishment or cremation establishment. Civil penalties may be imposed for any of the disciplinary violations specified in rules 645—104.3(17A,147,156,272C) and 645—104.4(17A,147,156,272C), as applicable.
9. Issue a citation and warning, or reprimand.
10. Refuse to issue or renew a license.
11. Such other sanctions allowed by law as may be appropriate.

**645—104.6(17A,147,156,272C) Board discretion in imposing disciplinary sanctions.** Factors the board will consider when determining the nature and severity of the disciplinary sanction to be imposed, including whether to assess and the amount of civil penalties, include:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state.
2. Whether the amount of a civil penalty will be a substantial deterrent to the violation.
3. The circumstances leading to the violation.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

4. The risk of harm to the public.
5. The economic benefits gained by the licensee as a result of the violation.
6. The interest of the public.
7. Evidence of reform or remedial action.
8. Time lapsed since the violation occurred.
9. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
10. The clarity of the issues involved.
11. Whether the violation was willful and intentional.
12. Whether the nonlicensee acted in bad faith.
13. The extent to which the licensee cooperated with the board.
14. Whether a licensee holding an inactive, suspended, restricted or revoked license engaged in practices which require licensure.
15. Any extenuating factors or other countervailing considerations.
16. Number and seriousness of prior violations or complaints.
17. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

**645—104.7** Reserved.

**645—104.8(17A,147,156,272C) Informal discussion.** If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. The licensee is not required to attend the informal discussion. By electing to attend, the licensee waives the right to seek disqualification, based upon personal investigation of a board or staff member, from participating in making a contested case decision or acting as a presiding officer in a later contested case proceeding. Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges shall be filed simultaneously with the consent order.

These rules are intended to implement Iowa Code chapters 17A, 147, 156, and 272C.

**ARC 7534C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to enforcement proceedings against licensees  
and providing an opportunity for public comment**

The Board of Mortuary Science hereby proposes to adopt Chapter 105, "Enforcement Proceedings Against Nonlicensees," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76 and 156.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 156 and Executive Order 10 (January 10, 2023).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Purpose and Summary*

The intent of proposed Chapter 105 is to impose civil penalties against persons who are practicing mortuary science and are not licensed by the Board for the protection of the public who rely upon licensed individuals and establishments for the performance of mortuary science services. No public comments were received at the November 21, 2023, public hearing.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Emily DeRonde  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.249.7038  
Email: [emily.deronde@dia.iowa.gov](mailto:emily.deronde@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024	6200 Park Avenue
1:30	Des Moines, Iowa
February 14, 2024	6200 Park Avenue
1:30	Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Adopt the following new 645—Chapter 105:

CHAPTER 105  
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

**645—105.1(156) Civil penalties against nonlicensees.** The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 156.16. In addition to the procedures set forth in Iowa Code section 156.16, this chapter will apply.

**645—105.2(156) Unlawful practices.** Practices by unlicensed persons or establishments that are subject to civil penalties include, but are not limited to:

1. Acts or practices by unlicensed persons that require licensure as a funeral director under Iowa Code chapter 156.
2. Acts or practices by unlicensed establishments that require licensure as a funeral establishment or cremation establishment under Iowa Code chapter 156.
3. Use of the words “funeral director,” “mortician,” or other title in a manner that states or implies that the person is engaged in the practice of mortuary science as defined in Iowa Code chapter 156.
4. Use or attempted use of a licensee’s certificate or an expired, suspended, revoked, or nonexistent certificate.
5. Falsely impersonating a licensed funeral director.
6. Providing false or forged evidence of any kind to the board in obtaining or attempting to obtain a license.
7. Other violations of Iowa Code chapter 156.
8. Knowingly aiding or abetting an unlicensed person or establishment in any activity identified in this rule.

**645—105.3(156) Investigations.** The board is authorized by Iowa Code sections 17A.13(1) and 156.16 to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Such investigations will conform to the procedures outlined in this chapter. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

**645—105.4(156) Subpoenas.** Pursuant to Iowa Code sections 17A.13(1) and 156.16, the board is authorized in connection with an investigation of an unlicensed person or establishment to issue subpoenas to compel persons to testify and to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, that the board deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in rule 645—9.5(17A,272C).

**645—105.5(156) Notice of intent to impose civil penalties.** The notice of the board’s intent to issue an order to require compliance with Iowa Code chapter 156 and to impose a civil penalty will be served upon the nonlicensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice will include the following:

1. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with Iowa Code chapter 156.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

5. Notice of the nonlicensee's right to a hearing and the time frame in which hearing must be requested.
6. The address to which written request for hearing must be made.

**645—105.6(156) Requests for hearings.**

**105.6(1)** Nonlicensees must request a hearing within 30 days of the date the notice is received if served through restricted certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

**105.6(2)** If a request for hearing is not timely made, the board chairperson or the chairperson's designee may issue an order imposing the civil penalty and requiring compliance with Iowa Code chapter 156, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

**105.6(3)** If a request for hearing is timely made, the board will issue a notice of hearing and conduct a contested case hearing in the same manner as applicable to disciplinary cases against licensees.

**105.6(4)** A nonlicensed person who fails to timely request a contested case hearing will have failed to exhaust "adequate administrative remedies" as that term is used in Iowa Code section 17A.19(1).

**105.6(5)** A nonlicensed person who is aggrieved or adversely affected by the board's final decision following a contested case hearing may seek judicial review as provided in Iowa Code section 17A.19.

**105.6(6)** A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 156 at any stage of the proceeding upon mutual consent of the board.

**105.6(7)** The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in rule 645—11.30(272C). Hearings will be open to the public.

**645—105.7(156) Factors to consider.** The board may consider the following when determining the amount of civil penalty to impose, if any:

1. Whether the amount imposed will be a substantial economic deterrent to the violation.
2. The circumstances leading to the violation.
3. The severity of the violation and the risk of harm to the public.
4. The economic benefits gained by the violator as a result of noncompliance.
5. The interest of the public.
6. The time lapsed since the unlawful practice occurred.
7. Evidence of reform or remedial actions.
8. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
9. Whether the violation involved an element of deception.
10. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
11. The clarity of the issue involved.
12. Whether the violation was willful and intentional.
13. Whether the nonlicensee acted in bad faith.
14. Whether the nonlicensee cooperated with the board.

**645—105.8(156) Enforcement options.** In addition, or as an alternative, to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, or enter into a consent agreement as provided in Iowa Code section 156.16.

These rules are intended to implement Iowa Code chapters 17A, 147, and 156.

**ARC 7545C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to licensure of physical therapists and physical therapist assistants and providing an opportunity for public comment**

The Board of Physical and Occupational Therapy hereby proposes to rescind Chapter 200, “Licensure of Physical Therapists and Physical Therapist Assistants,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 148A and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148A and 272C.

*Purpose and Summary*

Proposed Chapter 200 sets minimum standards of entry into the professions of physical therapist (PT) and physical therapist assistant (PTA). Iowa residents, licensees, and employers benefit from this chapter since it clarifies the processes by which licensees may apply for licensure as PTs and PTAs, as directed in statute. The chapter describes the process that will be used to license PTs and PTAs, including renewal and reinstatement, to ensure public safety through review of the integrity and competence of the practitioner. The chapter describes the application process, educational qualifications, and examination requirements.

Public comments received at the November 21, 2023, public hearing were reviewed by the Board. After discussion, the Board agreed that licensees and the public benefit by incorporating suggestions from American Physical Therapy Association (APTA) Iowa and agreed to maintain the original definition language and add the term “dry needling” to the definition of “physical therapy” in Chapter 200.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Venus Vendoures Walsh  
Division of Licensing  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321-1270  
Phone: 515.242.6529  
Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
2:30 to 2:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

February 14, 2024  
2:30 to 2:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 200 and adopt the following **new** chapter in lieu thereof:

*PHYSICAL AND OCCUPATIONAL THERAPISTS*

CHAPTER 200	LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS
CHAPTER 201	PRACTICE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS
CHAPTER 202	DISCIPLINE FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS
CHAPTER 203	CONTINUING EDUCATION FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS
CHAPTER 204	RESERVED
CHAPTER 205	RESERVED
CHAPTER 206	LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS
CHAPTER 207	CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS
CHAPTER 208	PRACTICE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS
CHAPTER 209	DISCIPLINE FOR OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

CHAPTER 200

LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

**645—200.1(147) Definitions.** For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Assistive personnel*” means any person who carries out physical therapy and is not licensed as a physical therapist or physical therapist assistant. This definition does not include students as defined in Iowa Code section 148A.3(2).

“*Board*” means the board of physical and occupational therapy.

“*Department*” means the department of health and human services.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Impairment*” means a mechanical, physiological or developmental loss or abnormality, a functional limitation, or a disability or other health- or movement-related condition.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years after initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice physical therapy to an applicant who is or has been licensed in another state.

“*Mandatory reporter training*” means the training on identifying and reporting child abuse or dependent adult abuse as required in Iowa Code sections 232.69 and 235B.16.

“*On site*” means:

1. To be continuously on site and present in the department or facility where assistive personnel are performing services;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

“*Physical therapist*” means a person licensed under this chapter to practice physical therapy.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*“Physical therapist assistant”* means a person licensed under this chapter to assist in the practice of physical therapy.

*“Physical therapy”* means the same as defined in Iowa Code section 148A.1, including:

1. Evaluation of individuals with impairments in order to determine a diagnosis, prognosis, and plan of therapeutic treatment and intervention, and to assess the ongoing effects of treatment and intervention;
2. Use of the effective properties of physical agents and modalities, including but not limited to mechanical and electrotherapeutic devices, heat, cold, air, light, water, electricity, and sound, to prevent, correct, minimize, or alleviate an impairment;
3. Use of therapeutic exercises to prevent, correct, minimize, or alleviate an impairment;
4. Use of rehabilitative procedures to prevent, correct, minimize, or alleviate an impairment, including but not limited to the following procedures:
  - Manual therapy, including soft-tissue and joint mobilization and manipulation;
  - Therapeutic massage;
  - Dry needling;
  - Prescription, application, and fabrication of assistive, adaptive, orthotic, prosthetic, and supportive devices and equipment;
  - Airway clearance techniques;
  - Integumentary protection and repair techniques; and
  - Debridement and wound care;
5. Interpretation of performances, tests, and measurements;
6. The establishment and modification of physical therapy programs;
7. The establishment and modification of treatment planning;
8. The establishment and modification of consultative services;
9. The establishment and modification of instructions to the patient, including but not limited to functional training relating to movement and mobility; and
10. Participation, administration, and supervision attendant to physical therapy and educational programs and facilities.

*“PT”* means physical therapist.

*“PTA”* means physical therapist assistant.

*“Reactivate”* or *“reactivation”* means the process as outlined in rule 645—200.15(17A,147,272C) by which an inactive license is restored to active status.

*“Reciprocal license”* means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

*“Reinstatement”* means the process as outlined in rule 645—11.31(272C). Once the license is reinstated, the licensee may apply for active status.

**645—200.2(147) Initial licensure.**

**200.2(1)** The applicant shall submit a complete online application and pay the nonrefundable fee specified in rule 645—5.13(147,148A).

**200.2(2)** If the application is not completed according to the instructions, the application will not be reviewed by the board.

**200.2(3)** Submit official copies of academic transcripts directly from the school to the board. An applicant shall demonstrate successful completion of a physical therapy education program accredited by a national accreditation agency approved by the board. No application will be considered by the board until official copies of academic transcripts have been received.

**200.2(4)** Submit a completed fingerprint card and a signed waiver form to facilitate a national criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). The cost of the criminal history background check by the DCI and the FBI shall be assessed to the applicant.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**200.2(5)** Have the testing service send the examination score directly to the board.

**200.2(6)** Provide verification of license from the jurisdiction in which the applicant has most recently been licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the renewal date license.

**200.2(7)** A physical therapist or physical therapist assistant applicant who holds a license in another state shall have:

- a. Completed board-approved continuing education during the immediately preceding two-year period: 40 hours required for the physical therapist license holder and 20 hours required for a physical therapist assistant license holder; or
- b. Practiced for a minimum of 2,080 hours during the immediately preceding two-year period; or
- c. Served the equivalent of one year as a full-time faculty member teaching in an accredited school of physical therapy for at least one of the immediately preceding two years; or
- d. Successfully passed the examination within a period of two years from the date of examination to the time application is completed for licensure.

**200.2(8)** Submitting complete application materials. An application for a physical therapist or physical therapist assistant license will be considered active for two years from the date the application is received. If the applicant does not submit all materials within this time period or if the applicant does not meet the requirements for the license, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application, supporting materials, and the application fee. The board shall destroy incomplete applications after two years.

**200.2(9)** A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**645—200.3(147) Physical therapy compact.** The rules of the Physical Therapy Compact Commission are incorporated by reference. A physical therapist or physical therapist assistant may engage in the practice of physical therapy in Iowa without a license issued by the board if the individual has a current compact privilege to practice in Iowa issued by the Physical Therapy Compact Commission. The state fee for issuance of a compact privilege to practice in Iowa shall be \$60, which will be collected by the Physical Therapy Compact Commission. The state fee for issuance of a compact privilege to practice in Iowa shall be waived for an active duty military member or spouse of an individual who is an active duty military member. A physical therapist or physical therapist assistant who practices physical therapy in Iowa using a compact privilege is subject to the rules governing licensees in rule 645—200.6(147) and in 645—Chapters 201 and 202. Complaints, investigations, and disciplinary proceedings involving a compact privilege shall be handled in accordance with Iowa Code chapters 17A and 272C; 2018 Iowa Acts, House File 2425; and the rules in 645—Chapters 9, 11, 12, and 13.

**645—200.4(147) Examination requirements for physical therapists and physical therapist assistants.** The following criteria shall apply to the written examination(s):

**200.4(1)** Evidence of having passed the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board.

**200.4(2)** The applicant shall abide by the following criteria:

- a. For examinations taken prior to July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score exceeding 1.5 standard deviations below the national average.
- b. For examinations completed after July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score equal to or greater than the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**200.4(3)** The Federation of State Boards of Physical Therapy (FSBPT) determines the total number of times an applicant may take the examination in a lifetime. The board will not approve an applicant for testing when the applicant has exhausted the applicant's lifetime opportunities for taking the examination, as determined by FSBPT.

**200.4(4)** Special accommodations. To eliminate discrimination and guarantee fairness under Title II of the Americans with Disabilities Act (ADA), an individual who has a qualifying disability may request an examination accommodation. The applicant must submit appropriate documentation to FSBPT.

**645—200.5(147) Educational qualifications.**

**200.5(1)** The applicant must present proof of meeting the following requirements for licensure as a physical therapist or physical therapist assistant:

*a. Educational requirements—physical therapists.* Physical therapists shall graduate from a physical therapy program accredited by a national accreditation agency approved by the board.

*b. Educational requirements—physical therapist assistants.* Physical therapist assistants shall graduate from a PTA program accredited by a national accreditation agency approved by the board.

**200.5(2)** Foreign-trained applicants.

*a.* Foreign-trained applicants who do not hold a license in another state or U.S. territory shall:

(1) Submit an English translation and an equivalency evaluation of their educational credentials through the following organization: Foreign Credentialing Commission on Physical Therapy, Inc., 124 West Street South, Third Floor, Alexandria, VA 22314; telephone 703.684.8406; website [www.fcpt.org](http://www.fcpt.org). The credentials of a foreign-educated physical therapist or foreign-educated physical therapist assistant licensure applicant who does not hold a license in another state or territory of the United States and is applying for licensure by taking the examination should be evaluated using the most current version of the Federation of State Boards of Physical Therapy (FSBPT) Coursework Tool (CWT). The professional curriculum must be equivalent to the Commission on Accreditation in Physical Therapy Education standards. An applicant shall bear the expense of the curriculum evaluation.

(2) Submit certified proof of proficiency in the English language by achieving on the Test of English as a Foreign Language Internet-based test (TOEFL iBT test) a total score of at least 89 on the TOEFL iBT test as well as accompanying minimum scores in the four test components as follows: 24 in writing; 26 in speaking; 21 in reading; and 18 in listening. This test is administered by Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL iBT test. Applicants may be exempt from the TOEFL iBT test when physical therapy education was completed in a school where the language of instruction in physical therapy was English, the language of the textbooks was English, and the applicant's transcript was in English.

*b.* Foreign-trained applicants who hold a license in another state or U.S. territory may apply for licensure by endorsement.

**645—200.6(147) License renewal.**

**200.6(1)** The biennial license renewal period for a license to practice as a physical therapist or physical therapist assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

**200.6(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

**200.6(3)** A licensee seeking renewal shall:

*a.* Meet the continuing education requirements of rule 645—203.2(148A) and the mandatory reporting requirements of subrule 200.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

**200.6(4)** Mandatory reporter training requirements.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* A licensee who is required by Iowa Code section 232.69 to report child abuse shall indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) “*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

*b.* A licensee who is required by Iowa Code section 235B.3 or 235E.2 to report dependent adult abuse shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) “*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

*c.* The course(s) shall be the curriculum provided by the Iowa department of health and human services.

*d.* The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs “*a*” to “*c*,” including program date(s), content, duration, and proof of participation.

*e.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

*f.* The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e*.”

**200.6(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**200.6(6)** Persons licensed to practice as physical therapists or physical therapist assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

**200.6(7)** Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.13(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**200.6(8)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a physical therapist or a physical therapist assistant in Iowa until the license is reactivated. A licensee who practices as a physical therapist or a physical therapist assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—200.7(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**200.7(1)** Submit a reactivation application on a form provided by the board.

**200.7(2)** Pay the reactivation fee that is due as specified in 645—subrule 5.13(5).

**200.7(3)** Provide verification of current competence to practice physical therapy by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 20 hours of continuing education for a physical therapist assistant and 40 hours of continuing education for a physical therapist within two years of application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education for a physical therapist assistant and 80 hours of continuing education for a physical therapist within two years of application for reactivation; verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

**645—200.8(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—200.15(17A,147,272C) prior to practicing physical therapy in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148A and 272C.

**ARC 7546C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to practice of physical therapists and physical therapist assistants and providing an opportunity for public comment**

The Board of Physical and Occupational Therapy hereby proposes to rescind Chapter 201, "Practice of Physical Therapists and Physical Therapist Assistants," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 148A and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148A and 272C.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Purpose and Summary*

Proposed Chapter 201 provides Iowans, licensees, and their employers with practice guidance and requirements for physical therapists and physical therapist assistants. The chapter provides guidance on what is considered appropriate practice and what is not appropriate practice. Categories include recordkeeping, ethical practice standards, and telehealth visits. The chapter also describes allowed delegation by a supervising physical therapist.

Public comments received at the November 21, 2023, public hearing were reviewed by the Board. Upon further review, the Board determined that a citation to the Health Insurance Portability and Accountability Act (HIPAA) should be added in chapters where applicable. A date certain is required when referencing “technology that is secure and HIPAA-compliant” within subrule 201.3(2). This means that any law put into place includes any updates up to the time the Board places the reference in the rules.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
 Division of Licensing  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321-1270  
 Phone: 515.242.6529  
 Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 2:30 to 2:50 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:5152426529)

February 14, 2024  
 2:30 to 2:50 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:5152426529)

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 201 and adopt the following new chapter in lieu thereof:

CHAPTER 201  
PRACTICE OF PHYSICAL THERAPISTS  
AND PHYSICAL THERAPIST ASSISTANTS

**645—201.1(148A,272C) Code of ethics for physical therapists and physical therapist assistants.**

**201.1(1)** Physical therapy. The practice of physical therapy shall minimally consist of:

- a. Interpreting all referrals;
- b. Evaluating each patient;
- c. Identifying and documenting individual patient's problems and goals;
- d. Establishing and documenting a plan of care;
- e. Providing appropriate treatment;
- f. Determining the appropriate portions of the treatment program to be delegated to assistive personnel;
- g. Appropriately supervising individuals as described in rule 645—200.6(272C);
- h. Providing timely patient reevaluation;
- i. Maintaining timely and adequate patient records of all physical therapy activity and patient responses consistent with the standards found in rule 645—201.2(147).

**201.1(2)** A physical therapist shall:

- a. Not practice outside the scope of the license;
- b. Inform a referring practitioner when any requested treatment procedure is inadvisable or contraindicated and shall refuse to carry out such orders;
- c. Not continue treatment beyond the point of possible benefit to the patient or treat a patient more frequently than necessary to obtain maximum therapeutic effect;
- d. Not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee;
- e. Not profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of physical therapy services;
- f. Not obtain third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:
  - (1) Reporting incorrect treatment dates for the purpose of obtaining payment;
  - (2) Reporting charges for services not rendered;
  - (3) Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or
  - (4) Aiding a patient in fraudulently obtaining payment from a third-party payer;
- g. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the physical therapist owns stock or has any other direct or indirect financial interest;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- h.* Not permit another person to use the therapist's license for any purpose;
- i.* Not verbally or physically abuse a patient or client;
- j.* Not engage in sexual misconduct. Sexual misconduct includes the following:
  - (1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client;
  - (2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;
- k.* Adequately supervise personnel in accordance with the standards for supervision found in rule 645—200.6(272C);
- l.* Assist in identifying a professionally qualified licensed practitioner to perform the service, in the event that the physical therapist does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment.

**201.1(3)** Physical therapist assistants. A physical therapist assistant shall:

- a.* Not practice outside the scope of the license;
- b.* Not obtain third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:
  - (1) Reporting incorrect treatment dates for the purpose of obtaining payment;
  - (2) Reporting charges for services not rendered;
  - (3) Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or
  - (4) Aiding a patient in fraudulently obtaining payment from a third-party payer;
- c.* Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the physical therapist assistant owns stock or has any other direct or indirect financial interest;
- d.* Not permit another person to use the physical therapist's or physical therapist assistant's license for any purpose;
- e.* Not verbally or physically abuse a patient or client;
- f.* Not engage in sexual misconduct. Sexual misconduct includes the following:
  - (1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client; and
  - (2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;
- g.* Work only when supervised by a physical therapist and in accordance with rule 645—200.6(272C). If the available supervision does not meet the standards in rule 645—200.6(272C), the physical therapist assistant shall refuse to administer treatment;
- h.* Inform the delegating physical therapist when the physical therapist assistant does not possess the skills or knowledge to perform the delegated tasks, and refuse to perform the delegated tasks;
- i.* Sign the physical therapy treatment record to indicate that the physical therapy services were provided in accordance with the rules and regulations for practicing as a physical therapist or physical therapist assistant.

**645—201.2(147) Recordkeeping.**

**201.2(1)** A licensee shall maintain sufficient, timely, and accurate documentation in patient records. A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

**201.2(2)** A licensee who provides clinical services shall store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all patient records for a minimum of five years after the date of the patient's discharge, or, in the case of a minor, three years after the patient reaches the age of majority under state law or five years after the date of discharge, whichever is longer.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**201.2(3)** Electronic recordkeeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

**201.2(4)** Correction of records.

*a. Hard-copy records.* Notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by the licensee.

*b. Electronic records.* If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

**201.2(5)** Confidentiality and transfer of records. Physical therapists and physical therapist assistants shall preserve the confidentiality of patient records. Upon receipt of a written release or authorization signed by the patient, the licensee shall furnish such physical therapy records, or copies of the records, as will be beneficial for the future treatment of that patient. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

**201.2(6)** Retirement or discontinuance of practice. If a licensee is the owner of a practice, the licensee shall notify in writing all active patients and shall make reasonable arrangements with those patients to transfer patient records, or copies of those records, to the succeeding licensee upon knowledge and agreement of the patient.

**201.2(7)** Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed individual who is assuming a practice, provided that written notice is furnished to all patients.

**645—201.3(147) Telehealth visits.** A licensee may provide physical therapy services to a patient utilizing a telehealth visit if the physical therapy services are provided in accordance with all requirements of this chapter.

**201.3(1)** "Telehealth visit" means the provision of physical therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the physical therapy session.

**201.3(2)** A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant pursuant to the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936, and any amendments as of December 8, 2023, and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for a physical therapy session or to communicate with a patient between physical therapy sessions.

**201.3(3)** A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person physical therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular physical therapy services cannot be met using technology.

**201.3(4)** Any physical therapist or physical therapist assistant who provides a physical therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa or have a compact privilege issued by the physical therapy compact commission.

**201.3(5)** Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the physical therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a.* The risks and limitations of the use of technology to provide physical therapy services;
- b.* The potential for unauthorized access to protected health information; and
- c.* The potential for disruption of technology during a telehealth visit.

**201.3(6)** A licensee shall only provide physical therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**201.3(7)** A licensee shall identify in the clinical record when physical therapy services are provided utilizing a telehealth visit.

**645—201.4(147) Delegation by a supervising physical therapist.** A supervising physical therapist may delegate the performance of physical therapy services to a physical therapist assistant only if done in accordance with the statutes and rules governing the practice of physical therapy. A physical therapist assistant may assist in the practice of physical therapy only to the extent allowed by the supervising physical therapist. The supervisory requirements stated in this rule are minimal. It is the professional responsibility and duty of the supervising physical therapist to provide the physical therapist assistant with more supervision if deemed necessary in the supervising physical therapist's professional judgment.

**201.4(1) Supervision requirements.** A supervising physical therapist who delegates the performance of physical therapy services to a physical therapist assistant shall provide supervision to the physical therapist assistant at all times when the physical therapist assistant is providing delegated physical therapy services. Supervision means that the physical therapist shall be readily available on site or telephonically any time the physical therapist assistant is providing physical therapy services so that the physical therapist assistant may contact the physical therapist for advice, assistance, or instruction.

**201.4(2) Functions that cannot be delegated.** The following are functions that only a physical therapist may provide and that cannot be delegated to a physical therapist assistant:

- a. Interpretation of referrals;
- b. Initial physical therapy evaluation and reevaluations;
- c. Identification, determination, or modification of patient problems, goals, and plans of care;
- d. Final discharge evaluation and establishment of a discharge plan;
- e. Delegation of and instruction in the physical therapy services to be rendered by a physical therapist assistant or unlicensed assistive personnel including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures; and
- f. Timely review of documentation, reexamination of the patient, and revision of the plan of care when indicated.

**201.4(3) Physical therapist responsibilities.** At all times, the supervising physical therapist shall be responsible for the physical therapy plan of care and for all physical therapy services provided, including all physical therapy services delegated to a physical therapist assistant. In addition, the supervising physical therapist shall:

- a. Be responsible for the evaluation and development of a plan of care for use by the physical therapist assistant; and
- b. Not delegate a physical therapy service that exceeds the competency or skill set of the physical therapist assistant; and
- c. Ensure that a physical therapist assistant holds an active physical therapist assistant license issued by the board or a compact privilege; and
- d. Ensure that a physical therapist assistant is aware of how the supervising physical therapist can be contacted telephonically or by virtual means when the physical therapist is not providing on-site supervision; and
- e. Arrange for an alternate physical therapist to provide supervision when the physical therapist has scheduled or unscheduled absences during time periods in which a physical therapist assistant will be providing delegated physical therapy services; and
- f. Ensure that a physical therapist assistant is informed when a patient's plan of care is transferred to a different supervising physical therapist; and
- g. Directly participate in physical therapy services upon the physical therapist assistant's request for a reexamination, when a change in the plan of care is needed, prior to any planned discharge, and in response to a change in the patient's medical status; and
- h. Hold regularly scheduled meetings with the physical therapist assistant to evaluate the physical therapist assistant's performance, assess the progress of a patient, and make changes to the plan of care as needed. The frequency of meetings should be determined by the supervising physical therapist based on the needs of the patient, the supervisory needs of the physical therapist assistant, and any planned

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

discharge. The supervising physical therapist shall provide direction and instruction to the physical therapist assistant that are adequate to ensure the safety and welfare of the patient.

**201.4(4) *Physical therapist assistant responsibilities.*** A physical therapist assistant shall only provide physical therapy services under the supervision of a physical therapist. In addition, the physical therapist assistant shall:

- a. Only provide physical therapy services that have been delegated by the supervising physical therapist; and
- b. Only provide physical therapy services that are within the competency and skill set of the physical therapist assistant; and
- c. Consult the supervising physical therapist if the physical therapist assistant believes that any procedure is not in the best interest of the patient; and
- d. Contact the supervising physical therapist regarding any change or lack of change in a patient's condition that may require assessment by the supervising physical therapist; and
- e. Refer inquiries that require interpretation to the supervising physical therapist; and
- f. Ensure that the identification of the supervising physical therapist is included in the documentation for any visit when physical therapy services were provided by the physical therapist assistant; and
- g. Only sign a treatment record if the provision of physical therapy services was done in accordance with the statutes and rules governing the practice of a physical therapist assistant.

**201.4(5) *Ratio.*** A physical therapist shall determine the number of physical therapist assistants who can be supervised safely and competently and shall not exceed that number; but in no case shall a physical therapist supervise more than four physical therapist assistants per calendar day. A physical therapist assistant who performs any delegated physical therapy services on behalf of the supervising physical therapist on a particular day shall be counted in determining the maximum ratio, regardless of the location of the physical therapist assistant or the number of patients treated.

**201.4(6) *Minimum frequency of direct participation by a supervising physical therapist.*** A supervising physical therapist shall use professional judgment to determine how frequently the physical therapist needs to directly participate in physical therapy services when delegating to a physical therapist assistant, the frequency of which shall be based on the needs of the patient. Direct participation can occur through an in-person or telehealth visit. The supervising physical therapist shall ensure that the patient record clearly indicates which visits included direct participation by the supervising physical therapist. The following are the minimum standards, which are expected to be exceeded when dictated by the supervising physical therapist's professional judgment, for the required frequency of direct participation by the supervising physical therapist when physical therapy services involve delegation to a physical therapist assistant:

- a. *Hospital inpatient and skilled nursing.* For hospital inpatients and skilled nursing patients, a supervising physical therapist must directly participate in physical therapy services a minimum of once per calendar week. A calendar week is defined as Sunday through Saturday.
- b. *All other settings.* In all other settings, a supervising physical therapist must directly participate in the provision of physical therapy services at least every eighth visit or every 30 calendar days, whichever comes first.

**201.4(7) *Unlicensed assistive personnel.*** A physical therapist is responsible for patient care provided by unlicensed assistive personnel under the physical therapist's supervision. A physical therapist is responsible for ensuring the qualifications of any unlicensed assistive personnel and shall maintain written documentation of their education or training. Unlicensed assistive personnel may assist a physical therapist assistant in the delivery of physical therapy services only if the physical therapist assistant maintains in-sight supervision of the unlicensed assistive personnel and the physical therapist assistant is primarily and significantly involved in the patient's care. Unlicensed assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

- a. The physical therapist has direct participation in the patient's treatment or evaluation, or both, each treatment day;



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- b.* Unlicensed assistive personnel may provide independent patient care only while under the on-site supervision of the physical therapist;
- c.* Documentation made in a physical therapy record by unlicensed assistive personnel shall be cosigned by the physical therapist; and
- d.* The physical therapist provides periodic reevaluation of any unlicensed assistive personnel's performance in relation to the patient.

These rules are intended to implement Iowa Code chapters 147, 148A and 272C.

**ARC 7547C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to discipline for physical therapists and physical therapist assistants and providing an opportunity for public comment**

The Board of Physical and Occupational Therapy hereby proposes to rescind Chapter 202, "Discipline for Physical Therapists and Physical Therapist Assistants," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 148A and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148A and 272C.

*Purpose and Summary*

Proposed Chapter 202 defines actions that are inconsistent with professional standards for licensees, which are established to protect the consumer and colleagues. Actions inconsistent with professional standards could result in disciplinary actions against a practitioner's license.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the physical therapist and physical therapist assistant licensees and are therefore excluded from the general disciplinary chapter.

No public comments were received during the November 21, 2023, public hearing.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
 Division of Licensing  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321-1270  
 Phone: 515.242.6529  
 Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 2:30 to 2:50 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
 Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 202 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 202

## DISCIPLINE FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

**645—202.1(148A) Definitions.**

“*Board*” means the board of physical and occupational therapy.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice in Iowa pursuant to Iowa Code chapter 148A and 645—Chapters 200 to 203.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—202.2(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in 645—Chapter 13 when the board determines that any of the acts or offenses listed in such rule or in Iowa Code section 147.55 have occurred:

**202.2(1) Professional incompetency.** Professional incompetency includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physical therapists or physical therapist assistants in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care that is ordinarily exercised by the average physical therapist or physical therapist assistant acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed physical therapist or licensed physical therapist assistant in this state.

*e.* Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

*f.* Being adjudged mentally incompetent by a court of competent jurisdiction.

**202.2(2) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of physical therapy or engaging in unethical conduct or practice harmful or detrimental to the public.** Proof of actual injury need not be established.

**202.2(3) Violation of a regulation, rule or law of this state, another state, or the United States that relates to the practice of physical therapy, including, but not limited to, the code of ethics found in rule 645—201.1(148A,272C).**

**202.2(4) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of physical therapy in another state, district, territory or country.**

**202.2(5) Knowingly aiding, assisting or advising a person to unlawfully practice physical therapy.**

**202.2(6) Representing oneself as a licensed physical therapist or physical therapist assistant when one's license has been suspended or revoked, or when the license is on inactive status.**

These rules are intended to implement Iowa Code chapters 147, 148A and 272C.

**ARC 7548C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education  
and providing an opportunity for public comment**

The Board of Physical and Occupational Therapy hereby proposes to rescind Chapter 203, "Continuing Education for Physical Therapists and Physical Therapist Assistants," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 148A and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148A and 272C.

*Purpose and Summary*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Proposed Chapter 203 sets forth continuing education requirements for physical therapists (PTs) and physical therapist assistants (PTAs). It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that licensees stay up to date with laws, rules, and industry standards and, as a result, provide high-quality services to Iowans.

Public comments were received during the November 21, 2023, public hearing on the Regulatory Analyses for Chapters 200 to 203. No changes from the Regulatory Analysis for Chapter 203 were made.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
Division of Licensing  
Iowa Department of Inspections, Appeals, and Licensing  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 203 and adopt the following **new** chapter in lieu thereof:

CHAPTER 203  
CONTINUING EDUCATION FOR PHYSICAL THERAPISTS  
AND PHYSICAL THERAPIST ASSISTANTS

**645—203.1(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Audit*” means the selection of licensees for verification of continuing education requirements.

“*Board*” means the board of physical and occupational therapy.

“*Continuing education*” means the same as the definition in Iowa Code section 272C.1.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously and that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

**645—203.2(148A) Continuing education requirements.**

**203.2(1)** The biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the birth month and ends two years later on the fifteenth day of the birth month.

*a.* Requirements for physical therapist licensees. Each biennium, each person who is licensed to practice as a physical therapist in this state will be required to complete a minimum of 40 hours of continuing education approved by the board.

*b.* Requirements for physical therapist assistant licensees. Each biennium, each person who is licensed to practice as a physical therapist assistant in this state will be required to complete a minimum of 20 hours of continuing education approved by the board.

**203.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for physical therapists and a minimum of 20 hours for physical therapist assistants each subsequent license renewal.

**203.2(3)** No hours of continuing education shall be carried over into the next biennium except for a new licensee. A licensee whose license was reactivated during the current renewal compliance period

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

may use continuing education earned during the compliance period for the first renewal following reactivation.

**645—203.3(148A,272C) Standards.**

**203.3(1) General criteria.** Appropriate continuing education activity for purposes of license renewal will support each of the following:

- a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters that integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees including:
  - (1) Date, location, course title, presenter(s);
  - (2) Number of program contact hours; and
  - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**203.3(2) Specific criteria.**

- a. Licensees may obtain continuing education hours of credit by:
  - (1) Attending workshops, conferences, or symposiums.
  - (2) Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.
  - (3) Completing an American Physical Therapy Association-approved postprofessional clinical residency or fellowship. A licensee will receive 1 hour of credit for every 2 hours spent in clinical residency, up to a maximum of 20 hours. Clinical residency hours may not be used for credit if the licensee is also seeking credit hours earned for postprofessional academic coursework in the same renewal period.
  - (4) Directly supervising students for clinical education if the students being supervised are from an accredited physical therapist or physical therapist assistant program and are participating in a full-time clinical experience (defined as approximately 40 hours per week, ranging from 1 to 18 weeks). One hour will be awarded for every 160 contact hours of supervision. A maximum of 8 hours for a physical therapist and 4 hours for a physical therapist assistant may be awarded per biennium. The physical therapist or physical therapist assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.
  - (5) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation for the first offering of the course. A course schedule or brochure must be maintained for audit.
  - (6) Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of physical therapy will be necessary in order for the licensee to receive the following continuing education credits:
    - 1 academic semester hour = 15 continuing education hours of credit
    - 1 academic trimester hour = 12 continuing education hours of credit
    - 1 academic quarter hour = 10 continuing education hours of credit
  - (7) Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits on a one-time basis for the first offering of a course:
    - 1 academic semester hour = 15 continuing education hours of credit
    - 1 academic trimester hour = 12 continuing education hours of credit
    - 1 academic quarter hour = 10 continuing education hours of credit
  - (8) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee shall receive five hours of credit per page.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(9) Participating in professional organizations related to the practice of physical therapy, with one credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of four hours of credit per biennium. Verification of participation must be provided by the professional organization to document the continuing education credit.

*b.* Continuing education hours of credit in the following topics are not considered to be directly and primarily related to the clinical application of physical therapy and therefore must not exceed a maximum combined total of ten hours of credit for a physical therapist licensee and five hours of credit for a physical therapist assistant licensee:

(1) Business-related topics, such as marketing, time management, government regulations, and other like topics.

(2) Personal skills topics, such as career burnout, communication skills, human relations, and other like topics.

(3) General health topics, such as clinical research, CPR, mandatory reporter training, and other like topics.

These rules are intended to implement Iowa Code section 272C.2 and chapter 148A.

**ARC 7549C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to licensure of occupational therapists and occupational therapy assistants and providing an opportunity for public comment**

The Board of Physical and Occupational Therapy hereby proposes to rescind Chapter 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 148B and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148B and 272C.

*Purpose and Summary*

Proposed Chapter 206 sets minimum standards of entry into the professions of occupational therapist and occupational therapy assistant. Iowa residents, licensees, and employers benefit from the chapter since it clarifies the processes by which licensees may apply for licensure as occupational therapists and occupational therapy assistants, as directed in statute. The chapter publicly illustrates the process that will be used to license occupational therapists and occupational therapy assistants, including renewal and reinstatement, to ensure public safety through review of the integrity and competence of the practitioner. The chapter describes the application process, educational qualifications, and examination requirements.

Public comments received at the November 21, 2023, public hearing were reviewed by the Board. The Board determined the original definition of "occupational therapy practice" should be maintained in Chapter 206.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 206 and adopt the following **new** chapter in lieu thereof:

CHAPTER 206  
 LICENSURE OF OCCUPATIONAL THERAPISTS



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

## AND OCCUPATIONAL THERAPY ASSISTANTS

**645—206.1(147) Definitions.** For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of physical and occupational therapy.

“*Department*” means the department of health and human services.

“*Endorsement*” means the issuance of an Iowa license to practice occupational therapy to an applicant who is currently licensed in another state who has the same or similar qualifications to those required in Iowa.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years after initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice occupational therapy to an applicant who is or has been licensed in another state.

“*Licensure examination*” means the examination administered by the National Board for Certification in Occupational Therapy.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse as required in Iowa Code sections 232.69 and 235B.16.

“*NBCOT*” means the National Board for Certification in Occupational Therapy.

“*Occupational therapist*” means a person licensed under this chapter to practice occupational therapy.

“*Occupational therapy assistant*” means a person licensed under this chapter to assist in the practice of occupational therapy.

“*Occupational therapy practice*” means the therapeutic use of occupations, including everyday life activities with individuals, groups, populations, or organizations, to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life. The practice of occupational therapy includes:

1. Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), rest and sleep, education, work, play, leisure, and social participation, including:

- Client factors, including body functions (such as neuromusculoskeletal, sensory-perceptual, visual, mental, cognitive, and pain factors) and body structures (such as cardiovascular, digestive, nervous, integumentary, genitourinary systems, and structures related to movement) and values, beliefs, and spirituality.

- Habits, routines, roles, rituals, and behavior patterns.

- Physical and social environments; cultural, personal, temporal and virtual contexts; and activity demands that affect performance.

- Performance skills, including motor and praxis, sensory-perceptual, emotional regulation, cognitive, communication and social skills.

2. Methods or approaches selected to direct the process of interventions, including:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- Establishment of a skill or ability that has not yet developed or remediation or restoration of a skill or ability that is impaired or is in decline.
  - Compensation, modification, or adaptation of activity or environment to enhance performance or to prevent injuries, disorders, or other conditions.
  - Retention and enhancement of skills or abilities without which performance in everyday life activities would decline.
  - Promotion of health and wellness, including the use of self-management strategies, to enable or enhance performance in everyday life activities.
  - Prevention of barriers to performance and participation, including injury and disability prevention.
3. Interventions and procedures to promote or enhance safety and performance in ADL, IADL, rest and sleep, education, work, play, leisure, and social participation, including:
- Therapeutic use of occupations, exercises, and activities.
  - Training in self-care, self-management, health management and maintenance, home management, community/work reintegration, and school activities and work performance.
  - Development, remediation, or compensation of neuromusculoskeletal, sensory-perceptual, visual, mental, and cognitive functions, pain tolerance and management, and behavioral skills.
  - Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process.
  - Education and training of individuals, including family members, caregivers, groups, populations, and others.
  - Care coordination, case management, and transition services.
  - Consultative services to groups, programs, organizations, or communities.
  - Modification of environments (home, work, school, or community) and adaptation of processes, including the application of ergonomic principles.
  - Assessment, design, fabrication, application, fitting, and training in seating and positioning, assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices.
  - Assessment, recommendation, and training in techniques to enhance functional mobility, including management of wheelchairs and other mobility devices.
  - Low vision rehabilitation.
  - Driver rehabilitation and community mobility.
  - Management of feeding, eating, and swallowing to enable eating and feeding performance.
  - Application of physical agent modalities and use of a range of specific therapeutic procedures (such as wound care management, interventions to enhance sensory-perceptual and cognitive processing, and manual therapy) to enhance performance skills.
  - Facilitating the occupational performance of groups, populations, or organizations through the modification of environments and the adaptation of processes.

*“Occupational therapy screening”* means a brief process that is directed by an occupational therapist in order for the occupational therapist to render a decision as to whether the individual warrants further, in-depth evaluation and that includes:

1. Assessment of the medical and social history of an individual;
2. Observations related by that individual's caregivers; or
3. Observations or nonstandardized tests, or both, administered to an individual by the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist.

Nothing in this definition shall be construed to prohibit licensed occupational therapists and occupational therapy assistants who work in preschools or school settings from providing short-term interventions to children prior to an evaluation, not to exceed 16 sessions per concern per school year, in accordance with state and federal educational policy.

*“On site”* means:

1. To be continuously on site and present in the department or facility where the assistive personnel are performing services;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

2. To be immediately available to assist the person being supervised in the services being performed; and

3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

“OT” means occupational therapist.

“OTA” means occupational therapy assistant.

“Reactivate” or “reactivation” means the process as outlined in rule 645—206.11(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice occupational therapy to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in rule 645—11.31(272C). Once the license is reinstated, the licensee may apply for active status.

**645—206.2(147) Initial licensure.** The following criteria shall apply to licensure:

**206.2(1)** Requirements for licensure. The applicant shall:

a. Submit a complete online application and pay the nonrefundable fee specified in rule 645—5.11(147,148B).

b. Submit an official copy of academic transcripts directly from the school to the board. No application will be considered by the board until official copies of academic transcripts have been received.

c. Direct the examination service to submit examination scores directly to the board.

d. Provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if it provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

**206.2(2)** Reserved.

**645—206.3(147)** An occupational therapist or occupational therapy assistant applicant who holds a license in another state shall have:

**206.3(1)** Completed board-approved continuing education during the immediately preceding two-year period: 30 hours for an occupational therapist and 15 hours for an occupational therapy assistant; or

**206.3(2)** Practiced for a minimum of 2,080 hours during the immediately preceding two-year period; or

**206.3(3)** Served the equivalent of one year as a full-time faculty member teaching in an accredited school of occupational therapy for at least one of the immediately preceding two years; or

**206.3(4)** Successfully passing the examination within a period of two years from the date of examination to the time application is completed for licensure.

**645—206.4(147) Limited permit to practice pending licensure.** A limited permit holder who is applying for licensure in Iowa by taking the licensure examination for the first time and has never been licensed as an occupational therapist or occupational therapy assistant in any state, the District of Columbia, or another country must have completed the educational and experience requirements for licensure as an occupational therapist or occupational therapy assistant. The limited permit holder shall:

1. Make arrangements to take the examination and have the official results of the examination sent directly from the examination service to the board;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

2. Apply for licensure on forms provided by the board. The applicant must include on the application form the name of the Iowa-licensed occupational therapist(s) who will provide supervision of the limited permit holder until the limited permit holder is licensed;
3. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed six months from the date the application was received in the board office;
4. Submit to the board the name of the OT providing supervision within seven days after a change in supervision occurs; and
5. If the applicant fails the national examination, cease practicing immediately.

**645—206.5(147) Examination requirements.** The following criteria shall apply to the written examination(s):

**206.5(1)** The applicant for licensure as an occupational therapist shall have received a passing score on the licensure examination for occupational therapists. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy.

**206.5(2)** The applicant for licensure as an occupational therapy assistant shall have received a passing score on the licensure examination for occupational therapy assistants. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy.

**645—206.6(147) Educational qualifications.**

**206.6(1)** The applicant must present proof of meeting the following requirements for licensure as an occupational therapist or occupational therapy assistant:

*a. Occupational therapist.* The applicant for licensure as an occupational therapist shall have completed the requirements for a degree in occupational therapy in an occupational therapy program accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

*b. Occupational therapy assistant.* The applicant for licensure as an occupational therapy assistant shall be a graduate of an educational program approved by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

**206.6(2)** Foreign-trained occupational therapists and occupational therapy assistants. To become eligible to take the licensure examination, internationally educated occupational therapists must meet NBCOT eligibility requirements and undergo prescreening based on the status of their occupational therapy educational programs.

**645—206.7(147) License renewal.**

**206.7(1)** The biennial license renewal period for a license to practice as an occupational therapist or occupational therapy assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

**206.7(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

**206.7(3)** A licensee seeking renewal shall:

*a.* Meet the continuing education requirements of rule 645—207.2(272C) and the mandatory reporting requirements of subrule 206.12(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

**206.7(4)** Mandatory reporter training requirements.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* A licensee who is required by Iowa Code section 232.69 to report child abuse shall indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) “*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

*b.* A licensee who is required by Iowa Code section 235B.3 or 235E.2 to report dependent adult abuse shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) “*b*” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph “*e*.”

*c.* The course(s) shall be the curriculum provided by the Iowa department of health and human services.

*d.* The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs “*a*” to “*c*,” including program date(s), content, duration, and proof of participation.

*e.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to an occupational or mental disability or illness as identified in 645—Chapter 4.

*f.* The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e*.”

**206.7(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**206.7(6)** Persons licensed to practice as occupational therapists or occupational therapy assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

**206.7(7)** Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.11(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**206.7(8)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an occupational therapist or occupational therapy assistant in Iowa until the license is reactivated. A licensee who practices as an occupational therapist or occupational therapy assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—206.8(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**206.8(1)** Submit a reactivation application on a form provided by the board.

**206.8(2)** Pay the reactivation fee that is due as specified in 645—subrule 5.11(5).

**206.8(3)** Provide verification of current competence to practice occupational therapy by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 15 hours of continuing education for an occupational therapy assistant and 30 hours of continuing education for an occupational therapist within two years of application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has been most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 30 hours of continuing education for an occupational therapy assistant and 60 hours of continuing education for an occupational therapist within two years of application for reactivation; verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

**645—206.9(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—206.8(17A,147,272C) prior to practicing occupational therapy in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148B and 272C.

**ARC 7550C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education for occupational therapists  
and providing an opportunity for public comment**

The Board of Physical and Occupational Therapy hereby proposes to rescind Chapter 207, "Continuing Education for Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 148B and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148B and 272C.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Purpose and Summary*

Proposed Chapter 207 sets forth continuing education requirements for occupational therapists and occupational therapy assistants. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that licensees stay up to date with laws, rules and industry standards and, as a result, provide high-quality services to Iowans.

No public comments were received during the November 21, 2023, public hearing.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
Division of Licensing  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321-1270  
Phone: 515.242.6529  
Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
2:30 to 2:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 207 and adopt the following **new** chapter in lieu thereof:

CHAPTER 207  
CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS  
AND OCCUPATIONAL THERAPY ASSISTANTS

**645—207.1(148B) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Audit*” means the selection of licensees for verification of compliance with continuing education requirements.

“*Board*” means the board of physical and occupational therapy.

“*Continuing education*” means the same as the definition in Iowa Code section 272C.1.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously and that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

**645—207.2(272C) Continuing education requirements.**

**207.2(1)** The biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the licensee's birth month and ends two years later on the fifteenth day of the birth month.

*a.* Requirements for occupational therapist licensees. Each biennium, each person who is licensed to practice as an occupational therapist in this state will have the responsibility to finance the cost and be required to complete a minimum of 30 hours of continuing education approved by the board.

*b.* Requirements for occupational therapy assistant licensees. Each biennium, each person who is licensed to practice as an occupational therapy assistant in this state will be required to complete a minimum of 15 hours of continuing education approved by the board.

**207.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for occupational therapists and 15 hours for occupational therapy assistants each subsequent license renewal.

**207.2(3)** With the exception of continuing education hours obtained by new licensees, no hours of continuing education shall be carried over into the next biennium. A licensee whose license was



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**645—207.3(148B,272C) Standards.**

**207.3(1) General criteria.** Appropriate continuing education activity for purposes of license renewal will support each of the following:

*a.* Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

*b.* Pertains to subject matters that integrally relate to the practice of the profession;

*c.* Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.

At the time of audit, the board may request the qualifications of presenters;

*d.* Fulfills stated program goals, objectives, or both; and

*e.* Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**207.3(2) Specific criteria.**

*a.* Licensees may obtain continuing education hours of credit by:

(1) Attending workshops, conferences, or symposiums.

(2) Accessing online training, such as viewing interactive conferences, attending webinars, or completing online training courses.

(3) Directly supervising students for clinical education if the student being supervised is from an accredited occupational therapy or occupational therapy assistant program and is participating in a full-time clinical experience (defined as approximately 40 hours per week, ranging from 1 to 18 weeks). One hour will be awarded for every 160 contact hours of supervision. A maximum of 8 hours for an occupational therapist and 4 hours for an occupational therapy assistant may be awarded per biennium. The occupational therapist or occupational therapy assistant must have documentation from the accredited educational program indicating the number of hours spent supervising a student.

(4) Presenting professional programs that meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation for the first offering of the course. A course schedule or brochure must be maintained for audit.

(5) Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of occupational therapy will be necessary in order for the licensee to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

(6) Teaching in an approved college, university, or graduate school. The licensee may receive the following continuing education credits on a one-time basis for the first offering of a course:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

(7) Authoring research or other activities, the results of which are published in a recognized professional publication. The licensee shall receive five hours of credit per page.

(8) Participating in professional organizations related to the practice of occupational therapy, with one credit hour received for each six months of active service as an officer, delegate, or committee member, for a maximum of four hours of credit per biennium. Verification of participation must be provided by the professional organization to document the continuing education credit.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*b.* Continuing education hours of credit in the following topics are not considered to be directly and primarily related to the clinical application of occupational therapy and therefore must not exceed a maximum combined total of eight hours of credit for an occupational therapist licensee and four hours of credit for an occupational therapy assistant licensee:

(1) Business-related topics, such as marketing, time management, government regulations, and other like topics.

(2) Personal skills topics, such as career burnout, communication skills, human relations, and other like topics.

(3) General health topics, such as clinical research, CPR, mandatory reporter training, and other like topics.

These rules are intended to implement Iowa Code section 272C.2 and chapter 148B.

**ARC 7551C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to practice of occupational therapists and occupational therapy assistants and providing an opportunity for public comment**

The Board of Physical and Occupational Therapy hereby proposes to rescind Chapter 208, “Practice of Occupational Therapists and Occupational Therapy Assistants,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 148B and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148B and 272C.

*Purpose and Summary*

Proposed Chapter 208 provides Iowans, licensees, and their employers with practice guidance and requirements for occupational therapists and occupational therapy assistants. The rules provide guidance on what is considered appropriate and what is not appropriate practice. Categories include recordkeeping, ethical practice standards, and telehealth visits. The chapter also describes allowed delegation by a supervising occupational therapist.

Public comments received at the November 21, 2023, public hearing were reviewed by the Board. Upon further review, the Board determined that the citation for the Health Insurance Portability and Accountability Act (HIPAA) should be incorporated in the chapter where applicable. A date certain is required when referencing “technology that is secure and HIPAA-compliant” within subrule 208.3(2). This basically means that any law put into place includes any updates up to the time the Board places the reference in the rule.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
 Division of Licensing  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321-1270  
 Phone: 515.242.6529  
 Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 2:30 to 2:50 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 208 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 208

## PRACTICE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

**645—208.1(148B,272C) Code of ethics for occupational therapists and occupational therapy assistants.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**208.1(1)** Occupational therapy. The practice of occupational therapy minimally consists of:

- a. Interpreting referrals;
- b. Evaluating patients;
- c. Identifying and documenting patient problems and goals;
- d. Establishing and documenting a plan of care;
- e. Providing treatment;
- f. Determining the appropriate portions of the treatment program to be delegated to assistive personnel;
- g. Supervising individuals as described in rule 645—208.5(272C);
- h. Providing timely patient reevaluation;
- i. Maintaining timely and adequate patient records consistent with the standards found in rule 645—208.2(147).

**208.1(2)** An occupational therapist or occupational therapy assistant should:

- a. Not practice outside the scope of the license;
- b. Not perform a treatment procedure that is inadvisable or contraindicated;
- c. Not continue treatment beyond the point of possible benefit to the patient or treat a patient more frequently than necessary to obtain maximum therapeutic effect;
- d. Not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee;
- e. Not profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of occupational therapy services;
- f. Not obtain payment through fraudulent means. Obtaining payment through fraudulent means includes, but is not limited to:
  - (1) Reporting incorrect treatment dates for the purpose of obtaining payment;
  - (2) Reporting charges for services not rendered;
  - (3) Incorrectly reporting services rendered for the purpose of obtaining payment that is greater than that to which the licensee is entitled; or
  - (4) Aiding a patient in fraudulently obtaining payment;
- g. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the occupational therapist owns stock or has any other direct or indirect financial interest;
- h. Not permit another person to use the therapist's license for any purpose;
- i. Not verbally or physically abuse a patient or client;
- j. Not engage in sexual misconduct. Sexual misconduct includes the following:
  - (1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client;
  - (2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;
- k. Follow the standards for supervision found in rule 645—208.4(272C);
- l. Not perform a task or service for which the therapist lacks the skill, knowledge or competence. In such a case, the therapist should either refuse to perform the task or service and/or arrange for a professionally qualified licensed practitioner to perform the task or service.
- m. Sign the occupational therapy treatment record to indicate that the occupational therapy services were provided in accordance with the rules and regulations for practicing as an occupational therapist or occupational therapy assistant.

**645—208.2(147) Recordkeeping.**

**208.2(1)** A licensee should maintain sufficient, timely, and accurate documentation in patient records to reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

**208.2(2)** A licensee should store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

no other legal provisions govern record retention, a licensee should store patient records for a minimum of five years after the date of the patient's discharge, or in the case of a minor, three years after the patient reaches the age of majority under state law or five years after the date of discharge, whichever is longer.

**208.2(3)** Electronic recordkeeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

**208.2(4)** Correction of records.

*a. Hard-copy records.* Notations should be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by the licensee.

*b. Electronic records.* If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

**208.2(5)** Confidentiality and transfer of records. Occupational therapists and occupational therapy assistants shall preserve the confidentiality of patient records consistent with federal and state law.

**208.2(6)** Retirement or discontinuance of practice. If a licensee is the owner of a practice, the licensee shall notify in writing all active patients and shall make reasonable arrangements with those patients to transfer patient records, or copies of those records, to the succeeding licensee upon knowledge and agreement of the patient.

**208.2(7)** Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed individual who is assuming a practice, provided that written notice is furnished to all patients.

**645—208.3(147) Telehealth visits.** A licensee may provide occupational therapy services to a patient utilizing a telehealth visit if the occupational therapy services are provided in accordance with all requirements of this chapter.

**208.3(1)** "Telehealth visit" means the provision of occupational therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the occupational therapy session.

**208.3(2)** A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant, pursuant to the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936, and any amendments as of December 8, 2023, and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an occupational therapy session or to communicate with a patient between occupational therapy sessions.

**208.3(3)** A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person occupational therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular occupational therapy services cannot be met using technology.

**208.3(4)** Any occupational therapist or occupational therapy assistant who provides an occupational therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa.

**208.3(5)** Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the occupational therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a.* The risks and limitations of the use of technology to provide occupational therapy services;
- b.* The potential for unauthorized access to protected health information; and
- c.* The potential for disruption of technology during a telehealth visit.

**208.3(6)** A licensee shall only provide occupational therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

**208.3(7)** A licensee shall identify in the clinical record when occupational therapy services are provided utilizing a telehealth visit.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—208.4(147) Practice of occupational therapy limited permit holders.**

**208.4(1)** Occupational therapist limited permit holders may:

*a.* Evaluate clients, plan treatment programs, and provide periodic reevaluations only under supervision of a licensed OT who shall bear full responsibility for care provided under the OT's supervision; and

*b.* Perform the duties of the occupational therapist under the supervision of an Iowa-licensed occupational therapist, except for providing supervision to an occupational therapy assistant.

**208.4(2)** Occupational therapy assistants and limited permit holders shall:

*a.* Follow the treatment plan written by the supervising OT outlining the elements that have been delegated; and

*b.* Perform occupational therapy procedures delegated by the supervising OT as required in rule 645—208.5(148B).

**645—208.5(148B) Supervision requirements.**

**208.5(1)** Care rendered by unlicensed assistive personnel shall not be documented or charged as occupational therapy unless direct on-site supervision is provided by an OT or in-sight supervision is provided by an OTA.

**208.5(2)** Occupational therapist supervisor responsibilities. The supervisor shall:

*a.* Provide supervision to a licensed OTA, OT limited permit holder and OTA limited permit holder any time occupational therapy services are rendered. Supervision may be provided on site or through the use of telecommunication or other technology.

*b.* Ensure that every licensed OTA, OT limited permit holder and OTA limited permit holder being supervised is aware of who the supervisor is and how the supervisor can be contacted any time occupational therapy services are rendered.

*c.* Assume responsibility for all delegated tasks and shall not delegate a service that exceeds the expertise of the OTA or OTA limited permit holder.

*d.* Provide evaluation and development of a treatment plan for use by the OTA.

*e.* Ensure that the OTA, OT limited permit holder and OTA limited permit holder under the OT's supervision have current licenses to practice.

*f.* Ensure that the signature of an OTA on an occupational therapy treatment record indicates that the occupational therapy services were provided in accordance with the rules and regulations for practicing as an OTA.

**208.5(3)** The following are functions that only an occupational therapist may provide and that shall not be delegated to an OTA:

*a.* Interpretation of referrals;

*b.* Initial occupational therapy evaluation and reevaluations;

*c.* Identification, determination or modification of patient problems, goals, and care plans;

*d.* Final discharge evaluation and establishment of the discharge plan;

*e.* Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times;

*f.* Delegation of and instruction in the services to be rendered by the OTA including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures; and

*g.* Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

**208.5(4)** Supervision of unlicensed assistive personnel. OTs are responsible for patient care provided by unlicensed assistive personnel under the OT's supervision. Unlicensed assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

*a.* The supervising OT shall physically participate in the patient's treatment or evaluation, or both, each treatment day;

*b.* The unlicensed assistive personnel shall provide independent patient care only while under the on-site supervision of the supervising OT;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. Documentation made in occupational therapy records by unlicensed assistive personnel shall be cosigned by the supervising OT; and

d. The supervising OT shall provide periodic reevaluation of the performance of unlicensed assistive personnel in relation to the patient.

**208.5(5)** Minimum frequency of OT interaction. At a minimum, an OT must directly participate in treatment, either in person or through a telehealth visit, every twelfth visit for all patients and must document each visit. The occupational therapist shall participate at a higher frequency when the standard of care dictates.

**208.5(6)** Occupational therapy assistant responsibilities.

a. The occupational therapy assistant shall:

(1) Provide only those services for which the OTA has the necessary skills and shall consult the supervising occupational therapist if the procedures are believed not to be in the best interest of the patient;

(2) Gather data relating to the patient's disability during screening, but shall not interpret the patient information as it pertains to the plan of care;

(3) Communicate any change, or lack of change, that occurs in the patient's condition and that may need the assessment of the OT;

(4) Provide occupational therapy services only under the supervision of the occupational therapist;

(5) Provide treatment only after evaluation and development of a treatment plan by the occupational therapist;

(6) Refer inquiries that require interpretation of patient information to the occupational therapist;

(7) Be supervised by an occupational therapist, either on site or through the use of telecommunication or other technology, at all times when occupational therapy services are being rendered;

(8) Receive supervision from any number of at least one occupational therapist; and

(9) Record on every patient chart the name of the OTA's supervisor for each treatment session.

b. The signature of an OTA on the occupational therapy treatment record indicates that occupational therapy services were provided in accordance with the rules and regulations for practicing as an OTA.

**208.5(7)** Unlicensed assistive personnel. Unlicensed assistive personnel may assist an OTA in providing patient care in the absence of an OT only if the OTA maintains in-sight supervision of the unlicensed assistive personnel and the OTA is primarily and significantly involved in that patient's care.

**208.5(8)** The occupational therapy limited permit holder may evaluate clients, plan treatment programs, and provide periodic reevaluations under supervision of a licensed occupational therapist who shall bear full responsibility for care provided under the occupational therapist's supervision.

These rules are intended to implement Iowa Code chapters 147, 148B and 272C.

**ARC 7552C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to discipline for occupational therapists and occupational therapy assistants and providing an opportunity for public comment**

The Board of Physical and Occupational Therapy hereby proposes to rescind Chapter 209, "Discipline for Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 148B and sections 147.36, 272C.3 and 272C.10.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148B and 272C.

*Purpose and Summary*

Proposed Chapter 209 defines actions that are inconsistent with professional standards for licensees, which are established to protect the consumer and colleagues. Actions inconsistent with professional standards could result in disciplinary actions against a practitioner's license.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to occupational therapist and occupational therapy assistant licensees and are therefore excluded from the general disciplinary chapter.

No public comments were received during the November 21, 2023, public hearing for the Regulatory Analysis for this chapter.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
Division of Licensing  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321-1270  
Phone: 515.242.6529  
Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

February 13, 2024  
2:30 to 2:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

February 14, 2024  
2:30 to 2:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](https://tel.meet/yxd-hmkw-ppo?pin=1779851586643)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 209 and adopt the following **new** chapter in lieu thereof:

CHAPTER 209  
DISCIPLINE FOR OCCUPATIONAL THERAPISTS  
AND OCCUPATIONAL THERAPY ASSISTANTS

**645—209.1(148B) Definitions.**

“Board” means the board of physical and occupational therapy.

“Discipline” means any sanction the board may impose upon licensees.

“Licensee” means a person licensed to practice in Iowa pursuant to Iowa Code chapter 148A and 645—Chapters 206 to 209.

**645—209.2(272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in 645—Chapter 13 when the board determines that any of the acts or offenses listed in that chapter or in Iowa Code section 147.55 have occurred:

**209.2(1) Professional incompetency.** Professional incompetency includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other occupational therapists or occupational therapy assistants in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care that is ordinarily exercised by the average occupational therapist or occupational therapy assistant acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed occupational therapist or licensed occupational therapy assistant in this state.

*e.* Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

*f.* Being adjudged mentally incompetent by a court of competent jurisdiction.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**209.2(2)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of occupational therapy or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

**209.2(3)** Violation of a regulation, rule or law of this state, another state, or the United States that relates to the practice of occupational therapy, including, but not limited to, the code of ethics found in rule 645—208.1(148B,272C).

**209.2(4)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of occupational therapy in another state, district, territory or country.

**209.2(5)** Knowingly aiding, assisting or advising a person to unlawfully practice occupational therapy.

**209.2(6)** Failure to report a change of name or address within 30 days after it occurs.

**209.2(7)** Representing oneself as a licensed occupational therapist or occupational therapy assistant when one's license has been suspended or revoked, or when the license is on inactive status.

**209.2(8)** Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

These rules are intended to implement Iowa Code chapters 147, 148B and 272C.

**ARC 7288C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure of psychologists  
and providing an opportunity for public comment**

The Board of Psychology hereby proposes to rescind Chapter 240, "Licensure of Psychologists," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 154B.13, 154B.14, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 147, 154B, 272C and 17A.

*Purpose and Summary*

Proposed Chapter 240 sets minimum standards for entry into the psychology profession. Iowa residents, licensees, and employers benefit from the chapter since it articulates the processes by which individuals apply for licensure in the state of Iowa, as directed in statute. This includes the process for initial licensure, provisional licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process, minimum educational qualifications, and examination requirements.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Tony Alden  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.4401  
Email: [tony.alden@dia.iowa.gov](mailto:tony.alden@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
9:20 to 9:40 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9:20 to 9:40 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 240 and adopt the following **new** chapter in lieu thereof:

*PSYCHOLOGISTS*

CHAPTER 240	LICENSURE OF PSYCHOLOGISTS
CHAPTER 241	CONTINUING EDUCATION FOR PSYCHOLOGISTS
CHAPTER 242	DISCIPLINE FOR PSYCHOLOGISTS
CHAPTER 243	PRACTICE OF PSYCHOLOGY
CHAPTER 244	PRESCRIBING PSYCHOLOGISTS

CHAPTER 240  
LICENSURE OF PSYCHOLOGISTS

**645—240.1(154B) Definitions.** For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*ASPPB*” means the Association of State and Provincial Psychology Boards.

“*Board*” means the board of psychology.

“*Certified health service provider in psychology*” means a person who works in a clinical setting, who is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

“*Clinical experience*” means the provision of health services in psychology by the applicant to individuals or groups of clients/patients. Clinical experience does not include teaching or research performed in an academic setting.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*Licensee*” means any person licensed to practice as a psychologist or health service provider in psychology in the state of Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice psychology to an applicant who is or has been licensed in another jurisdiction.

“*Mandatory training*” means the requirements found in Iowa Code section 232.69.

“*National examination*” means the Examination for Professional Practice in Psychology (EPPP).

“*Provisional license*” means a license issued to a person who is completing a predoctoral internship or postdoctoral residency under supervision in order to satisfy the requirements for licensure.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—240.11(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

**645—240.2(154B) Requirements for initial psychology licensure.** The following criteria shall apply to licensure:

**240.2(1)** Submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.16(147,154B).

**240.2(2)** Except as otherwise stated in these rules, no application will be considered by the board until:

*a.* Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board; and

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*b.* Satisfactory evidence of the candidate's qualifications has been supplied in writing on the prescribed forms by the candidate's supervisors.

**240.2(3)** An applicant shall successfully pass the national examination.

**240.2(4)** The applicant shall have the national examination score sent directly from the ASPPB to the board.

**240.2(5)** Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

*a.* Considered invalid and shall be destroyed; or

*b.* Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

**645—240.3(154B) Educational qualifications.** An applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

**240.3(1)** At the time of an applicant's graduation:

*a.* The program from which the doctoral degree in psychology is granted must be:

(1) Accredited by the American Psychological Association; or

(2) Accredited by the Canadian Psychological Association; or

(3) Designated by the ASPPB/National Register; or

*b.* The applicant holds current board certification from the American Board of Professional Psychology; or

*c.* The applicant possesses a postdoctoral respecialization certificate from a program accredited by the American Psychological Association.

**240.3(2)** Foreign-trained psychologists who possess a doctoral degree in psychology and who do not meet the requirements of subrule 240.3(1) will:

*a.* Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Psychologists, 1200 New York Avenue NW, Suite 800, Washington, D.C. 20005, telephone 202.783.7663, website [www.nationalregister.org](http://www.nationalregister.org), or by an evaluation service with membership in the National Association of Credential Evaluation Services at [www.naces.org](http://www.naces.org). A certified translation of documents submitted in a language other than English shall be provided. The candidate will bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in subrule 240.3(1).

*b.* Submit evidence of meeting all other requirements for licensure stated in these rules.

**645—240.4(154B) Examination requirements.** An applicant will pass the national examination to be eligible for licensure in Iowa.

**240.4(1)** To be eligible to take the national examination, the applicant will:

*a.* Meet all requirements of subrules 240.2(1) and 240.2(2); and

*b.* Provide official copies of academic transcripts sent directly from the school to the board of psychology verifying completion of a doctoral degree in psychology in accordance with rule 645—240.3(154B).

**240.4(2)** The EPPP passing score shall be utilized as the Iowa passing score.

**645—240.5(154B) Postdoctoral residency.**

**240.5(1)** The postdoctoral residency may begin after all academic requirements for the doctoral degree, including completion of the predoctoral internship, have been completed. The postdoctoral residency shall consist of a minimum of 1,500 hours that are completed in no less than ten months.

**240.5(2)** During the postdoctoral residency, the supervisee will competently apply the principles of psychology under the supervision of a licensed psychologist who is actively licensed in the jurisdiction where the supervision occurs in accordance with the following:

*a.* The supervisee and supervisor will complete a supervision plan using the form provided by the board. The supervision plan must be submitted to the board if the supervisee is applying for or utilizing a provisional license.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- b.* A supervisor will not have more than three concurrent full-time supervisees or the equivalent in part-time supervisees. Full-time is defined as 40 hours per week.
- c.* The supervisee and supervisor will meet individually in person or via videoconferencing during each week in which postdoctoral residency hours are accrued, for no less than a total of 45 hours during the postdoctoral residency. Group supervision hours cannot count toward the 45 hours of individual supervision required.
- d.* The supervisor will provide supervision at all times, which means the supervisor will be readily available on site, or via electronic or telephonic means, at all times when the supervisee is providing services so that the supervisee may contact the supervisor for advice, assistance, or instruction. A supervisor will identify one or more licensed mental health providers who can be contacted for advice, assistance, or instruction during times in which the supervisor will not be readily available.
- e.* The supervisee and supervisor will have a crisis plan in place any time the supervisee is providing services and the supervisor is not on site in the same physical setting as the supervisee.
- f.* The supervisor will establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical or legal issues are raised.
- g.* The supervisor will provide training that is appropriate to the functions to be performed. The supervisee shall have the background, training, and experience that is appropriate to the functions performed. The supervisor shall not permit the supervisee to engage in any psychological practice that the supervisor cannot perform competently.
- h.* The supervisor and supervisee will ensure clients are informed regarding the supervisee's status and the sharing of information between the supervisee and supervisor.
- i.* The supervisor will have reasonable access to the clinical records corresponding to the work being supervised. The supervisor will countersign all written reports, clinical records and clinical communications as "Reviewed and Approved" by the supervisor.
- j.* All services will be offered in the name of the supervisor. The supervisee and supervisor will ensure that the supervisee uses a title in accordance with rule 645—240.13(154B,147).
- k.* The fee schedule and receipt of payment will remain the sole domain of the supervisor or employing agency.
- l.* The supervisor will maintain an ongoing record of supervision that details the types of activities in which the supervisee is engaged, the level of the supervisee's competence in each, and the type and outcome of all procedures.
- m.* The supervisor is responsible for determining the competency of the work performed by the supervisee and must honestly and accurately complete the supervision report at the conclusion of providing supervision.

**645—240.6(154B) Certified health service provider in psychology.**

**240.6(1) Requirements for the health service provider in psychology.** The applicant shall:

- a.* Verify at least one year of clinical experience in an organized health service training program that meets the requirements of subrule 240.6(2) and at least one year of clinical experience in a health service setting that meets the requirements for postdoctoral residency stated in rule 645—240.5(154B). Alternatively, an applicant may submit verification of current registration at the doctoral level by the National Register of Health Service Psychologists to verify completion of the required clinical experience.
- b.* Submit a completed application and nonrefundable application fee along with supporting documentation. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:
- (1) Considered invalid and shall be destroyed; or
  - (2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.
- c.* Renew the certificate biennially at the same time as the psychology license.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**240.6(2)** *Requirements of the organized health service training program.* Internship programs in professional psychology that are accredited by the American Psychological Association (APA) or the Canadian Psychological Association (CPA) or that hold membership in the Association of Psychology Postdoctoral and Internship Centers (APPIC) are deemed approved. Applicants completing an organized health service training program that is not accredited by the APA or the CPA, or is not APPIC-designated at the time the applicant completes the training shall cause documentation to be sent from the program to establish that the program:

- a. Provides the intern with a planned, programmed sequence of training experiences.
- b. Has a clearly designated doctoral-level staff psychologist who is responsible for the integrity and quality of the training program and is actively licensed by the board of psychology in the jurisdiction in which the program exists.
- c. Has two or more doctoral-level psychologists on the staff who serve as supervisors, at least one of whom is actively licensed by the board of psychology in the jurisdiction in which the program exists.
- d. Has supervision that is provided by staff members of the organized health service training program or by an affiliate of the organized health service training program who carries clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more doctoral-level psychologists.
- e. Provides training in a range of psychological assessment and treatment activities conducted directly with recipients of psychological services.
- f. Ensures that trainees have a minimum of 375 hours of direct patient contact.
- g. Includes a minimum of two hours per week (regardless of whether the internship is completed in one year or two years) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also be at least two additional hours per week in learning activities such as case conferences involving a case in which the intern is actively involved, seminars dealing with clinical issues, cotherapy with a staff person including discussion, group supervision, and additional individual supervision.
- h. Has training that is at the postclerkship, postpracticum, and postexternship level.
- i. Has a minimum of two interns at the internship level of training during any period of training.
- j. Designates for internship-level trainees titles such as “intern,” “resident,” “fellow,” or other designation of trainee status.
- k. Has a written statement or brochure which describes the goals and content of the internship, states clear expectations for quantity and quality of trainees’ work and is made available to prospective interns.
- l. Provides a minimum of 1,500 hours of training experience that shall be completed in no less than 12 months within a 24-consecutive-month period.

**645—240.7(154B) Requirements for provisional license.**

**240.7(1)** *Predoctoral internship.* An applicant for a provisional license for purposes of completing a predoctoral internship shall provide the following:

- a. Submit a completed provisional application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.16(147,154B).
- b. A copy of the applicant’s acceptance letter for the predoctoral internship.
- c. Identification of the training director and the training director’s contact information.
- d. Evidence that the applicant is enrolled in an educational program that meets the requirements of rule 645—240.3(154B).

**240.7(2)** *Postdoctoral residency.* An applicant for a provisional license for purposes of completing a postdoctoral residency shall provide the following:

- a. Submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.16(147,154B).
- b. Official copies of academic transcripts sent directly from the school establishing that the requirements stated in rule 645—240.3(154B) are met.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*c.* A completed supervision plan on the prescribed board form, signed by the applicant's supervisors. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form.

**240.7(3) Duration.** The provisional license is effective for two years from the date of issuance. A provisional license issued for purposes of completing a predoctoral internship can be used for purposes of completing a postdoctoral residency until the provisional license expires. The provisional licensee shall submit a completed supervision plan on the prescribed board form, signed by the licensee's supervisors, prior to beginning the postdoctoral residency. A change in supervisor or in the supervision plan requires submission of a new supervision plan on the prescribed board form. A provisional license may be renewed one time for a period of two years upon submission of the following:

- a.* A provisional license renewal application;
- b.* A provisional license renewal fee; and
- c.* A current supervision plan as required in these rules.

**645—240.8(147) Licensure by endorsement.** An applicant who possesses a doctoral degree in psychology and has been a licensed psychologist at the doctoral level under the laws of another jurisdiction may file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

**240.8(1)** Submit a completed application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.16(147,154B).

**240.8(2)** Provides verification of license from the jurisdiction in which the applicant has most recently been licensed, and additional verifications if necessary to verify at least three years of an independent license as described in subrule 240.8(4), sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a.* Licensee's name;
- b.* Date of initial licensure;
- c.* Current licensure status; and
- d.* Any disciplinary action taken against the license.

**240.8(3)** Provides verification of a current Certificate of Professional Qualification (CPQ) issued by the ASPPB, or verification of a doctoral degree in psychology and an independent license to practice psychology in another jurisdiction for at least three years with no disciplinary history. Except as stated in subrule 240.3(2), applicants providing certification or verification are deemed to have met the requirements stated in paragraphs 240.8(4) "a" and "b." The board may license by endorsement any other applicant who:

*a.* Provides the official EPPP score sent directly to the board from the ASPPB or verification of the EPPP score sent directly from the state of initial licensure. The recommended passing score established by the ASPPB shall be considered passing.

*b.* Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

(1) Provides:

1. Official copies of academic transcripts that have been sent directly from the school; and
2. Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the jurisdiction in which the applicant is currently licensed or equivalent documentation of supervision; or

(2) Has an official copy of one of the following certifications sent directly to the board from the certifying organization:

1. Current credentialing at the doctoral level as a health service provider in psychology by the National Register of Health Service Psychologists.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

2. Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

**240.8(4)** Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**645—240.9(154B) Exemption to licensure.** Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall complete and submit the application for the exemption to licensure and the nonrefundable licensure fee specified in rule 645—5.16(147,154B).

**240.9(1)** The applicant shall provide a summary of the intent to practice and a verification of the license in the applicant's jurisdiction of residence, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- a. Licensee's name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

**240.9(2)** The exemption must be issued prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

**645—240.10(147) License renewal.**

**240.10(1)** The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years and end on June 30 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

**240.10(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

**240.10(3)** A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—241.2(272C) and the mandatory reporting requirements of subrule 240.10(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

**240.10(4) Mandatory reporter training requirements.**

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 240.10(4) "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 240.13(4) "e."

c. The course(s) shall be the curriculum provided by the Iowa department of health and human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 240.13(4) "a" to "c," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in rule 645—4.14(272C).

*f.* The board may select licensees for audit of compliance with the requirements in paragraphs 240.10(4)“a” to “e.”

**240.10(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**240.10(6)** A person licensed to practice as a psychologist shall keep the person’s license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

**240.10(7)** Late renewal.

*a.* The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.16(3).

*b.* To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**240.10(8)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa but may not practice as a psychologist or health service provider in psychology in Iowa until the license is reactivated. A licensee who practices as a psychologist or health service provider in psychology in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—240.11(147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**240.11(1)** Submit a reactivation application.

**240.11(2)** Pay the reactivation fee that is due as specified in 645—Chapter 5.

**240.11(3)** Provide verification of the license from the jurisdiction in which the applicant has most recently been licensed sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

*a.* Licensee’s name;

*b.* Date of initial licensure;

*c.* Current licensure status; and

*d.* Any disciplinary action taken against the license.

**240.11(4)** Provide verification of a current active license in another jurisdiction at the time of application or verification of completion of continuing education taken within two years of the application. If the license has been inactive for less than five years, the applicant must submit verification of 40 hours of continuing education, and if the license has been inactive for more than five years, the applicant must submit verification of 80 hours of continuing education.

**645—240.12(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—240.14(17A,147,272C) prior to practicing as a psychologist or health service provider in psychology in this state.

**645—240.13(154B,147) Title designations.**

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**240.13(1)** Students who are enrolled in an education program that satisfies the requirements of subrule 240.3(1) and who are completing the predoctoral internship may be designated “psychology intern” or “intern in psychology.”

**240.13(2)** Applicants for licensure who have met educational requirements and who are completing the postdoctoral residency to be eligible for licensure may be designated “psychology resident,” “resident in psychology,” “psychology postdoctoral fellow,” or “postdoctoral fellow in psychology.” The designation of “resident” shall not be used except during a postdoctoral residency that meets the requirements of rule 645—240.6(154B).

**240.13(3)** Persons who possess provisional licenses shall add the designation “provisional license in psychology” following the “resident,” “intern,” or “fellow” designation.

**645—240.14(154B) Psychologists’ supervision of persons other than postdoctoral residents in a practice setting.**

**240.14(1)** This rule applies when a psychologist is supervising individuals who are not licensed or who are provisionally licensed and completing the predoctoral internship. This rule does not apply to supervision of an individual completing a postdoctoral residency in accordance with rule 645—240.6(154B), regardless of whether the individual is provisionally licensed or not.

**240.14(2)** The supervising psychologist will:

*a.* Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.

*b.* Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work will be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors will also be available for emergency consultation and intervention.

*c.* Provide work assignments that are commensurate with the skills of the supervisee. All procedures will be planned in consultation with the supervisor.

*d.* Work in the same physical setting as the supervisee, unless the supervisee is receiving formal training pursuant to the requirements for licensure as a psychologist. For supervisees working off site while receiving formal licensure training, ensure the off-site location has a licensed mental health provider or primary care provider on site whenever the supervisee is working for purposes of providing emergency consultation.

*e.* Make public announcement of services and fees; contact with laypersons or the professional community will be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

*f.* Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person’s status and information regarding the person’s qualifications and functions.

*g.* Inform clients of the possibility of periodic meetings with the supervising psychologist at the client’s, the supervisee’s or the supervisor’s request.

*h.* Provide for setting and receipt of payment that will remain the sole domain of the employing agency or supervising psychologist.

*i.* Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

*j.* Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description will be made available to representatives of the board and service recipients upon request.

*k.* Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*l.* Countersign all written reports, clinical records and clinical communications as “Reviewed and Approved” by the supervising psychologist.

These rules are intended to implement Iowa Code chapters 17A, 147, and 272C.

**ARC 7289C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to continuing education for psychologists  
and providing an opportunity for public comment**

The Board of Psychology hereby proposes to rescind Chapter 241, “Continuing Education for Psychologists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 154B.13, 154B.14, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 147, 154B, 272C and 17A.

*Purpose and Summary*

Proposed Chapter 241 sets forth continuing education requirements for psychologists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that psychologists maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Tony Alden  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.281.4401  
 Email: [tony.alden@dia.iowa.gov](mailto:tony.alden@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 9:20 to 9:40 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 241 and adopt the following **new** chapter in lieu thereof:

CHAPTER 241  
 CONTINUING EDUCATION FOR PSYCHOLOGISTS

**645—241.1(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

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

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

“*Board*” means the board of psychology.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice independently as a psychologist in the state of Iowa and does not include persons with provisional licenses.

“*Practice of psychology*” means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes, but is not limited to, counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

**645—241.2(272C) Continuing education requirements.**

**241.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-numbered years. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

**241.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will need to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

**241.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours will be in accordance with these rules.

**241.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**241.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**241.2(6)** No hours of continuing education are required to renew a provisional license.

**645—241.3(154B,272C) Standards.**

**241.3(1) General criteria.** A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

*a.* Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

*b.* Pertains to subject matters which integrally relate to the practice of the profession;

*c.* Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.

At the time of audit, the board may request the qualifications of presenters;

*d.* Fulfills stated program goals, objectives, or both; and

*e.* Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**241.3(2) Specific criteria.**

*a.* For the second license renewal, licensees shall obtain six hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

*b.* For all renewal periods following the second license renewal, licensees shall obtain six hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management. For all board members, a maximum of two of these hours may be obtained by providing service as a member of the board as follows:

(1) One hour of credit for attendance and participation at a minimum of three regular quarterly board meetings during the license biennium, or

(2) Two hours of credit for attendance and participation at a minimum of six regular quarterly board meetings during the license biennium.

*c.* A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 645—subrule 240.13(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Attending workshops, conferences, or symposiums that meet the criteria in subrule 241.3(1).

(4) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(5) Completing home study courses for which a certificate of completion is issued.

(6) Completing electronically transmitted courses for which a certificate of completion is issued.

(7) Conducting scholarly research, the results of which are published in a recognized professional publication. In order to claim such credit, the licensee must attest to the hours actually spent conducting research, demonstrate that the research is integrally related to the practice of psychology, explain how the research advances the licensee's knowledge in the field, and provide the published work.

(8) Preparing new courses on material that is integrally related to the practice of psychology and is beyond entry level. In order to claim such credit, the licensee must: attest that the licensee has not taught the course in the past or that the licensee has not substantially altered the course content; request a specific amount of continuing education credit; describe how the course is integrally related to the practice of the profession and advances the licensee's knowledge in the field; and supply a course syllabus that supports the licensee's request for credit.

(9) Presenting to other professionals. A licensee may receive credit on a one-time basis for presenting continuing education programs that meet the criteria of subrule 241.3(1). Two hours of credit will be awarded for each hour of presentation.

*d.* A combined maximum of 30 hours of credit per biennium may be used for scholarly research, preparation of new courses, and presentations to other professionals.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154B.

**ARC 7290C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to discipline for psychologists  
and providing an opportunity for public comment**

The Board of Psychology hereby proposes to rescind Chapter 242, “Discipline for Psychologists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 154B.13, 154B.14, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 147, 154B, 272C and 17A.

*Purpose and Summary*

Proposed Chapter 242 provides protection to Iowans because it provides required professional standards for psychologists. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in Iowa. When professional standards are not met, a licensee can be subject to discipline against the licensee’s license. Iowans have the ability to submit a complaint to the Board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the Board’s professions and are therefore excluded from the general disciplinary chapter.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Tony Alden  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.281.4401  
 Email: [tony.alden@dia.iowa.gov](mailto:tony.alden@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 9:20 to 9:40 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 242 and adopt the following **new** chapter in lieu thereof:

CHAPTER 242  
 DISCIPLINE FOR PSYCHOLOGISTS

**645—242.1(147,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

Failure to comply with the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, as published in the December 2002 edition of American Psychologist and including amendments effective January 1, 2017, hereby adopted by reference. Copies of the Ethical Principles of Psychologists and Code of Conduct may be obtained from the American Psychological Association's website at [www.apa.org](http://www.apa.org).

This rule is intended to implement Iowa Code chapters 147, 154B and 272C.

**ARC 7291C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to practice of psychology  
and providing an opportunity for public comment**

The Board of Psychology hereby proposes to rescind Chapter 243, “Practice of Psychology,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 154B.13, 154B.14, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154B and 272C.

*Purpose and Summary*

This proposed chapter provides Iowans, licensees, and their employers with practice guidance and requirements relevant to the practice of psychologists. The chapter provides guidance on what is considered appropriate and not appropriate practice. Categories include: access to patient records, psychological testing, judicial proceedings, telepsychology, and record keeping.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Tony Alden  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.4401  
Email: [tony.alden@dia.iowa.gov](mailto:tony.alden@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

February 13, 2024  
9:20 to 9:40 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:515222450)

February 14, 2024  
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6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:515222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 243 and adopt the following **new** chapter in lieu thereof:

CHAPTER 243  
PRACTICE OF PSYCHOLOGY

**645—243.1(154B) Definitions.**

“*APA*” means the American Psychological Association.

“*Clinical records*” means records created by a licensee regarding the observation and treatment of patients, such as progress notes, but does not include psychotherapy notes.

“*Examinee*” means a person who is the subject of a forensic examination for the purpose of informing a decision maker or attorney about the psychological functioning of that examinee.

“*HIPAA*” means the Health Insurance Portability and Accountability Act of 1996 and related regulations promulgated thereunder.

“*Licensee*” or “*licensed*” means an individual with an active license to practice psychology, including a provisional license, or a certificate of exemption issued by the board.

“*Patient*” means an individual under the care of a licensee in a clinical role and is synonymous with the term client.

“*Personal representative*” means a person authorized to act on behalf of the patient in making health care-related decisions such as a parent or legal guardian, an individual with a health care power of attorney, an individual with a general power of attorney or durable power of attorney that includes the power to make health care decisions, or a court-appointed legal guardian.

“*Psychotherapy notes*” means notes recorded by a licensee documenting or analyzing the contents of a conversation during a private therapy session with a patient, or a group, joint, or family therapy session, that are maintained separately from the patient's clinical records. Psychotherapy notes excludes medication prescription monitoring, counseling session start and stop times, the modalities

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

and frequencies of treatment furnished, results of any clinical tests, and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

“*Telepsychology*” means the provision of psychological services using telecommunication technologies.

“*Test data*” means raw and scaled scores, patient responses to test questions or stimuli, and notes and recordings concerning patient statements and behavior during an examination.

“*Test materials*” means the test questions, scoring keys, protocols, and manuals that do not include personally identifying information about the subject of the test.

**645—243.2(147,154B,272C) Purpose and scope.** The purpose of this chapter is to set the minimum standards of practice for licensees practicing in Iowa. The practice of psychology is occurring in Iowa if the patient or examinee is located in Iowa. Licensees will ensure any interns or residents under supervision adhere to the minimum standards of practice and must comply with the requirements set forth in rule 645—240.9(154B). The APA Code of Ethics, published January 1, 2017, is applicable and enforceable to the extent it does not conflict with any standards of practice set forth in this chapter. A licensee may be disciplined for any violation of this chapter or the APA Code of Ethics.

**645—243.3(154B) Access to records.**

**243.3(1) Clinical records generally.** When records are requested along with a signed release from the patient or the patient’s personal representative, a licensee will provide requested clinical records in a timely manner unless there is a ground for denial under HIPAA (Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, August 21, 1996, 110 Stat. 1936).

**243.3(2) Psychotherapy notes.** A licensee is not required to release psychotherapy notes in response to a signed release; if a licensee chooses to release psychotherapy notes, a signed release specifically authorizing the release of those notes will be provided.

**243.3(3) Substance use disorder treatment programs.** Licensees who practice in a federally assisted substance use disorder treatment program, also known as a part 2 program, are prohibited from disclosing any information that would identify a patient as having a substance use disorder unless the patient provides written consent in compliance with part 2 requirements.

**243.3(4) Clinical records of minor patients.** A minor patient is a patient who is under the age of 18 and is not emancipated. A licensee is not required to release the clinical records of a minor patient to the minor’s personal representative if releasing such records is not in the minor’s best interest. When a minor patient reaches the age of 18, the clinical records belong to the patient.

**243.3(5) Clinical records of deceased patients.** A licensee will provide the clinical records of a deceased patient to the deceased patient’s executor upon a written request accompanied by a copy of the patient’s death certificate and a copy of the legal document identifying the requestor as the patient’s executor.

**243.3(6) Forensic records.** A licensee will provide forensic records consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

**243.3(7) Board.** A licensee shall provide clinical records, test data, or forensic records to the board as requested during the investigation of a complaint. A licensee is not required to obtain a patient release to send such information to the board because the board is a health oversight agency.

**243.3(8) Exceptions.** These rules do not apply when there is a legal basis for not disclosing requested information.

**645—243.4(154B) Psychological testing.** A licensee may administer psychological tests and assessments to a patient or examinee if the licensee has appropriate training for any psychological test or assessment utilized and the test or assessment is scientifically founded.

**243.4(1) Use of proctors.** A licensee may delegate the administration of a standardized test, intelligence test, or objective personality assessment to an appropriately trained individual. The licensee is responsible for supervising any proctors.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**243.4(2) Release of test data.** A licensee will not provide test data to any person, with the exception that the test data with proper written release, may be disclosed to a licensed psychologist designated by the patient or examinee. A psychologist who receives test data in this manner may not further disseminate the test data.

**243.4(3) Release of test materials.** A licensee shall not disclose test materials to any person, except for another licensed psychologist who has been designated in writing by the subject of a psychological test to receive the records associated with the psychological testing of the subject. A licensee shall not disclose test materials in any administrative, judicial, or legislative proceeding.

**645—243.5(154B) Judicial proceedings.** Prior to participating in a judicial proceeding, a licensee will become familiar with the rules governing the proceeding. A licensee will understand and clearly identify the licensee's role in the proceeding.

**243.5(1) Licensure.** A license to practice psychology in Iowa or an exemption from licensure is not required solely to testify as an expert witness in court, if the psychologist did not personally examine the examinee. A psychologist who personally examines an examinee located in Iowa for the purpose of providing an expert opinion is required to be licensed or exempt from licensure at the time of the evaluation.

**243.5(2) Custody evaluations.** A licensee who performs a child custody evaluation will comply with the APA Guidelines for Child Custody Evaluations in Family Law Proceedings published December 2010.

**645—243.6(154B) Telepsychology.** A psychologist may practice telepsychology provided the following are met:

**243.6(1)** The psychologist must be licensed or be exempt from licensure in the jurisdiction where the patient or examinee is located.

**243.6(2)** Prior to initiating telepsychology with a new patient or examinee, a licensee will take reasonable steps to verify the identity and location of the patient or examinee.

**243.6(3)** A licensee will ensure informed consent for telepsychology includes a description of any limitations of services as a result of the technology utilized.

**243.6(4)** A licensee will gain competency in the use of a particular technology prior to utilizing it in practice. A licensee shall only use technologies that are secure and functioning properly.

**243.6(5)** A licensee will apply the same ethical and professional standards of care and professional practice that are required when providing in-person psychological services. If the same standard of care cannot be met with telepsychology, a licensee will not utilize telepsychology.

**645—243.7(154B) Records.** A licensee will complete clinical records as soon as practicable to ensure continuity of services. All clinical records shall be completed within 30 days after the service or evaluation is complete unless there are significant extenuating circumstances. Clinical records and psychotherapy notes will be retained for at least seven years after the last date of service, or until at least three years after a minor reaches the age of 18, whichever is later. Forensic records will be completed and retained consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

These rules are intended to implement Iowa Code chapters 147, 154B, and 272C.

**ARC 7292C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to prescribing psychologists  
and providing an opportunity for public comment**

The Board of Psychology hereby proposes to rescind Chapter 244, “Prescribing Psychologists,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 154B.13, 154B.14, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154B and 272C.

*Purpose and Summary*

This proposed chapter lays out the minimum standards for education and practice of psychologists with a conditional prescribing certificate and psychologists with a prescribing certificate. Members of the public, licensees, training programs, and employers benefit from having a clear understanding of the minimum standards for appropriate training and practice in the state. Requirements include the application process, minimum educational qualifications, and supervision requirements.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Tony Alden  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.4401  
Email: [tony.alden@dia.iowa.gov](mailto:tony.alden@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

February 13, 2024  
9:20 to 9:40 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
9:20 to 9:40 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 244 and adopt the following **new** chapter in lieu thereof:

CHAPTER 244  
PRESCRIBING PSYCHOLOGISTS

**645—244.1(148,154B) Definitions—joint rule.**

“*APA*” means the American Psychological Association.

“*Applicant*” means a psychologist applying for a conditional prescription certificate.

“*Board*” means the Iowa board of psychology.

“*Board of medicine*” means the Iowa board of medicine.

“*Collaborating physician*” means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician's normal course of practice, and who serves as a resource for a prescribing psychologist pursuant to a collaborative practice agreement. A collaborating physician shall specialize in family medicine, internal medicine, neurology, pediatrics, or psychiatry.

“*Conditional prescribing psychologist*” means a person licensed to practice psychology in Iowa who holds an active conditional prescription certificate. This term does not include prescribing psychologists.

“*Conditional prescription certificate*” means a certificate issued by the board to a psychologist that permits the psychologist to prescribe psychotropic medication under the supervision of a supervising physician.

“*CSA registration*” means a Controlled Substance Act registration issued by the Iowa board of pharmacy authorizing a psychologist to possess and prescribe controlled substances.

“*DEA registration*” means a mid-level practitioner registration with the Drug Enforcement Administration authorizing a psychologist to possess and prescribe controlled substances.

“*Joint rule*” means a rule adopted by agreement of the board of psychology and the board of medicine through the joint rulemaking process.

“*Mental disorder*” means a disorder which is defined by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) published by the American Psychiatric

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Association March 2022, or contained within the mental and behavioral disorders chapter of the most recent version of the International Classification of Diseases, 11th revision, effective January 1, 2022.

*“Prescribing psychologist”* means a person licensed to practice psychology in Iowa who holds an active prescription certificate. This term does not include conditional prescribing psychologists.

*“Prescription certificate”* means a certificate issued by the board to a psychologist that permits the psychologist to prescribe psychotropic medication.

*“Primary care physician”* means a person licensed to practice medicine and surgery or osteopathic medicine in Iowa who is responsible for the ongoing medical care of a patient.

*“Psychologist”* means a person licensed to practice psychology in Iowa.

*“Psychotropic medication”* means a medication that shall not be dispensed or administered without a prescription and that has been explicitly approved by the federal Food and Drug Administration for the treatment of a mental disorder, as defined by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) published by the American Psychiatric Association March 2022, or the most recent version of the International Classification of Diseases, 11th revision, effective January 1, 2022. “Psychotropic medication” does not include narcotics.

*“Supervising physician”* means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician’s normal course of practice, and who supervises a conditional prescribing psychologist. A supervising physician shall specialize in family medicine, internal medicine, neurology, pediatrics, or psychiatry.

*“Training director”* means an employee of the psychopharmacology training program who is primarily responsible for directing the training program.

*“Training physician”* means a person who is licensed to practice medicine and surgery or osteopathic medicine in Iowa, who regularly prescribes psychotropic medications for the treatment of mental disorders as part of the physician’s normal course of practice, and who provides training to a psychologist as part of the clinical experience and practicum described in rule 645—244.3(148,154B). A training physician shall be board-certified in family medicine, internal medicine, neurology, pediatrics, or psychiatry. A training physician shall be approved by the psychopharmacology training program.

**645—244.2(154B) Conditional prescription certificate.** A conditional prescription certificate shall authorize a psychologist to prescribe psychotropic medications to patients with mental disorders under supervision in accordance with the requirements of this chapter.

**244.2(1) Application.** Unless a basis for denial exists in accordance with rule 645—244.9(154B), the board shall issue a conditional prescription certificate to an applicant who satisfies the following requirements:

*a.* Holds an active license to practice psychology in Iowa and an active health service provider certification issued by the board. Both the license and the health service provider certification must be in good standing.

*b.* Meets the educational requirements set forth in rule 645—244.3(148,154B). Official academic transcripts shall be sent directly from the school to the board.

*c.* Submits a supervision plan in accordance with subrule 244.4(1).

*d.* Possesses malpractice insurance that covers the prescribing of psychotropic medications.

*e.* Submits a completed application and a nonrefundable application fee of \$270.

**244.2(2) Term.** A conditional prescription certificate shall be valid for a period of four years from the date of issuance. The board shall not renew a conditional prescription certificate unless a conditional prescribing psychologist cannot complete the requirements of supervised practice within four years due to extenuating circumstances. A conditional prescribing psychologist may request an extension of a conditional prescription certificate when extenuating circumstances exist to provide additional time for the requirements of supervised practice to be met.

**645—244.3(148,154B) Educational requirements for conditional prescription certificate—joint rule.** An applicant for a conditional prescription certificate shall have completed a program of study



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

designated by the APA as a program for the psychopharmacology training of postdoctoral psychologists. The program must have included didactic instruction, a clinical experience, and a practicum satisfying the requirements of this rule. A minimum of 40 hours of basic training on clinical assessment skills shall be included as part of the program's didactic instruction.

**244.3(1) Degree.** An applicant shall possess a postdoctoral master of science degree in clinical psychopharmacology from a program designated by the APA as a program for the psychopharmacology training of postdoctoral psychologists. The degree program must be a minimum of 30 credit hours not including the practicum and shall include coursework in basic science, neuroscience, clinical medicine, pathological basis of disease, clinical pharmacology, psychopharmacology, and professional, ethical and legal issues. A minimum of one-third of the coursework must be completed in a live interactive format. A program must be designated by the APA at the time the degree is conferred.

**244.3(2) Clinical experience.** An applicant shall have completed a clinical experience in accordance with the requirements of this subrule. During the clinical experience, a psychologist shall learn clinical assessment techniques and pathophysiology through direct observation and hands-on training with a training physician. During the clinical experience, a psychologist shall become competent in health history interviews, physical examinations, and neurological examinations with a medically diverse patient population. The clinical experience must be associated with the psychopharmacology training program from which the psychologist obtained the postdoctoral master of science degree in clinical psychopharmacology.

*a. Scope.* At the beginning of the clinical experience, the psychologist shall directly observe the training physician performing clinical assessments of patients. After the training physician determines the psychologist has gained sufficient knowledge, the clinical experience shall transition to the psychologist's performance of clinical assessments of patients under the direct observation of the training physician. After the training physician determines the psychologist has gained sufficient knowledge and experience, the psychologist may perform clinical assessments of patients without being directly observed by the training physician, provided that the training physician is on site at all times when the psychologist is with patients and is reviewing all medical records. A psychologist and a training physician shall have ongoing discussions regarding the psychologist's clinical assessment skills and progress in the clinical experience.

*b. Minimum experience.* The clinical experience shall consist of a minimum of 600 patient encounters that shall be completed by the end of the practicum.

*c. Conflict of interest.* A training physician shall not be an employee of the psychologist or otherwise have a conflict of interest that could affect the training physician's ability to impartially evaluate the psychologist's performance. A psychologist may utilize more than one training physician.

*d. Milestones.* To satisfactorily complete the clinical experience, a psychologist shall demonstrate competency in each of the following:

(1) Perform a health history interview to obtain pertinent information regarding a patient's chief complaint, history of the present illness, past medical and surgical history, family history, allergies, medications, and psychosocial history. The psychologist shall perform a review of systems to elicit a health history and shall appropriately document the health history.

(2) Perform a physical examination in a logical sequence, ensuring appropriate positioning of the patient, proper patient draping, and proper application of the principles of asepsis throughout the examination. The psychologist shall verbalize and assess the components of a general survey and be able to accurately assess all of the following: vital signs, including pulse, respiration, and blood pressure; skin, hair and nails; head, face and neck; eyes; ears, nose, mouth and throat; thorax, lungs and axillae; heart; peripheral vascular system; abdomen; and musculoskeletal system. The psychologist shall be proficient in utilizing any equipment needed to conduct a physical examination.

(3) Complete a neurological examination demonstrating knowledge of the history related to the neurological system and the ability to assess the following: mental status, cranial nerves, motor system, sensory system, and reflexes. The psychologist shall differentiate normal laboratory values from abnormal laboratory values and correlate abnormal laboratory values with impaired physiological

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

systems. The psychologist shall identify adverse drug reactions and identify laboratory data and physical signs indicating an adverse drug reaction.

*e. Informed consent.* At the initial contact, the psychologist shall inform the patient, or the patient's legal guardian when appropriate, of the psychologist's training role in the clinical experience. The psychologist shall provide sufficient information regarding the expectations and requirements of the clinical experience to obtain informed consent and appropriate releases. Upon request, the psychologist shall provide additional information regarding the psychologist's education, training, or experience.

*f. Training documentation.* The psychologist and the training director shall maintain documentation accounting for all clinical experience patient encounters, including the dates, times, and locations of all clinical experience patient encounters, and documentation of completion of the milestones defined in these rules. The applicant shall provide additional documentation to the board upon request.

*g. Certification.* The training physician(s) and the training director shall certify on forms provided by the board that the applicant has successfully completed the minimum number of clinical experience patient encounters required and demonstrated competence in clinical assessment techniques and pathophysiology through completion of the milestones defined in these rules.

**244.3(3) Practicum.** An applicant shall have completed a practicum in accordance with the requirements of this subrule. During the practicum, a psychologist shall develop competencies in evaluating and treating patients with mental disorders through pharmacological intervention via observation and active participation. The practicum must be associated with the psychopharmacology training program from which the applicant obtained the postdoctoral master of science degree in clinical psychopharmacology and must be completed in a period of time not less than six months and not more than three years.

*a. Scope.* At the beginning of the practicum, the psychologist shall directly observe the training physician evaluating and treating patients with mental disorders. After the training physician determines the psychologist has gained sufficient knowledge, the practicum shall transition to the psychologist's evaluation and treatment of patients under the direct observation of the training physician. After the training physician determines the psychologist has gained sufficient knowledge and experience, the psychologist may evaluate and treat patients without being directly observed by the training physician, provided that the training physician is on site at all times when the psychologist is with patients, has personal contact with the patient at each visit, and is reviewing all pertinent medical records. During the practicum, the training physician shall make all final treatment decisions, with consultation from the psychologist prior to making a final determination regarding the psychopharmacological treatment of a patient.

*b. Minimum number of hours.* A practicum shall consist of a minimum of 400 hours. Only hours spent face to face evaluating and treating patients with mental disorders and hours spent discussing treatment plans with a training physician may count as practicum hours. Time spent by the psychologist providing services that are within the scope of practice of a licensed psychologist, such as psychological examinations and psychotherapy, shall not be counted as practicum hours.

*c. Minimum number of patients.* A psychologist shall see a minimum of 100 individual patients throughout the practicum. A patient can be counted toward this requirement if the patient has a diagnosed mental disorder and pharmacological intervention is considered as a treatment option, even if a decision is made not to prescribe a psychotropic medication to the patient. Over the course of the practicum, the psychologist shall observe, evaluate, and treat patients encompassing a range of ages and a variety of psychiatric diagnoses.

*d. Settings.* At least 100 hours of the 400 hours must be completed in a psychiatric setting. At least 100 hours of the 400 hours must be completed in a primary care or community mental health setting.

*e. Conflict of interest.* A training physician shall not be an employee of the psychologist or otherwise have a conflict of interest that could affect the training physician's ability to impartially evaluate the psychologist's performance. A psychologist may utilize more than one training physician.

*f. Milestones.* To successfully complete the practicum, a psychologist shall demonstrate competency in each of the following:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(1) Physical examination and mental status examination. The psychologist shall perform comprehensive and focused physical examinations and mental status evaluations, demonstrate proper use of instruments, and recognize variation associated with developmental stages and diversity.

(2) Review of systems. The psychologist shall integrate information learned from patient reports, signs, symptoms, and a review of each major body system, recognizing normal developmental variations.

(3) Medical history interview. The psychologist shall systematically conduct a patient clinical interview, producing a patient's medical, surgical, psychiatric, and medication history, as well as a family medical and psychiatric history, and be able to communicate the findings in written and verbal form.

(4) Assessment indications and interpretation. The psychologist shall order and interpret appropriate tests (e.g., psychometric, laboratory, and radiological) for the purpose of making a differential diagnosis and monitoring therapeutic and adverse effects of treatment.

(5) Differential diagnosis. The psychologist shall determine primary and alternate diagnoses using established diagnostic criteria.

(6) Integrated treatment planning. The psychologist shall identify and select, using all available data, the most appropriate treatment alternatives, including medication, psychosocial, and combined treatments, and sequence treatment within the larger biopsychosocial context.

(7) Consultation and collaboration. The psychologist shall understand the parameters of the role of a prescribing psychologist and work with other professionals, including a patient's primary care physician, in an advisory or collaborative manner to effectively treat a patient.

(8) Treatment management. The psychologist shall apply, monitor, and modify as needed the treatment of a patient and learn to write valid and complete prescriptions.

(9) Medical documentation. The psychologist shall demonstrate appropriate medical documentation for the patient-psychologist interaction to include subjective and objective assessment; mental status, physical examination findings, or both; formulation; diagnostic impression; and comprehensive treatment plan.

*g. Informed consent.* At the initial contact, the psychologist shall inform the patient, or the patient's legal guardian when appropriate, of the psychologist's training role in the practicum. The psychologist shall provide sufficient information regarding the expectations and requirements of the practicum to obtain informed consent and appropriate releases. Upon request, the psychologist shall provide additional information regarding the psychologist's education, training, or experience.

*h. Training documentation.* The psychologist and the training director shall maintain documentation regarding all patients observed, evaluated, and treated by the psychologist as part of the practicum. The documentation shall clearly identify the training physician for each patient. The psychologist and the training director shall maintain documentation of all practicum hours, including the dates, times, and locations of all practicum hours, and documentation of completion of the milestones defined in these rules. The applicant shall provide additional documentation to the board upon request.

*i. Certification.* The training physician(s) and the training director shall certify on forms provided by the board that the psychologist has successfully completed the minimum number of practicum hours, treated the minimum number of patients, and demonstrated competence in the evaluation and treatment of patients with mental disorders through pharmacological intervention through completion of the milestones defined in these rules.

**244.3(4) Examination.** A psychologist shall pass the Psychopharmacology Examination for Psychologists (PEP) administered by the APA Practice Organization's College of Professional Psychology or by the Association of State and Provincial Psychology Boards. The passing score utilized by the board shall be the passing score recommended by the test administrator. The examination score shall be sent directly from the testing service to the board.

**645—244.4(148,154B) Supervised practice as a conditional prescribing psychologist—joint rule.** A conditional prescribing psychologist shall complete a minimum of two years of supervised practice in prescribing psychotropic medications to patients with mental disorders in accordance with this rule to be eligible to apply for a prescription certificate.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**244.4(1) *Supervision plan.*** Prior to issuing a conditional prescription certificate, the board shall review and approve the proposed supervision plan.

*a.* The proposed supervision plan must include the following:

(1) Conditional prescribing psychologist information. The plan must include the name, license number, address, telephone number, and email address of the supervisee.

(2) Supervising physician information. The plan must include the name, license number, date of licensure, area of specialization, address, telephone number, and email address of each supervising physician.

(3) Primary supervising physician. The plan must include a designation of the primary supervising physician.

(4) Period of supervision. The plan must include the beginning date of the supervision plan and estimated date of completion.

(5) Locations and settings. The plan must include a description of the locations and settings where and with whom supervision will occur.

(6) Scope of practice. The plan must include a description of the scope of practice of the conditional prescribing psychologist, including any limitations on the types of psychotropic medications that may be prescribed and the patient populations to which a prescription may be issued and including the expectations and responsibilities of the supervising physician.

(7) Release of information. The plan must include a provision requiring the conditional prescribing psychologist to obtain a release of information from all patients who are considered for psychopharmacological intervention, authorizing the conditional prescribing psychologist to share the patient's health information with the supervising physician.

(8) Consultation between the conditional prescribing psychologist and the supervising physician. The plan must include a provision requiring that the conditional prescribing psychologist consult with the supervising physician on a regular basis regarding a patient's psychotropic treatment plan and any potential complications. A conditional prescribing psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the supervising physician objects on the basis of a contraindication.

(9) Consultation between the supervising physician and the primary care physician. The plan must include a provision requiring that the supervising physician consult with the patient's primary care physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.

(10) Termination of the supervision plan. The plan must include a description of how the supervision plan may be terminated and the process for notifying affected patients.

(11) Signatures. The plan must include signatures of the psychologist and all supervising physicians.

*b.* A conditional prescribing psychologist shall inform the board of any amendments to the conditional prescribing psychologist's supervision plan, including the addition of any supervising physicians, within 30 days of the change. Amendments to a supervision plan are subject to board approval.

*c.* The board shall transmit all approved supervision plans and approved amendments to the board of medicine.

**244.4(2) *Responsibilities of a supervising physician.*** A supervising physician shall provide supervision in accordance with rules established by the board of medicine.

**244.4(3) *Responsibilities of a conditional prescribing psychologist.*** At the initial contact, a conditional prescribing psychologist shall inform a patient, or a patient's legal guardian when appropriate, that the conditional prescribing psychologist is practicing under the supervision of a physician for purposes of prescribing psychotropic medication and shall provide the name of the supervising physician. A conditional prescribing psychologist shall provide sufficient information regarding the supervision requirements to obtain informed consent and appropriate releases. Upon request, a conditional prescribing psychologist shall provide additional information regarding the conditional prescribing psychologist's education, training, or experience with respect to prescribing psychotropic medications.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**244.4(4) Specialization.** A conditional prescribing psychologist shall complete the following training during the supervised practice period to be eligible to prescribe psychotropic medications to the respective population as a prescribing psychologist:

*a. Children.* To prescribe to patients who are less than 17 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

- (1) A pediatric practice,
- (2) A child and adolescent practice, or
- (3) A general practice provided the conditional prescribing psychologist treats a minimum of 50 patients who are less than 17 years of age.

*b. Elderly patients.* To prescribe to patients who are over 65 years of age, a conditional prescribing psychologist shall complete at least one year of the required two years of supervised practice in either:

- (1) A geriatric practice, or
- (2) A general practice with patients across the lifespan including patients who are over 65 years of age.

*c. Serious medical conditions.* To prescribe to patients with serious medical conditions including but not limited to heart disease, cancer, stroke, seizures, or comorbid psychological conditions, or patients with developmental disabilities and intellectual disabilities, a conditional prescribing psychologist shall complete at least one year prescribing psychotropic medications to patients with serious medical conditions.

**244.4(5) Completion of supervised practice.** A conditional prescribing psychologist shall see a minimum of 300 patients over a minimum of two years to complete the supervised practice period, provided each of the 300 patients has a diagnosed mental disorder and pharmacological intervention is considered as a treatment option, even if a decision is made not to prescribe a psychotropic medication to the patient. A conditional prescribing psychologist shall treat a minimum of 100 patients with psychotropic medication throughout the supervised practice period.

*a.* At the conclusion of the supervised practice period, a primary supervising physician shall certify the following:

- (1) Supervision was provided in accordance with rules established by the board of medicine.
- (2) A conditional prescribing psychologist has successfully completed two years of supervised practice, considered at least 300 patients for psychopharmacological intervention, and treated at least 100 patients with psychotropic medications.
- (3) A conditional prescribing psychologist intending to specialize in the psychological care of children or elderly persons, or persons with serious medical conditions, has completed the requirements of subrule 244.4(4).

(4) A conditional prescribing psychologist has successfully completed the supervised practice period and demonstrated competence in psychopharmacology by demonstrating competency in the milestones listed in paragraph 244.3(3) "f" sufficient to obtain a prescription certificate.

*b.* If a conditional prescribing psychologist is unable to successfully complete the supervised practice period prior to the expiration of the conditional prescription certificate, the conditional prescribing psychologist may request an extension of the conditional prescription certificate provided that the conditional prescribing psychologist can demonstrate that the conditional prescribing psychologist is likely to successfully complete the supervised practice within the extended time requested. Any requests for extension must be submitted to and approved by both the board and the board of medicine.

**645—244.5(154B) Prescription certificate.** A prescription certificate shall authorize a psychologist to prescribe psychotropic medications to patients with mental disorders in accordance with the requirements of this chapter.

**244.5(1) Application.** Unless a basis for denial exists in accordance with rule 645—244.9(154B), the board shall issue a prescription certificate to a conditional prescribing psychologist who satisfies the following requirements:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- a. Holds an active license to practice psychology in Iowa, an active health service provider certification issued by the board, and an active conditional prescription certificate. The license, certification, and certificate must all be in good standing.
- b. Submits documentation regarding successful completion of the supervised practice period.
- c. Submits a collaborative practice agreement in accordance with rule 645—244.8(148,154B).
- d. Possesses malpractice insurance that covers the prescribing of psychotropic medications.
- e. Submits a completed application and a nonrefundable application fee of \$60.

**244.5(2) *Initial term and renewal.*** An initial prescription certificate shall be valid through the current expiration date of the applicant's psychologist license. Thereafter, a prescription certificate shall be renewed biennially concurrent with the renewal of the psychologist license. A prescribing psychologist may renew a prescription certificate by submitting a completed renewal application and a nonrefundable application fee of \$60. A prescribing psychologist is responsible for renewing the prescription certificate prior to its expiration.

**244.5(3) *Continuing education required.*** A prescribing psychologist shall complete a minimum of 20 hours of continuing education in psychopharmacology each year. A total of 40 hours of continuing education in psychopharmacology is required to renew a prescription certificate. These hours are separate from, and in addition to, the continuing education hours needed to renew a psychologist license pursuant to 645—Chapter 241. If a psychologist specializes in treating children, a minimum of 10 hours of continuing education in psychopharmacology each year, for a total of 20 hours of continuing education per renewal period, must be directly related to prescribing psychotropic medication to children.

**244.5(4) *Late renewal.*** A prescription certificate shall become late when it has not been renewed prior to the expiration date. To renew a late prescription certificate, a prescribing psychologist shall complete the renewal requirements and submit a late fee of \$60 within 30 days following the prescription certificate expiration date. A prescribing psychologist who fails to renew a prescription certificate within 30 days following the prescription certificate expiration date shall have an inactive prescription certificate. A psychologist whose prescription certificate is inactive continues to hold the privilege of certification in Iowa but may not prescribe psychotropic medications until the prescription certificate is reactivated.

**244.5(5) *Reactivation.*** To apply for reactivation of an inactive prescription certificate, a psychologist shall submit a completed reactivation application, a nonrefundable fee of \$60, and documentation of a minimum of 40 hours of continuing education in psychopharmacology taken within the preceding two years. If a prescription certificate has been inactive for more than five years, a psychologist shall demonstrate competence in psychopharmacology through one of the following means:

- a. Practiced as a prescribing psychologist in another jurisdiction in the preceding two years.
- b. Completed a period of supervised practice for a minimum of 12 months. The board may issue a conditional prescription certificate to complete a supervised practice period for purposes of prescription certificate reactivation.

**645—244.6(148,154B) Prescribing—joint rule.** This rule applies to both conditional prescribing psychologists and prescribing psychologists. A psychologist shall comply with all prescription requirements described in 657—subrule 8.19(1). The following limits apply to a psychologist's prescriptive authority:

1. A psychologist shall only prescribe psychotropic medications for the treatment of mental disorders.
2. A psychologist shall only prescribe psychotropic medications in situations where the psychologist has adequate education and training to safely prescribe.
3. A prescription shall identify the prescriber as a "psychologist certified to prescribe" and shall include the Iowa license number of the psychologist.
4. A prescription issued by a conditional prescribing psychologist shall contain the name of the supervising physician overseeing the care of the patient.
5. A psychologist shall not delegate prescriptive authority to any other person.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

6. A psychologist is prohibited from prescribing narcotics as defined in Iowa Code section 124.101.
7. A psychologist shall maintain an active DEA registration and an active CSA registration in order to dispense, prescribe, or administer controlled substances.
8. A psychologist shall not self-prescribe nor prescribe to any person who is a member of the psychologist's immediate family or household.
9. Before prescribing a psychotropic medication that is classified as a controlled substance, a psychologist shall check the patient's prescriptive profile using the Iowa prescription monitoring program.
10. To prescribe to a patient who is pregnant or lactating, a psychologist shall consult with the patient's obstetrician-gynecologist or the physician managing the patient's pregnancy or postpartum care regarding all prescribing decisions. A psychologist shall not prescribe a psychotropic medication to a patient if the patient's obstetrician-gynecologist or the physician managing care objects on the basis of a contraindication.
11. To prescribe to a patient who has a serious medical condition, including but not limited to heart disease, kidney disease, liver disease, cancer, stroke, seizures, or comorbid psychological conditions, or to a patient who has a developmental or intellectual disability, a psychologist shall consult with the physician who is managing the comorbid condition for that patient regarding all prescribing decisions. A psychologist shall not prescribe a psychotropic medication if the patient's physician objects on the basis of a contraindication.
12. A psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the supervising physician or collaborating primary care provider objects on the basis of a contraindication.

**645—244.7(148,154B) Consultation with primary care providers—joint rule.** This rule applies to both conditional prescribing psychologists and prescribing psychologists. A psychologist shall maintain a cooperative relationship with the primary care provider who oversees a patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical conditions, and significant changes in the patient's medical or psychological condition are discussed.

**244.7(1) Requirement for a primary care provider.** A patient must have a designated primary care provider in order for a psychologist to have the ability to prescribe psychotropic medications to the patient. If a patient does not have a designated primary care provider, a psychologist shall refer the patient to a primary care provider prior to prescribing psychotropic medications to the patient. A psychologist shall not prescribe psychotropic medications to a patient until the patient has established care with a primary care provider.

**244.7(2) Requirement for a release.** A psychologist shall obtain a release of information from the patient, or the patient's legal guardian when appropriate, authorizing the sharing of the patient's health information between the psychologist and the patient's primary care provider. A psychologist shall not prescribe psychotropic medications to a patient who refuses to sign a release.

**244.7(3) Cooperation and consultation with primary care provider.** A psychologist shall contact each patient's primary care provider on at least a quarterly basis and shall contact the primary care provider to relay information regarding the care of a patient whenever the following occur:

- a. A psychologist is considering adding a new psychotropic medication to a patient's medication regimen. A psychologist shall not prescribe a new psychotropic medication if the patient's primary care provider objects on the basis of a contraindication.
- b. A psychologist is discontinuing or changing the dosage of a psychotropic medication.
- c. A patient experiences adverse effects from any medication prescribed by the psychologist that may be related to the patient's medical condition.
- d. A psychologist receives the results of laboratory tests related to the medical care of a patient.
- e. A psychologist notes a change in a patient's mental condition that may affect the patient's medical treatment.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—244.8(148,154B) Collaborative practice—joint rule.**

**244.8(1)** A prescribing psychologist shall have one or more collaborating physicians at all times, as evidenced by a current collaborative practice agreement. Prior to executing a collaborative practice agreement, a prescribing psychologist and a collaborating physician shall review and discuss each other's relevant education, training, experience, and competencies to determine whether a collaborative practice is appropriate and to facilitate drafting a suitable collaborative practice agreement. A collaborative relationship between a prescribing psychologist and a collaborating physician shall ensure patient safety and optimal clinical outcomes. Collaboration may be done in person or via electronic communication in accordance with these rules. A physician shall not serve as a collaborating physician for more than two prescribing psychologists at one time. A prescribing psychologist shall not prescribe without a current written collaborative practice agreement with a collaborating physician in place. All collaborative relationships shall be reviewed and evaluated on an annual basis to ensure that the prescribing psychologist is competent to safely prescribe psychotropic medications to patients and that the collaborating physician is providing appropriate feedback to the prescribing psychologist. A collaborative practice agreement shall establish the parameters of the collaborative practice that are mutually agreed upon by the prescribing psychologist and the collaborating physician and shall be reviewed on an annual basis.

**244.8(2)** A collaborative practice agreement shall include the following:

*a. Prescribing psychologist information.* The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the prescribing psychologist.

*b. Collaborating physician information.* The name, license number, DEA registration number, CSA registration number, address, telephone number, email address, and practice locations of the collaborating physician.

*c. Time period.* The time period covered by the agreement.

*d. Locations and settings.* The locations and settings where collaborative practice will occur.

*e. Collaboration.* A provision indicating that the collaborating physician and prescribing psychologist shall ensure that the collaborating physician is available for timely collaboration with a prescribing psychologist, either in person or via electronic communication, in accordance with these rules.

*f. Scope of practice.* The scope of practice agreed upon by the collaborating physician and the prescribing psychologist, as it relates to the prescribing psychologist's prescribing of psychotropic medications, including provisions to ensure that the prescribing psychologist's practice complies with all provisions of these rules.

*g. Clinical protocols, practice guidelines, and care plans.* Clinical protocols, practice guidelines, and care plans relevant to the scope of practice authorized.

*h. Methods of communication.* A description of how a prescribing psychologist and a collaborating physician may contact each other for consultation.

*i. Limitations on psychotropic medications.* A description of any limitations on the range of psychotropic medications the prescribing psychologist may prescribe. The collaborative practice agreement shall also include a provision indicating that the collaborating physician and prescribing psychologist shall ensure that the prescribing psychologist only prescribes psychotropic medications that are consistent with the prescribing psychologist's education, training, experience, and competence.

*j. Limitations on patient populations.* A description of any limitations on the types of populations that the prescribing psychologist may treat with psychotropic medications. The collaborative practice agreement shall also include a provision indicating that the collaborating physician and prescribing psychologist shall ensure that the prescribing psychologist only provides psychopharmacology services to patient populations that are within the prescribing psychologist's education, training, experience, and competence.

*k. Release of information.* A provision requiring the prescribing psychologist to obtain a release of information from all patients who are considered for psychopharmacological intervention, authorizing the prescribing psychologist to share the patient's health information with the collaborating physician.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*l. Chart review.* A provision indicating that the collaborating physician and prescribing psychologist shall ensure that the collaborative physician personally reviews and documents review of at least 10 percent of the prescribing psychologist's patient charts on a quarterly basis in each of the following categories:

- (1) Juvenile patients,
- (2) Pregnant or lactating patients,
- (3) Elderly patients,
- (4) Patients with serious medical conditions, and
- (5) All other patients.

*m. Annual review.* A provision requiring an annual review and evaluation of the collaborative relationship and the collaborative practice agreement.

*n. Consultation between the prescribing psychologist and the collaborating physician.* A provision requiring that the prescribing psychologist consult with the collaborating physician on a regular basis regarding the patient's psychotropic treatment plan and any potential complications. A prescribing psychologist shall not prescribe a new psychotropic medication, discontinue a psychotropic medication, or change the dosage of a psychotropic medication if the collaborating physician objects on the basis of a contraindication.

*o. Consultation between the collaborating physician and the primary care provider.* A provision requiring that the collaborating physician consult with the patient's primary care provider on a regular basis regarding the patient's psychotropic treatment plan and any potential complications.

*p. Termination.* A provision describing how the agreement can be terminated and the process for notifying affected patients if there will be an interruption in services.

*q. Signatures.* Signatures of the prescribing psychologist and all collaborating physicians.

**645—244.9(154B) Grounds for discipline.** The board may deny, suspend, revoke, or impose other discipline as outlined in 645—Chapter 13 against a psychologist who holds a conditional prescription certificate or prescription certificate for any of the following:

**244.9(1)** Violating any of the grounds for discipline set forth in rule 645—242.2(147,272C).

**244.9(2)** The inability to safely prescribe psychotropic medications.

**244.9(3)** Prescribing medications in violation of rule 645—244.6(148,154B).

**244.9(4)** Repeatedly failing to cooperate and collaborate with primary care physicians.

**244.9(5)** Prescribing psychotropic medications without a current written collaborative practice agreement.

**244.9(6)** Failing to maintain malpractice insurance that covers the prescribing of psychotropic medications.

**244.9(7)** Practicing outside the scope of a collaborative practice agreement.

**244.9(8)** Prescribing medications while the conditional prescription certificate or prescription certificate is inactive, or prescribing controlled substances while the DEA registration or CSA registration is not current.

**244.9(9)** Having a conditional prescription certificate or prescription certificate disciplined by the licensing authority of another state.

**244.9(10)** Having a license or health service provider certification disciplined by the board or the licensing authority of another state.

**645—244.10(154B) List of psychologists.** The board shall maintain a list of all current conditional prescribing psychologists and prescribing psychologists. The list shall be transmitted annually to the board of medicine.

**244.10(1) Information.** The list shall include the name of the psychologist, license number, license expiration date, expiration date of the conditional prescription certificate or prescription certificate, and practice locations.

**244.10(2) Additions and deletions.** When a psychologist is added or removed from the list, the board shall notify the board of medicine of the addition or deletion.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—244.11(148,154B) Complaints—joint rule.** Any complaint received by the board alleging a violation of this chapter shall be forwarded to the board of medicine. Any complaint received by the board of medicine alleging a violation of this chapter shall be forwarded to the board.

**645—244.12(148,154B) Joint waiver—joint rule.** Any rule identified as a joint rule may only be waived upon approval by both the board and the board of medicine.

**645—244.13(148,154B) Amendment—joint rule.** Any rule identified as a joint rule may only be amended by agreement of the board and board of medicine through a joint rulemaking process.

These rules are intended to implement Iowa Code chapters 148 and 154B.

**ARC 7503C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to licensure of respiratory care practitioners, polysomnographic technologists, and respiratory care and polysomnography practitioners and providing an opportunity for public comment**

The Board of Respiratory Care and Polysomnography hereby proposes to rescind Chapter 261, “Licensure of Respiratory Care Practitioners, Polysomnographic Technologists, and Respiratory Care and Polysomnography Practitioners,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 152B.6, 148G.5, 147.36, 147.76, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 152B, 148G, 272C, 147 and 17A and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

These proposed rules set minimum standards for entry into the respiratory care and polysomnography professions. Iowa residents, licensees and employers benefit from the rules since the rules articulate the processes by which individuals apply for licensure in the state of Iowa, as directed in statute. The rules include the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the respiratory care and polysomnography professions has minimum competency. Requirements include the application process, minimum educational qualifications and examination requirements.

This chapter includes rulemaking made in Adopted and Filed **ARC 6993C** (IAB 4/19/23) that was inadvertently excluded during the initial Regulatory Analysis process.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Michele Royer  
Iowa Department of Inspections, Appeals, and Licensing/Bureau of Board Support  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.5234  
Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

February 14, 2024  
12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 261 and adopt the following **new** chapter in lieu thereof:

*RESPIRATORY CARE PRACTITIONERS*

CHAPTER 261	LICENSURE OF RESPIRATORY CARE PRACTITIONERS, POLYSOMNOGRAPHIC TECHNOLOGISTS, AND RESPIRATORY CARE AND POLYSOMNOGRAPHY PRACTITIONERS
CHAPTER 262	CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS AND POLYSOMNOGRAPHIC TECHNOLOGISTS
CHAPTER 263	DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS AND POLYSOMNOGRAPHIC TECHNOLOGISTS
CHAPTER 264	RESERVED
CHAPTER 265	PRACTICE OF RESPIRATORY CARE PRACTITIONERS AND POLYSOMNOGRAPHIC TECHNOLOGISTS

## CHAPTER 261

## LICENSURE OF RESPIRATORY CARE PRACTITIONERS, POLYSOMNOGRAPHIC TECHNOLOGISTS, AND RESPIRATORY CARE AND POLYSOMNOGRAPHY PRACTITIONERS

**645—261.1(148G,152B) Definitions.**

*“Active license”* means a license that is current and has not expired.

*“Board”* means the board of respiratory care and polysomnography.

*“BRPT”* means the Board of Registered Polysomnographic Technologists.

*“CAAHEP”* means the Commission on Accreditation of Allied Health Education Programs.

*“CoARC”* means the Commission on Accreditation for Respiratory Care.

*“Grace period”* means the 30-day period following expiration of a license when the license is still considered to be active.

*“Licensee”* means any person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in the state of Iowa.

*“License expiration date”* means March 31 of even-numbered years.

*“NBRC”* means the National Board for Respiratory Care.

*“Polysomnographic technologist”* means a person licensed by the board to engage in the practice of polysomnography under the general supervision of a physician or a qualified health care professional prescriber.

*“Reactivate”* or *“reactivation”* means the process as outlined in rule 645—261.14(17A,147,272C) by which an inactive license is restored to active status.

*“Reciprocal license”* means the issuance of an Iowa license to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of respiratory care and polysomnography to license persons who have the same or similar qualifications to those required in Iowa.

*“Reinstatement”* means the process as outlined in rule 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

**645—261.2(148G,152B) General requirements for licensure.** The following general criteria apply to licensure:

**261.2(1)** The applicant must submit a completed online application for licensure and pay the nonrefundable licensure fee specified in rule 645—5.17(147,152B). The applicant must submit two completed sets of fingerprint cards to facilitate a national criminal history background check. The cost

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

for the evaluation of the fingerprint cards and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) criminal history background checks is assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

- a. An applicant must submit a release authorizing the background check.
- b. Licensees who were issued their licenses within six months prior to the renewal do not need to renew their licenses until the renewal month two years later.
- c. An applicant who has been a licensed respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner under the laws of another jurisdiction shall provide verification of license from the jurisdiction in which the applicant has most recently been licensed. Verification shall be sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) All disciplinary action taken against the license.

**261.2(2)** Incomplete applications that have been on file in the board office for more than two years will be considered invalid and destroyed.

**645—261.3(152B) Additional requirements for respiratory care practitioner licensure.** The following are additional specific criteria for licensure as a respiratory care practitioner:

**261.3(1)** Successful completion of a respiratory care education program accredited by, or under a letter of review from, CoARC or CAAHEP.

**261.3(2)** Foreign-trained respiratory care practitioners shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Education Research Foundation, Inc., Credentials Evaluation Service; or International Credentialing Associates, Inc. The professional curriculum must be equivalent to that stated in these rules. The candidate bears the expense of the curriculum evaluation.

b. Provide a copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

**261.3(3)** The examination required by the board shall be the Therapist Multiple-Choice Examination or the Certified Respiratory Therapist Examination administered by the NBRC. A score on the examination that meets or exceeds the minimum passing score established by the NBRC is required.

**261.3(4)** Results of the examination must be received by the board of respiratory care and polysomnography by one of the following methods:

- a. Scores are sent directly from the examination service to the board;
- b. A copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC is submitted to the board; or
- c. A copy of the score report or an electronic web-based confirmation by the NBRC showing proof of successful completion is submitted to the board.

**645—261.4(148G,152B) Additional requirements for polysomnographic technologist licensure.** The following are additional specific criteria for licensure as a polysomnographic technologist:

**261.4(1)** Graduation from a polysomnographic educational program accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**261.4(2)** Graduation from an entry into respiratory care professional practice program accredited by CoARC or CAAHEP for which a transcript will be submitted to the board office directly from the college or university; and direct-source verification of one of the following:

- a. Completion of a sleep specialist program option accredited by CoARC or CAAHEP, or
- b. Obtaining the sleep disorder specialist credential from the NBRC, or
- c. Obtaining the registered polysomnographic technologist credential from the BRPT; or

**261.4(3)** Graduation from an electroneurodiagnostic technologist program with a polysomnographic technology track that is accredited by CAAHEP with the transcript sent directly to the board from the college or university; or

**261.4(4)** Requirements for current Iowa licensees holding a license in a profession other than polysomnography. An individual who holds an active license under Iowa Code section 147.2 in a profession other than polysomnography and whose license is in good standing with the board for that profession may receive licensure upon verification from the medical director of the individual's current employer or the medical director's designee that the individual has completed on-the-job training in the field of polysomnography and is competent to perform polysomnography.

**261.4(5)** Foreign-trained polysomnographic technologists shall:

- a. Provide an equivalency evaluation of their educational credentials by either International Education Research Foundation, Inc., Credentials Evaluation Service; or International Credentialing Associates, Inc. The candidate will bear the expense of the curriculum evaluation.
- b. Provide a copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.
- c. Receive a final determination from the board regarding the application for licensure.

**261.4(6)** Licensure by proof of work experience. An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

**261.4(7)** Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**645—261.5(148G,152B) Requirements for dual licensure.** The following are additional specific criteria for licensure as a respiratory care and polysomnography practitioner. An applicant for licensure as a respiratory care and polysomnography practitioner shall meet the requirements of subrules 261.5(1) and 261.5(2).

**261.5(1)** The applicant shall have successfully completed a respiratory care education program accredited by, or under a letter of review from, CoARC or CAAHEP.

a. Foreign-trained practitioners shall:

- (1) Provide an equivalency evaluation of their educational credentials by International Education Research Foundation, Inc., Credentials Evaluation Service; or International Credentialing Associates, Inc. The professional curriculum must be equivalent to that stated in these rules. The candidate will bear the expense of the curriculum evaluation.
- (2) Provide a copy of the certificate or diploma awarded to the applicant from the program in the country in which the applicant was educated.
- (3) Receive a final determination from the board regarding the application for licensure.

b. Examination requirements. The examinations required by the board shall be the Therapist Multiple-Choice Examination administered by the NBRC and either the Sleep Disorders Specialist Examination (SDS) administered by the NBRC or the Registered Polysomnographic Technologist Examination administered by the BRPT. The minimum passing score established by the NBRC or BRPT is required.

c. Results of the examination. Results of the examination must be received by the board of respiratory care and polysomnography by one of the following methods:

- (1) Scores are sent directly from the examination service to the board;

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(2) A copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC submitted to the board; or

(3) A copy of the score report or an electronic web-based confirmation by the NBRC showing proof of successful completion of the Therapist Multiple-Choice Examination, State Clinical Examination, or Certified Respiratory Therapist Examination administered by the NBRC submitted to the board.

**261.5(2)** The applicant must also meet one of the following requirements:

*a.* Graduation from a polysomnographic educational program accredited by CAAHEP, with the transcript sent directly from the college or university to the board; or

*b.* Completion of a sleep specialist program option accredited by CoARC or CAAHEP with the transcript submitted to the board office directly from the college or university; and direct-source verification of one of the following:

(1) Completion of the curriculum for a polysomnographic certificate established and accredited by the CAAHEP as an extension of the respiratory care program, or

(2) Obtaining the sleep disorder specialist credential from the NBRC, or

(3) Obtaining the registered polysomnographic technologist credential from the BRPT; or

*c.* Graduation from an electroneurodiagnostic technologist program with a polysomnographic technology track that is accredited by CAAHEP, with the transcript submitted to the board office directly from the college or university; or

*d.* Hold an active license under Iowa Code section 147.2 in a profession other than polysomnography that is in good standing with the board for that profession and provide verification from the medical director of the applicant's current employer or the medical director's designee that the applicant has completed on-the-job training in the field of polysomnography and is competent to perform polysomnography.

**645—261.6(148G,152B) License renewal.**

**261.6(1)** The biennial license renewal period for a license will begin on April 1 of an even-numbered year and end on March 31 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration.

**261.6(2)** An individual who was issued an initial license within six months of the license renewal date does not need to renew the license until the subsequent renewal two years later.

**261.6(3)** A licensee seeking renewal shall:

*a.* Meet the continuing education requirements of rule 645—262.2(148G,152B,272C) and the mandatory reporting requirements of subrule 261.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

**261.6(4)** Mandatory reporter training requirements.

*a.* A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children and dependent adults in Iowa will complete the applicable department of health and human services training relating to the identification and reporting of child and dependent adult abuse as required by Iowa Code section 232.69(3) "b."

*b.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse will be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 262.

*c.* The board may select licensees for audit of compliance with the requirements in paragraphs "a" and "b."

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**261.6(5)** Upon receiving the information and the fee, a two-year license will be administratively issued. In the event the board receives adverse information on the renewal application, the renewal license will be issued but the board may refer the adverse information for further consideration or disciplinary investigation.

**261.6(6)** The license certificate and proof of active licensure will be displayed in a conspicuous public place at the primary site of practice.

**261.6(7)** Late renewal. A license not renewed by the expiration date will be assessed a late fee as specified in rule 645—5.17(147,152B). Completion of renewal requirements and submission of the late fee within the grace period are needed to renew the license.

**261.6(8)** Inactive license. A license not renewed by the end of the grace period is inactive. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice respiratory care in Iowa until the license is reactivated. A licensee who practices respiratory care in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—261.7(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**261.7(1)** Submit a reactivation application and pay the reactivation fee specified in rule 645—5.17(147,152B).

**261.7(2)** If the license has been inactive for two or more years, submit two completed fingerprint cards to facilitate a national criminal history background check. The cost for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant. The board may withhold issuing a license pending receipt of a report from the DCI and FBI.

**261.7(3)** Provide verification of current competence to practice by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of continuing education that conforms to standards defined in rule 645—262.3(148G,152B,272C) within 24 months immediately preceding submission of the application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction within 24 months immediately preceding an application for reactivation.

1. For respiratory care practitioners: 24 hours of continuing education.
2. For polysomnographic technologists: 24 hours of continuing education.
3. For respiratory care and polysomnography practitioners: 24 hours of continuing education of which at least 8 hours but no more than 12 hours shall be on sleep-related topics.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

1. Licensee's name;
  2. Date of initial licensure;
  3. Current licensure status; and
  4. Any disciplinary action taken against the license; and
- (2) Verification of completion of continuing education that conforms to standards defined in rule 645—262.3(148G,152B,272C) within 24 months immediately preceding submission of the application for reactivation; or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction within 24 months immediately preceding an application for reactivation.
1. For respiratory care practitioners: 48 hours of continuing education.
  2. For polysomnographic technologists: 48 hours of continuing education.
  3. For respiratory care and polysomnography practitioners: 48 hours of continuing education of which at least 16 hours but no more than 24 hours shall be on sleep-related topics.

**261.7(4)** Submit a sworn statement of previous active practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant has practiced at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period. Sole proprietors may submit the sworn statement on their own behalf.

**645—261.8(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—261.14(17A,147,272C) prior to practicing in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148G, 152B, and 272C.

**ARC 7504C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to continuing education for respiratory care practitioners and polysomnographic technologists and providing an opportunity for public comment**

The Board of Respiratory Care and Polysomnography hereby proposes to rescind Chapter 262, "Continuing Education for Respiratory Care Practitioners and Polysomnographic Technologists," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 148G.5, 152B.6, 152B.11, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148G, 152B and 272C and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

This proposed rulemaking sets forth continuing education requirements for respiratory care therapists and polysomnographic technologists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rules, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that respiratory care therapists and polysomnographic technologists maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This chapter includes rulemaking made by Adopted and Filed **ARC 6993C** (IAB 4/19/23) that was inadvertently excluded during the initial Regulatory Analysis process.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Michele Royer  
Iowa Department of Inspections, Appeals, and Licensing/Bureau of Board Support  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.5234  
Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 12:50 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 904.330.1060 PIN: 744 558 427# More phone numbers: <a href="tel:meet/jji-jaoj-uqy?pin=4753713549740">tel.meet/jji-jaoj-uqy?pin=4753713549740</a>
February 14, 2024 12:50 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> Or dial: 904.330.1060 PIN: 744 558 427# More phone numbers: <a href="tel:meet/jji-jaoj-uqy?pin=4753713549740">tel.meet/jji-jaoj-uqy?pin=4753713549740</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Inspections, Appeals, and Licensing and advise of specific needs.

*Review by Administrative Rules Review Committee*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 262 and adopt the following **new** chapter in lieu thereof:

CHAPTER 262  
CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS AND  
POLYSOMNOGRAPHIC TECHNOLOGISTS

**645—262.1(148G,152B,272C) Definitions.**

“*Active license*” means a license that is current and has not expired.

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

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

“*Board*” means the board of respiratory care and polysomnography.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in the state of Iowa.

**645—262.2(148G,152B,272C) Continuing education requirements.**

**262.2(1)** The biennial continuing education compliance period will extend for a two-year period beginning on April 1 of each even-numbered year and ending on March 31 of the next even-numbered year. Each biennium, the licensee will be required to complete continuing education that meets the requirements specified in rule 645—262.3(148G,152B,272C).

*a.* For respiratory care practitioner licensees: complete a minimum of 24 hours of continuing education.

*b.* For respiratory care and polysomnography practitioner licensees: complete a minimum of 24 hours of continuing education.

*c.* For polysomnographic technologist licensees: complete a minimum of 24 hours of continuing education.

**262.2(2)** Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. For each subsequent license renewal, the new licensee will be required to complete continuing education per biennium.

**262.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**262.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**262.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—262.3(148G,152B,272C) Standards.**

**262.3(1) General criteria.** A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

*a.* Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

*b.* Pertains to subject matters which integrally relate to the practice of the profession;

*c.* Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.

At the time of audit, the board may request the qualifications of presenters;

*d.* Fulfills stated program goals, objectives, or both; and

*e.* Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**262.3(2) Specific criteria.** Continuing education hours of credit may be obtained by:

*a.* Programs/activities of a clinical nature related to the practice of respiratory care or polysomnography.

*b.* Program presenters who will receive one hour of credit for each hour of presentation for the first offering of the continuing education program/activity.

*c.* Academic coursework that meets the criteria set forth in the rules and is accompanied by an official transcript indicating successful completion of the course. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

*d.* The following are approved for continuing education credit on a one-time basis per biennium and require a certificate of attendance or verification:

CERTIFICATIONS :

Advanced Cardiac Life Support	12 hours
Basic Cardiac Life Support—Instructor	8 hours
Basic Cardiac Life Support	6 hours
Neonatal Resuscitation	9 hours
Pediatric Advanced Life Support	14 hours
Mandatory Reporting	4 hours
Certified Pulmonary Function Technologist	8 hours
Registered Pulmonary Function Technologist	12 hours

These rules are intended to implement Iowa Code section 272C.2 and chapters 148G and 152B.

**ARC 7505C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to discipline for respiratory care practitioners and polysomnographic technologists and providing an opportunity for public comment**

The Board of Respiratory Care and Polysomnography hereby proposes to rescind Chapter 263, “Discipline for Respiratory Care Practitioners and Polysomnographic Technologists,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 148G.5, 152B.6, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148G, 152B and 272C and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

The chapter that sets disciplinary standards for this profession is proposed to be repealed and the content referenced under a shared disciplinary chapter for the boards as part of Executive Order 10 to remove duplication between multiple chapters. The disciplinary sanctions imposed in this chapter are not mutually exclusive to this Board and can be enforced through a shared disciplinary chapter.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Michele Royer  
Iowa Department of Inspections, Appeals, and Licensing/Bureau of Board Support  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.5234  
Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

February 13, 2024  
12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:meet/jji-jaoj-uqy?pin=4753713549740)

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Inspections, Appeals, and Licensing and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **645—Chapter 263**.

**ARC 7506C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to practice of respiratory care practitioners and polysomnographic technologists and providing an opportunity for public comment**

The Board of Respiratory Care and Polysomnography hereby proposes to rescind Chapter 265, "Practice of Respiratory Care Practitioners and Polysomnographic Technologists," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 148G.5, 152B.6, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148G, 152B and 272C and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

These proposed rules provide Iowans, licensees, and their employers with definitions relevant to the practice of respiratory care and polysomnography, including the code of ethics, guidance on intravenous administration and the setup and delivery of respiratory care equipment, the role of students, requirements for the location of the practice of polysomnography, and services provided by each profession. These rules articulate practice standards and provide a scope of practice for the profession.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Michele Royer  
Iowa Department of Inspections, Appeals, and Licensing/Bureau of Board Support  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.5234  
Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
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PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:7445584274)

February 14, 2024  
12:50 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
Or dial: 904.330.1060  
PIN: 744 558 427#  
More phone numbers:  
[tel.meet/jji-jaoj-uqy?pin=4753713549740](tel:7445584274)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Inspections, Appeals, and Licensing and advise of specific needs.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 265 and adopt the following new chapter in lieu thereof:

CHAPTER 265  
PRACTICE OF RESPIRATORY CARE PRACTITIONERS AND  
POLYSOMNOGRAPHIC TECHNOLOGISTS

**645—265.1(148G,152B,272C) Definitions.**

“*Board*” means the board of respiratory care and polysomnography.

“*Direct supervision*” means that the respiratory care and polysomnography practitioner or the polysomnographic technologist providing supervision must be present where the polysomnographic procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure.

“*General supervision*” means that the polysomnographic procedure is provided under a physician's or qualified health care professional prescriber's overall direction and control, but the physician's or qualified health care professional prescriber's presence is not required during the performance of the procedure.

“*Physician*” means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery, is board-certified, and is actively involved in the sleep medicine center or laboratory.

“*Polysomnographic student*” means a person who is enrolled in a program approved by the board and who may provide sleep-related services under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist as part of the person's education program.

“*Polysomnographic technician*” means a person who has graduated from a program approved by the board, but has not yet received an accepted national credential awarded from an examination program approved by the board and who may provide sleep-related services under the direct supervision of a licensed respiratory care and polysomnography practitioner or a licensed polysomnographic technologist for a period of up to 30 days following graduation while awaiting credentialing examination scheduling and results.

**645—265.2(148G,152B,272C) Code of ethics.**

**265.2(1)** The respiratory care practitioner or polysomnographic technologist will practice acceptable methods of treatment and will not practice beyond the competence or exceed the authority vested in the practitioner or technologist by physicians.

**265.2(2)** The respiratory care practitioner or polysomnographic technologist will continually strive to increase and improve knowledge and skill and will render to each patient the full measure of the practitioner's or technologist's ability. All services will be provided with respect for the dignity of the patient, regardless of the patient's social or economic status or personal attributes or the nature of the patient's health problems.

**265.2(3)** The respiratory care practitioner or polysomnographic technologist will be responsible for the competent and efficient performance of assigned duties and will expose incompetent, illegal or unethical conduct of members of the profession.



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**265.2(4)** The respiratory care practitioner or polysomnographic technologist will hold in confidence all privileged information concerning the patient and refer all inquiries regarding the patient to the patient's physician.

**265.2(5)** The respiratory care practitioner or polysomnographic technologist will not accept gratuities and shall guard against conflict of interest.

**265.2(6)** The respiratory care practitioner or polysomnographic technologist will uphold the dignity and honor of the profession and abide by its ethical principles.

**265.2(7)** The respiratory care practitioner or polysomnographic technologist will have knowledge of existing state and federal laws governing the practice of respiratory therapy or polysomnography and will comply with those laws.

**265.2(8)** The respiratory care practitioner or polysomnographic technologist will cooperate with other health care professionals and participate in activities to promote community, state, and national efforts to meet the health needs of the public.

**645—265.3(152B,272C) Intravenous administration.** Starting an intravenous line or administering intravenous medications is outside the scope of practice of a licensed respiratory care practitioner. However, this rule does not preclude a licensed respiratory care practitioner from performing intravenous administration under the auspices of the employing agency if formal training is acquired and documented.

**645—265.4(152B,272C) Setup and delivery of respiratory care equipment.**

**265.4(1)** Unlicensed personnel may deliver, set up, and test the operation of respiratory care equipment for a patient but may not perform any type of patient care. Instruction or demonstration of the equipment will be limited to its mechanical operation (on and off switches, emergency button, cleaning, maintenance). Any instruction or demonstration to the patient regarding the clinical use of the equipment, the fitting of any device to the patient or making any adjustment, or any patient monitoring, patient assessment, or other procedures designed to evaluate the effectiveness of the treatment must be performed by a licensed respiratory therapist or other licensed health care provider allowed by Iowa law.

**265.4(2)** Respiratory care equipment includes but is not limited to:

- a. Positive airway pressure (continuous positive airway pressure and bi-level positive airway pressure) devices and supplies;
- b. Airway clearance devices;
- c. Invasive and noninvasive mechanical ventilation devices and supplies;
- d. Nasotracheal and tracheal suctioning devices and supplies;
- e. Apnea monitors and alarms and supplies;
- f. Tracheostomy care devices and supplies;
- g. Respiratory diagnostic testing devices and supplies, including but not limited to pulse oximetry, CO<sub>2</sub> monitoring, and spirometry devices and supplies; and
- h. Pulse-dose or demand-type oxygen conserving devices or any oxygen delivery systems beyond the capabilities of a simple mask or cannula or requiring particulate or molecular therapy in conjunction with oxygen.

**645—265.5(152B,272C) Respiratory care as a practice.** "Respiratory care as a practice" means a health care profession, under medical direction, employed in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities that affect the pulmonary system and associated aspects of cardiopulmonary and other systems' functions, and includes, but is not limited, to the following direct and indirect respiratory care services that are safe, of comfort, aseptic, preventative, and restorative to the patient:

1. Observing and monitoring signs and symptoms, general behavior, reactions, and general physical responses to respiratory care treatment and diagnostic testing.
2. Determining whether the signs, symptoms, behavior, reactions, or general responses exhibit abnormal characteristics.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

3. Performing pulmonary diagnostic testing.
4. Analyzing blood gases and respiratory secretions.
5. Measuring and monitoring hemodynamic and physiologic function related to cardiopulmonary pathophysiology.
6. Performing diagnostic and testing techniques in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurement of ventilatory volumes, pressures, and flows; and collection of specimens of blood and from the respiratory tract.
7. Administering:
  - Medical gases, aerosols, and humidification, not including general anesthesia.
  - Lung expansion therapies.
  - Bronchopulmonary hygiene therapies.
  - Hyperbaric therapy.
  - Pharmacologic and therapeutic agents necessary to implement therapeutic, disease prevention, pulmonary rehabilitative, or diagnostic regimens prescribed by a licensed physician, surgeon, or other qualified health care professional prescriber.
8. Maintaining natural and artificial airways.
9. Without cutting tissues, inserting and maintaining artificial airways.
10. Initiating, monitoring, modifying and discontinuing invasive or noninvasive mechanical ventilation.
11. Performing basic and advanced cardiopulmonary resuscitation.
12. Performing invasive procedures that relate to respiratory care.
13. Implementing changes in treatment regimen based on observed abnormalities and respiratory care protocols to include appropriate reporting and referral.
14. Managing asthma, COPD, and other respiratory diseases.
15. Performing cardiopulmonary rehabilitation.
16. Instructing patients in respiratory care, functional training in self-care and home respiratory care management and promoting the maintenance of respiratory care fitness, health, and quality of life.
17. Performing those advanced practice procedures that are permitted within the policies of the employing institution and for which the respiratory care practitioner has documented training and demonstrated competence.
18. Managing the clinical delivery of respiratory care services through the ongoing supervision, teaching, and evaluation of respiratory care.
19. Transcribing and implementing a written, verbal, or telephonic order from a licensed physician, surgeon, or other qualified health care professional prescriber pertaining to the practice of respiratory care.

**645—265.6(148G,272C) Practice of polysomnography.**

**265.6(1)** The practice of polysomnography consists of but is not limited to the following tasks as performed for the purpose of polysomnography, under the general supervision of a licensed physician or qualified health care professional prescriber:

*a.* Monitoring, recording, and evaluating physiologic data during polysomnographic testing and review during the evaluation of sleep-related disorders, including sleep-related respiratory disturbances, by applying any of the following techniques, equipment, or procedures:

- (1) Noninvasive continuous, bilevel positive airway pressure, or adaptive servo-ventilation titration on spontaneously breathing patients using a mask or oral appliance; provided, however, that the mask or oral appliance does not extend into the trachea or attach to an artificial airway.
- (2) Supplemental low-flow oxygen therapy of less than six liters per minute, utilizing a nasal cannula or incorporated into a positive airway pressure device during a polysomnogram.
- (3) Capnography during a polysomnogram.
- (4) Cardiopulmonary resuscitation.
- (5) Pulse oximetry.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (6) Gastroesophageal pH monitoring.
- (7) Esophageal pressure monitoring.
- (8) Sleep stage recording using surface electroencephalography, surface electrooculography, and surface submental electromyography.
- (9) Surface electromyography.
- (10) Electrocardiography.
- (11) Respiratory effort monitoring, including thoracic and abdominal movement.
- (12) Plethysmography blood flow monitoring.
- (13) Snore monitoring.
- (14) Audio and video monitoring.
- (15) Body movement monitoring.
- (16) Nocturnal penile tumescence monitoring.
- (17) Nasal and oral airflow monitoring.
- (18) Body temperature monitoring.

*b.* Monitoring the effects that a mask or oral appliance used to treat sleep disorders has on sleep patterns; provided, however, that the mask or oral appliance does not extend into the trachea or attach to an artificial airway.

*c.* Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted.

*d.* Analyzing and scoring data collected during the monitoring described in this subrule for the purpose of assisting a physician in the diagnosis and treatment of sleep and wake disorders that result from developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction.

*e.* Implementation of a written or verbal order from a physician or qualified health care professional prescriber to perform polysomnography.

*f.* Education of a patient regarding the treatment regimen that assists the patient in improving the patient's sleep.

*g.* Use of any oral appliance used to treat sleep-disordered breathing while under the care of a licensed polysomnographic technologist during the performance of a sleep study, as directed by a licensed dentist.

**265.6(2)** Before providing any sleep-related services, a polysomnographic technician or polysomnographic student who is obtaining clinical experience will give notice to the board that the person is working under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist in order to gain the experience to be eligible to sit for a national certification examination. A badge that appropriately identifies the person is to be worn while providing such services.

**645—265.7(148G,152B,272C) Students.**

**265.7(1)** A student who is enrolled in an approved respiratory care, sleep add-on, polysomnography training program, or electroneurodiagnostic program and is employed in an organized health care system may render services defined in Iowa Code sections 152B.2 and 152B.3 and chapter 148G under the direct and immediate supervision of a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner for the duration of the program, but not to exceed the duration of the program.

**265.7(2)** Direct and immediate supervision of a respiratory care or polysomnographic student means that the licensed respiratory care practitioner or polysomnographic technologist will:

- a.* Be continuously on site and present in the department or facility where the student is performing care;
- b.* Be immediately available to assist the person being supervised in the care being performed; and
- c.* Be responsible for care provided by students.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—265.8(148G,272C) Location of polysomnography services.** The practice of polysomnography is to take place only in a facility that is accredited by a nationally recognized sleep medicine laboratory or center accrediting agency, in a facility operated by a hospital or a hospital licensed under Iowa Code chapter 135B, or in a patient's home pursuant to rules adopted by the board; provided, however, that the scoring of data and the education of patients may take place in another setting.

These rules are intended to implement Iowa Code chapters 147, 148G, 152B, and 272C.

**ARC 7528C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to practice of physician assistants  
and providing an opportunity for public comment**

The Board of Physician Assistants hereby proposes to rescind Chapter 327, "Practice of Physician Assistants," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 148C.3, 148C.5, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148C and 272C.

*Purpose and Summary*

This proposed rulemaking articulates the medical scope of practice that a physician assistant can provide based on the physician assistant's education, training, and experience. The rulemaking provides Iowans, licensees, and their employers with more information on the accepted minimum standards for the practice of this profession in this state.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Michele Royer  
 Iowa Department of Inspections, Appeals, and Licensing/Bureau of Board Support  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.281.5234  
 Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 1:10 to 1:30 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Or dial: 1.813.252.1868  
 PIN: 724 486 884#  
 Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
 1:10 to 1:30 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Or dial: 1.813.252.1868  
 PIN: 724 486 884#  
 Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 327 and adopt the following **new** chapter in lieu thereof:

CHAPTER 327  
 PRACTICE OF PHYSICIAN ASSISTANTS

**645—327.1(148C,88GA,ch1020) Duties.** The medical services to be provided by the physician assistant are those for which the physician assistant has been prepared by education, training, or experience and is competent to perform. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills, and abilities necessary to provide those services appropriate to the practice setting. The physician assistant's services may be utilized in any clinical settings including but not limited to the office, the ambulatory clinic, the hospital, the patient's home, extended care facilities, and nursing homes.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**327.1(1)** A physician assistant's duties relating to prescribing, dispensing, ordering, administering, and procuring drugs and medical devices include all of the following:

*a.* Administering any drug.

*b.* Prescribing, dispensing, ordering, administering, and procuring drugs and medical devices. A physician assistant may plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions including but not limited to durable medical equipment, nutrition, blood and blood products; and diagnostic support services including but not limited to home health care, hospice, and physical and occupational therapy. The prescribing and dispensing of drugs may include Schedule II through V substances, as described in Iowa Code chapter 124, and all legend drugs.

*c.* A physician assistant may prescribe drugs and medical devices subject to all of the following conditions:

(1) The physician assistant will have passed the national certifying examination conducted by the National Commission on Certification of Physician Assistants or its successor examination approved by the board.

(2) The physician assistant must comply with appropriate federal and state regulations.

(3) If a physician assistant prescribes or dispenses controlled substances, the physician assistant must register with the federal Drug Enforcement Administration.

(4) The physician assistant may prescribe or order Schedule II controlled substances that are listed as depressants in Iowa Code chapter 124.

(5) The physician assistant may prescribe, supply, and administer drugs and medical devices in all settings, including but not limited to hospitals, health care facilities, health care institutions, hospice, clinics, offices, health maintenance organizations, and outpatient and emergency care settings.

(6) A physician assistant may request, receive, and supply sample drugs and medical devices.

*d.* Supplying properly packaged and labeled prescription drugs, controlled substances, or medical devices when pharmacist services are not reasonably available or when it is in the best interest of the patient.

(1) If the physician assistant is the prescriber of the medications supplied pursuant to this paragraph, the medications supplied will be for the purpose of accommodating the patient and will not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician assistant.

(2) A nurse or staff assistant may assist the physician assistant in supplying medications.

**327.1(2)** The medical services to be provided by the physician assistant also include, but are not limited to, the following:

*a.* The initial approach to a patient of any age group in any setting to elicit a medical history and perform a physical examination.

*b.* Assessment, diagnosis and treatment of medical or surgical problems and recording the findings.

*c.* Order, interpret, or perform laboratory tests, X-rays or other medical procedures or studies.

*d.* Performance of therapeutic procedures such as injections, immunizations, suturing and care of wounds, removal of foreign bodies, ear and eye irrigation and other clinical procedures.

*e.* Performance of office surgical procedures including, but not limited to, skin biopsy, mole or wart removal, toenail removal, removal of a foreign body, arthrocentesis, incision and drainage of abscesses.

*f.* Assisting in surgery.

*g.* Prenatal and postnatal care and assisting a physician in obstetrical care.

*h.* Care of orthopedic problems.

*i.* Performing and screening the results of special medical examinations including, but not limited to, electrocardiogram or Holter monitoring, radiography, audiometric and vision screening, tonometry, and pulmonary function screening tests.

*j.* Instruction and counseling of patients regarding physical and mental health on matters such as diets, disease, therapy, and normal growth and development.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*k.* Function in the hospital setting by performing medical histories and physical examinations, making patient rounds, recording patient progress notes and other appropriate medical records, assisting in surgery, performing or assisting with medical procedures, providing emergency medical services and issuing, transmitting and executing patient care orders.

*l.* Providing services to patients requiring continuing care (i.e., home, nursing home, extended care facilities).

*m.* Referring patients to specialty or subspecialty physicians, medical facilities or social agencies as indicated by the patients' problems.

*n.* Immediate evaluation, treatment and institution of procedures essential to providing an appropriate response to emergency medical problems.

*o.* Order drugs and supplies in the office, and assist in keeping records and in the upkeep of equipment.

*p.* Admit patients to a hospital or health care facility as defined in Iowa Code section 135C.1.

*q.* Order diets, physical therapy, inhalation therapy, or other rehabilitative services as indicated by the patient's problems.

*r.* At the request of the peace officer, withdraw a specimen of blood from a patient for the purpose of determining the alcohol concentration or the presence of drugs.

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

*t.* Authenticate medical forms by signing the form.

*u.* Perform other duties appropriate to a physician assistant's practice.

*v.* Health care providers will consider the instructions of a physician assistant to be authoritative.

**327.1(3) Emergency medicine duties.**

*a.* A physician assistant may be a member of the staff of an ambulance or rescue squad pursuant to Iowa Code chapter 147A.

*b.* A physician assistant will document skills, training and education equivalent to that required of a certified advanced emergency medical technician or a paramedic.

*c.* A physician assistant must apply for approval of advanced care training equivalency on forms supplied by the board of physician assistants.

*d.* Exceptions to this subrule include:

(1) A physician assistant who accompanies and is responsible for a transfer patient;

(2) A physician assistant who serves on a basic ambulance or rescue squad service; and

(3) A physician assistant who renders aid within the physician assistant's skills during an emergency.

**645—327.2(148C) Prohibition.** No physician assistant engaged in independent practice, as defined in Iowa Code section 148C.1(5), will be permitted to measure the visual power and visual efficiency of the human eye, as distinguished from routine visual screening, except in the personal presence of a supervising physician at the place where these services are rendered.

**645—327.3(147,88GA,ch1020) Identification as a physician assistant.** The physician assistant will be identified as a physician assistant to patients and to the public, regardless of the physician assistant's educational degree.

**645—327.4(147) Prescription requirements.**

**327.4(1)** Each written outpatient prescription drug order issued by a physician assistant will contain the following:

*a.* The date of issuance.

*b.* The name and address of the patient for whom the drug is prescribed.

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

*d.* The physician assistant's name and the practice address.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- e.* The signature of the physician assistant followed by the initials “PA.”
- f.* The Drug Enforcement Administration (DEA) number of the physician assistant if the prescription is for a controlled substance.

**327.4(2)** Each oral prescription drug order issued by a physician assistant will include the same information required for a written prescription, except for the written signature of the physician assistant and the physician assistant’s practice address.

**327.4(3)** Prior to prescribing an opioid, a physician assistant will review the patient’s information contained in the prescription monitoring program database, unless the patient is receiving inpatient hospice care or long-term residential facility patient care.

**327.4(4)** Beginning January 1, 2020, every prescription issued for a prescription drug will be transmitted electronically unless exempted pursuant to Iowa Code section 124.308 or 155A.27. Beginning January 1, 2020, a licensee who fails to comply with the electronic prescription mandate may be subject to a nondisciplinary administrative penalty of \$250 per violation, up to a maximum of \$5,000 per calendar year.

**645—327.5(147) Supplying—requirements for containers, labeling, and records.**

**327.5(1) Containers.** A prescription drug will be supplied in a container that meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. §1471-1476 (1976), which relate to childproof closure, unless otherwise requested by the patient. The containers must also meet the requirements of Section 502G of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §301 et seq. (1976), which pertain to light resistance and moisture resistance needs of the drug supplied.

**327.5(2) Labeling.** A label bearing the following information will be affixed to a container in which a prescription drug is supplied:

- a.* The name and practice address of the supervising physician and physician assistant.
- b.* The name of the patient.
- c.* The date supplied.
- d.* The directions for administering the prescription drug and any cautionary statement deemed appropriate by the physician assistant.
- e.* The name, strength and quantity of the prescription drug in the container.
- f.* When supplying Schedule II, III, or IV controlled substances, the federal transfer warning statement must appear on the label as follows: “Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed.”

**327.5(3) Samples.** Prescription sample drugs will be provided without additional charge to the patient. Prescription sample drugs supplied in the original container or package will be deemed to conform to labeling and packaging requirements.

**327.5(4) Records.** A record of prescription drugs supplied by the physician assistant to a patient will be kept that contains the label information required by paragraphs 327.7(2) “b” to “e.” Noting such information on the patient’s chart or record is sufficient.

**645—327.6(147,148C,272C) Standards of practice—telemedicine.** This rule establishes standards of practice for the provision of telemedicine services.

**327.6(1) Telemedicine, generally.**

- a.* Technological advances have made it possible for licensees in one location to provide medical care to patients in another location with or without an intervening health care provider.
- b.* Telemedicine is a useful tool that, if applied appropriately, can provide important benefits to patients, including increased access to health care, expanded utilization of specialty expertise, rapid availability of patient records, and potential cost savings.
- c.* Licensees using telemedicine will be held to the same standards of care and professional ethics as licensees using traditional in-person medical care.
- d.* Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may subject the licensee to potential discipline by the board.

**327.6(2) Definitions.** For the purposes of this rule:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*“Asynchronous store-and-forward transmission”* means the collection of a patient’s relevant health information and the subsequent transmission of the data from an originating site to a health care provider at a distant site without the presence of the patient.

*“Board”* means the Iowa board of physician assistants.

*“HIPAA”* means the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat. 1936.

*“In-person encounter”* means that the physician assistant and the patient are in the physical presence of each other and are in the same physical location during the physician assistant-patient encounter.

*“Licensee”* means a physician assistant licensed by the board.

*“Telemedicine”* means the practice of medicine using electronic audiovisual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology. Telemedicine, for the purposes of this rule establishing standards of practice, does not include the provision of medical services only through an audio-only telephone, email messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

*“Telemedicine technologies”* means technologies and devices enabling secure electronic communications and information exchanges between a licensee in one location and a patient in another location with or without an intervening health care provider.

**327.6(3) Practice guidelines.** A licensee who uses telemedicine will utilize evidence-based telemedicine practice guidelines and standards of practice, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes. The board acknowledges that some nationally recognized medical specialty organizations have established comprehensive telemedicine practice guidelines that address the clinical and technological aspects of telemedicine for many medical specialties.

**327.6(4) License required.** A physician assistant who uses telemedicine in the diagnosis and treatment of a patient located in Iowa will hold an active Iowa physician assistant license consistent with state and federal laws. Nothing in this rule will be construed to supersede the exceptions to licensure contained in rule 645—326.17(148C).

**327.6(5) Standards of care and professional ethics.** A licensee who uses telemedicine will be held to the same standards of care and professional ethics as a licensee using traditional in-person encounters with patients. Failure to conform to the appropriate standards of care or professional ethics while using telemedicine may be a violation of the laws and rules governing the practice of medicine and may subject the licensee to potential discipline by the board.

**327.6(6) Scope of practice.** A licensee who uses telemedicine will ensure that the services provided are consistent with the licensee’s scope of practice, including the licensee’s education, training, experience, ability, licensure, and certification.

**327.6(7) Identification of patient and physician assistant.** A licensee who uses telemedicine will verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, and credentials of all health care providers who provide telemedicine services prior to the provision of care.

**327.6(8) Physician assistant-patient relationship.**

*a.* A licensee who uses telemedicine will establish a valid physician assistant-patient relationship with the person who receives telemedicine services. The physician assistant-patient relationship begins when:

- (1) The person with a health-related matter seeks assistance from a licensee;
- (2) The licensee agrees to undertake diagnosis and treatment of the person; and
- (3) The person agrees to be treated by the licensee whether or not there has been an in-person encounter between the physician assistant and the person.

*b.* A valid physician assistant-patient relationship may be established by:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(1) In-person encounter. Through an in-person medical interview and physical examination where the standard of care would require an in-person encounter;

(2) Consultation with another licensee. Through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient's care; or

(3) Telemedicine encounter. Through telemedicine, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.

**327.6(9) *Medical history and physical examination.*** Generally, a licensee will perform an in-person medical interview and physical examination for each patient. However, the medical interview and physical examination may not be in person if the technology utilized in a telemedicine encounter is sufficient to establish an informed diagnosis as though the medical interview and physical examination had been performed in person. Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine will interview the patient to collect the relevant medical history and perform a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. An Internet questionnaire that is a static set of questions provided to the patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview, does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by a licensee.

**327.6(10) *Non-physician assistant health care providers.*** If a licensee who uses telemedicine relies upon or delegates the provision of telemedicine services to a non-physician assistant health care provider, the licensee will:

*a.* Ensure that systems are in place to ensure that the non-physician assistant health care provider is qualified and trained to provide that service within the scope of the non-physician assistant health care provider's practice;

*b.* Ensure that the licensee is available in person or electronically to consult with the non-physician assistant health care provider, particularly in the case of injury or an emergency.

**327.6(11) *Informed consent.*** A licensee who uses telemedicine will ensure that the patient provides appropriate informed consent for the medical services provided, including consent for the use of telemedicine to diagnose and treat the patient, and that such informed consent is timely documented in the patient's medical record.

**327.6(12) *Coordination of care.*** A licensee who uses telemedicine will, when medically appropriate, identify the medical home or treating clinician(s) for the patient, when available, where in-person services can be delivered in coordination with the telemedicine services. The licensee will provide a copy of the medical record to the patient's medical home or treating clinician(s).

**327.6(13) *Follow-up care.*** A licensee who uses telemedicine will have access to, or adequate knowledge of, the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.

**327.6(14) *Emergency services.*** A licensee who uses telemedicine will refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of an emergency.

**327.6(15) *Medical records.*** A licensee who uses telemedicine will ensure that complete, accurate and timely medical records are maintained for the patient when appropriate, including all patient-related electronic communications, records of past care, physician assistant-patient communications, laboratory and test results, evaluations and consultations, prescriptions, and instructions obtained or produced in connection with the use of telemedicine technologies. The licensee will note in the patient's record when telemedicine is used to provide diagnosis and treatment. The licensee will ensure that the patient or another licensee designated by the patient has timely access to all information obtained during the telemedicine encounter. The licensee will ensure that the patient receives, upon request, a summary of each telemedicine encounter in a timely manner.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**327.6(16) *Privacy and security.*** A licensee who uses telemedicine will ensure that all telemedicine encounters comply with the privacy and security measures of the Health Insurance Portability and Accountability Act (HIPAA) to ensure that all patient communications and records are secure and remain confidential.

- a.* Written protocols will be established that address the following:
- (1) Privacy;
  - (2) Health care personnel who will process messages;
  - (3) Hours of operation;
  - (4) Types of transactions that will be permitted electronically;
  - (5) Required patient information to be included in the communication, including patient name, identification number and type of transaction;
  - (6) Archiving and retrieval; and
  - (7) Quality oversight mechanisms.
- b.* The written protocols should be periodically evaluated for currency and should be maintained in an accessible and readily available manner for review. The written protocols will include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.

**327.6(17) *Technology and equipment.*** Broad categories of telemedicine technologies currently exist, including asynchronous store-and-forward technologies, remote monitoring, and real-time interactive services. While some telemedicine programs are multispecialty in nature, others are tailored to specific diseases and medical specialties. The technology and equipment utilized for telemedicine will comply with the following requirements:

- a.* The technology and equipment utilized in the provision of telemedicine services must comply with all relevant safety laws, rules, regulations, and codes for technology and technical safety for devices that interact with patients or are integral to diagnostic capabilities;
- b.* The technology and equipment utilized in the provision of telemedicine services must be of sufficient quality, size, resolution and clarity such that the licensee can safely and effectively provide the telemedicine services; and
- c.* The technology and equipment utilized in the provision of telemedicine services must be compliant with HIPAA.

**327.6(18) *Disclosure and functionality of telemedicine services.*** A licensee who uses telemedicine will ensure that the following information is clearly disclosed to the patient:

- a.* Types of services provided;
- b.* Contact information for the licensee;
- c.* Identity, licensure, certification, credentials, and qualifications of all health care providers who are providing the telemedicine services;
- d.* Limitations in the drugs and services that can be provided via telemedicine;
- e.* Fees for services, cost-sharing responsibilities, and how payment is to be made, if these differ from an in-person encounter;
- f.* Financial interests, other than fees charged, in any information, products, or services provided by the licensee(s);
- g.* Appropriate uses and limitations of the technologies, including in emergency situations;
- h.* Uses of and response times for emails, electronic messages and other communications transmitted via telemedicine technologies;
- i.* To whom patient health information may be disclosed and for what purpose;
- j.* Rights of patients with respect to patient health information; and
- k.* Information collected and passive tracking mechanisms utilized.

**327.6(19) *Patient access and feedback.*** A licensee who uses telemedicine will ensure that the patient has easy access to a mechanism for the following purposes:

- a.* To access, supplement and amend patient-provided personal health information;
- b.* To provide feedback regarding the quality of the telemedicine services provided; and

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. To register complaints. The mechanism will include information regarding the filing of complaints with the board.

**327.6(20) *Financial interests.*** Advertising or promotion of goods or products from which the licensee receives direct remuneration, benefit or incentives (other than the fees for the medical services) is prohibited to the extent that such activities are prohibited by state or federal law. Notwithstanding such prohibition, Internet services may provide links to general health information sites to enhance education; however, the licensee should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, licensees should be aware of the implied endorsement of the information, services or products offered from such sites. The maintenance of a preferred relationship with any pharmacy is prohibited. Licensees will not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from the pharmacy.

**327.6(21) *Circumstances where the standard of care may not require a licensee to personally interview or examine a patient.*** Under the following circumstances, whether or not such circumstances involve the use of telemedicine, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee:

a. Situations in which the licensee prescribes medications on a short-term basis for a new patient and has scheduled or is in the process of scheduling an appointment to personally examine the patient;

b. For institutional settings, including writing initial admission orders for a newly hospitalized patient;

c. Call situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;

d. Cross-coverage situations in which a licensee is taking calls for another health care provider who has an established provider-patient relationship with the patient;

e. Emergency situations in which the life or health of the patient is in imminent danger;

f. Emergency situations that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak;

g. Situations in which the licensee has diagnosed a sexually transmitted disease in a patient and the licensee prescribes or dispenses antibiotics to the patient's named sexual partner(s) for the treatment of the sexually transmitted disease as recommended by the U.S. Centers for Disease Control and Prevention; and

h. For licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities, hospice settings, and correctional facilities.

**327.6(22) *Prescribing based solely on an Internet request, Internet questionnaire or a telephonic evaluation—prohibited.*** Prescribing to a patient based solely on an Internet request or Internet questionnaire (i.e., a static questionnaire provided to a patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive and responsive online interview) is prohibited. Absent a valid physician assistant-patient relationship, a licensee's prescribing to a patient based solely on a telephonic evaluation is prohibited, with the exception of the circumstances described in subrule 327.9(21).

These rules are intended to implement Iowa Code sections 147.10 and 147.107 and chapters 148C and 272C.

**ARC 7529C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education for physician assistants and providing an opportunity for public comment**

The Board of Physician Assistants hereby proposes to rescind Chapter 328, “Continuing Education for Physician Assistants,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 148C.3, 148C.5, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148C and 272C.

*Purpose and Summary*

This proposed rulemaking sets forth continuing education requirements for physician assistants. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rulemaking, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that physician assistants maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Michele Royer  
Iowa Department of Inspections, Appeals, and Licensing/Bureau of Board Support  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.5234  
Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

February 13, 2024  
1:10 to 1:30 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Or dial: 1.813.252.1868  
PIN: 724 486 884#  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
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6200 Park Avenue  
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Or dial: 1.813.252.1868  
PIN: 724 486 884#  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 328 and adopt the following new chapter in lieu thereof:

CHAPTER 328  
CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS

**645—328.1(148C) Definitions.** For the purpose of these rules, the following definitions will apply:

“*Active license*” means a license that is current and has not expired.

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

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

“*Board*” means the board of physician assistants.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

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

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a physician assistant in the state of Iowa.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

**645—328.2(148C) Continuing education requirements.**

**328.2(1)** The biennial continuing education compliance period will extend for a two-year period beginning on October 1 of each year and ending on September 30 two years later. Each biennium, each licensee will be required to complete a minimum of 100 hours of continuing education approved by the board.

**328.2(2)** Requirements of new licensees. Those persons licensed for the first time will not be required to complete continuing education as a prerequisite for the first renewal of their licenses. The new licensee will be required to complete a minimum of 100 hours of continuing education per biennium for each subsequent license renewal.

**328.2(3)** A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**645—328.3(148C,272C) Standards.**

**328.3(1) General criteria.** A continuing education activity is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters that integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides an individual certificate of completion or evidence of successful completion of the course provided by the course sponsor. This documentation must contain the course title, date(s), contact hours, sponsor and licensee's name.

**328.3(2) Specific criteria.** Continuing education requirements are as follows:

- a. The licensee will complete a minimum of 50 hours of credit designated as Category I by the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association Council on Continuing Medical Education, the American Academy of Family Physicians or other organizations accredited by the Accreditation Council for Continuing Medical Education (ACCME).
- b. For the remaining 50 hours of required continuing medical education (CME), Category I or Category II credit, as accepted by the National Commission on Certification of Physician Assistants (NCCPA), will satisfy the CME requirements. In case of audit, licensees will provide evidence of NCCPA certification during the time period being audited or an activity log for all Category II credits for which a certificate of completion is not available. The activity log will list for each activity the date and type of activity and number of hours claimed per activity.
- c. Licensees who maintain certification by the NCCPA may show proof of meeting the board's CME requirements by providing proof of current certification by the NCCPA for the time period being reviewed or audited.
- d. A licensee who has prescribed opioids to a patient during the renewal cycle will complete a minimum of two hours of continuing education regarding the guidelines for prescribing opioids for chronic pain, as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, as a condition of license renewal. These hours may count toward the 100 hours of continuing education required for license renewal. The licensee will maintain documentation of these hours, which may be subject to audit.

These rules are intended to implement Iowa Code section 272C.2 and chapter 148C.

**ARC 7530C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to discipline for physician assistants  
and providing an opportunity for public comment**

The Board of Physician Assistants hereby proposes to rescind Chapter 329, “Discipline for Physician Assistants,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 147.76, 148C.3, 148C.5, 272C.3 and 272C.4.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148C and 272C.

*Purpose and Summary*

This proposed rulemaking provides protection to Iowans because it publicly defines professional standards for physician assistants. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, it can subject a licensee to discipline against the licensee’s license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to physician assistants and are excluded from the general disciplinary chapter. The grounds for discipline related to opioid prescribing are required by Iowa Code section 147.162.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Michele Royer  
 Iowa Department of Inspections, Appeals, and Licensing/Bureau of Board Support  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Phone: 515.281.5234  
 Email: [michele.royer@iowa.gov](mailto:michele.royer@iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 1:10 to 1:30 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Or dial: 1.813.252.1868  
 PIN: 724 486 884#  
 Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

February 14, 2024  
 1:10 to 1:30 p.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
 Or dial: 1.813.252.1868  
 PIN: 724 486 884#  
 Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](https://tel.meet/isb-pmab-qob?pin=8352415222450)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 329 and adopt the following **new** chapter in lieu thereof:

CHAPTER 329  
 DISCIPLINE FOR PHYSICIAN ASSISTANTS

**645—329.1(148C) Definitions.**

“*Board*” means the board of physician assistants.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as a physician assistant in Iowa.

**645—329.2(147,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in Iowa Code section 272C.3 when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

**329.2(1)** Professional incompetency. Professional incompetency includes, but is not limited to:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physician assistants in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care that is ordinarily exercised by the average physician assistant acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a physician assistant in this state.

*e.* Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

*f.* Being adjudged mentally incompetent by a court of competent jurisdiction.

**329.2(2)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

**329.2(3)** Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public that is false, deceptive, misleading or promoted through fraud or misrepresentation.

**329.2(4)** Representing oneself as a physician assistant when one's license has been suspended or revoked, or when one's license is on inactive status, except as provided by rule 645—326.15(148C,88GA,ch1020).

**329.2(5)** Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

**329.2(6)** The performance of a medical function without approved supervision, if supervision is required pursuant to rules 645—326.7(148C) and 645—326.8(148C), except in cases requiring performance of evaluation and treatment procedures essential to providing an appropriate response to an emergency situation.

**329.2(7)** Prescribing opioids in dosage amounts that exceed what would be prescribed by a reasonably prudent licensee.

These rules are intended to implement Iowa Code chapters 147, 148C and 272C.

**ARC 7553C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to licensure of athletic trainers  
and providing an opportunity for public comment**

The Board of Athletic Training hereby proposes to rescind Chapter 351, "Licensure of Athletic Trainers," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 152D and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152D and 272C.

*Purpose and Summary*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This proposed rulemaking sets the minimum standards of entry into the athletic training profession. Iowa residents, licensees, and employers benefit from the rulemaking because it clarifies the processes by which licensees may apply for licensure as athletic trainers, as directed in statute.

The rulemaking publicly illustrates the process that will be used to license athletic trainers and athletic trainer assistants, including renewal and reinstatement, to ensure public safety through review of the integrity and competence of the practitioner. The rulemaking describes the application process, educational qualifications, and examination requirements. The rulemaking also provides steps for documentation of physician direction and athletic training plans for direct service.

No public comment was received during the November 21, 2023, public hearing.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
Division of Licensing  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321-1270  
Phone: 515.242.6529  
Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
2:50 to 3:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

February 14, 2024  
2:50 to 3:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Inspections, Appeals, and Licensing and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 351 and adopt the following **new** chapter in lieu thereof:

*ATHLETIC TRAINERS*

CHAPTER 351 LICENSURE OF ATHLETIC TRAINERS  
CHAPTER 352 CONTINUING EDUCATION FOR ATHLETIC TRAINERS  
CHAPTER 353 DISCIPLINE FOR ATHLETIC TRAINERS

CHAPTER 351  
LICENSURE OF ATHLETIC TRAINERS

**645—351.1(152D) Definitions.** In addition to the definitions included in Iowa Code section 152D.1, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of athletic training created under Iowa Code chapter 147.

“*BOC*” means the Board of Certification or its successor organization.

“*Directing physician*” means a physician who supervises the athletic training services provided by a licensed athletic trainer.

“*Direction*” means that a physician directs the performance of a licensed athletic trainer in the development, implementation, and evaluation of an athletic training service plan as set out in rule 645—351.6(152D). Direction shall not be construed as requiring the personal presence of that physician at each activity of the licensed athletic trainer. It is the responsibility of the licensed athletic trainer to ensure that the practice of athletic training is carried out only under the direction of a licensed physician.

“*Endorsement*” means the issuance of an Iowa license to practice athletic training to an applicant who is currently licensed in another state who has the same or similar qualifications to those required in Iowa.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Licensee*” means any person licensed to practice as an athletic trainer in the state of Iowa.

“*License expiration date*” means February 28 of each odd-numbered year.

“*Mandatory reporter training*” means the training on identifying and reporting child abuse or dependent adult abuse as required in Iowa Code sections 323.69 and 235B.16.

“*Physical reconditioning*” means the part of the practice of athletic training that combines physical treatment, rehabilitation and exercise and is carried out under the orders of a physician or physician assistant. Physical treatment is part of a service plan that includes but is not limited to the continued use of any of the following: cryotherapy, thermotherapy, hydrotherapy, electrotherapy, or the use of mechanical devices.

“*Physician*” means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, or podiatry under the laws of this state.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—351.15(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in rule 645—11.31(272C). Once the license is reinstated, the licensee may apply for active status.

**645—351.2(152D) Initial licensure.**

**351.2(1)** Requirements for licensure. The applicant shall:

*a.* Submit a complete online application and pay the nonrefundable fee specified in rule 645—5.1(147,152D). If the application is not completed according to the instructions, the application will not be reviewed by the board.

*b.* Submit official copies of academic transcripts directly from the school to the board of athletic training. No application will be considered by the board until official copies of academic transcripts have been received.

*c.* Have successfully completed the BOC examination. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted to the Iowa board of athletic training.

*d.* Provide verification of license from the jurisdiction in which the applicant has been most recently licensed, sent directly from the jurisdiction to the board office. The applicant must also disclose any public or pending complaints against the applicant in any other jurisdiction.

**351.2(2)** Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

*a.* Licensee’s name;

*b.* Date of initial licensure;

*c.* Current licensure status; and

*d.* Any disciplinary actions taken against the license.

**351.2(3)** Licensure by endorsement. An athletic trainer applicant who holds a license from the District of Columbia or another state, territory, province or foreign country may be eligible for licensure by endorsement and may direct the BOC to submit:

*a.* A current certification status, or

*b.* A passing score on the examination of the BOCs.

**351.2(4)** Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

**351.2(5)** Incomplete applications that have been on file in the board office for more than two years shall be:

*a.* Considered invalid and shall be destroyed; or

*b.* Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

**645—351.3(152D) Educational qualifications.**

**351.3(1)** An applicant for licensure to practice as an athletic trainer shall possess a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university.

**351.3(2)** Foreign-trained athletic trainers shall:

*a.* Provide an equivalency evaluation of their educational credentials by International Education Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665; telephone 310.258.9451; website [www.ierf.org](http://www.ierf.org) or email at [info@ierf.org](mailto:info@ierf.org). The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation. An applicant who has passed the BOC examination is exempt from this requirement.

*b.* Provide a copy of the certificate or diploma awarded to the applicant from an athletic training program in the country in which the applicant was educated. An applicant who has passed the BOC examination is exempt from this requirement.

*c.* Receive a final determination from the board regarding the application for licensure.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*d.* Pass the BOC examination. Official results are to be submitted directly to the board from the BOC.

**351.3(3)** An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

**645—351.4(152D) Examination requirements.**

**351.4(1)** The examination required by the board shall be the BOC examination. Application and information may be obtained from the BOC Offices, 1411 Harney Street, Suite 200, Omaha, NE 68102; telephone 402.559.0091; website [www.bocatc.org](http://www.bocatc.org) or email at [BOC@bocatc.org](mailto:BOC@bocatc.org).

**351.4(2)** The applicant has responsibility for:

- a.* Making arrangements to take the national examination; and
- b.* Arranging to have the examination scores sent directly to the board from BOC.

**645—351.5(152D) Documentation of physician direction.** Each licensee must maintain documentation of physician direction. It is the responsibility of the licensee to ensure that documentation of physician direction is obtained and maintained, including the following:

1. Athletic training service plan as set out in rule 645—351.6(152D);
2. Dates and names of physician and physician assistant orders or referrals;
3. Initial evaluations and assessments;
4. Treatments and services rendered, with dates; and
5. Dates of subsequent follow-up care.

**645—351.6(152D) Athletic training standards of professional practice.** Athletic training service plans shall be composed of the following components as taken from the Board of Certification Standards of Professional Practice (January 2018):

**351.6(1)** Practice Standards.

**351.6(2)** Code of Professional Responsibility.

**645—351.7(147) License renewal.**

**351.7(1)** The biennial license renewal period for a license to practice athletic training shall begin on March 1 of each odd-numbered year and end on February 28 of the next odd-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

**351.7(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

**351.7(3)** A licensee seeking renewal shall:

*a.* Meet the continuing education requirements of rule 645—352.2(152D) and the mandatory reporting requirements of subrule 351.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

**351.7(4)** Mandatory reporter training requirements.

*a.* A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)"*b*" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph "*e*."

*b.* A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)"*b*" in the previous three years or condition(s) for waiver of this requirement as identified in paragraph "*e*."

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*c.* The course(s) shall be the curriculum provided by the Iowa department of health and human services.

*d.* The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs “a” to “c,” including program date(s), content, duration, and proof of participation.

*e.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements.

*f.* The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

**351.7(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**351.7(6)** A person licensed to practice as an athletic trainer shall keep the license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

**351.7(7)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the renewal. The licensee shall be assessed a late fee as specified in 645—subrule 5.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**351.7(8)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an athletic trainer in Iowa until the license is reactivated. A licensee who practices as an athletic trainer in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—351.8(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**351.8(1)** Submit a reactivation application on a form provided by the board.

**351.8(2)** Pay the reactivation fee that is due as specified in 645—Chapter 5.

**351.8(3)** Provide verification of current competence to practice as an athletic trainer by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;

2. Date of initial licensure;

3. Current licensure status; and

4. Any disciplinary action taken against the license; and

(2) Verification of completion of 50 hours of continuing education within two years of the application for reactivation or verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(1) Verification of the license from the jurisdiction in which the applicant has most recently been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education within two years of application for reactivation; and

- (3) Verification of current BOC certification.

**351.8(4)** Submit a sworn statement of previous practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant worked as an athletic trainer for at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period.

**645—351.9(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 645—351.15(17A,147,272C) prior to practicing as an athletic trainer in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

**ARC 7554C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to continuing education for athletic trainers and providing an opportunity for public comment**

The Board of Athletic Training hereby proposes to rescind Chapter 352, "Continuing Education for Athletic Trainers," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 152D and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152D and 272C.

*Purpose and Summary*

This proposed rulemaking sets forth continuing education requirements for athletic trainers in Iowa. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the rules, and the types of continuing education courses that are permissible. The intended benefit of this rulemaking is to provide the licensees, schools, continuing education providers, and employers clarity regarding the processes licensees must complete for renewal or reactivation of licensure. The intended benefit of continuing education is to ensure that athletic trainers maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

No public comment was received during the November 21, 2023, public hearing. During the December 12, 2023, meeting, the Board voted to amend subrules 352.2(1) and 352.2(2) by reducing the continuing education hours from 50 hours to 40 hours, stating that maintenance of a Board of



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Certification (BOC) certification is acceptable in lieu of completing those hours each biennium. The Board removed rule 645—352.4(152D,272C), which is now redundant language.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
Division of Licensing  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321-1270  
Phone: 515.242.6529  
Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
2:50 to 3:10 p.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/jji-jaoj-uqy](https://meet.google.com/jji-jaoj-uqy)  
More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

February 14, 2024  
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More phone numbers:  
[tel.meet/yxd-hmkw-ppo?pin=1779851586643](tel:meet/yxd-hmkw-ppo?pin=1779851586643)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Inspections, Appeals, and Licensing and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 352 and adopt the following **new** chapter in lieu thereof:

CHAPTER 352  
CONTINUING EDUCATION FOR ATHLETIC TRAINERS

**645—352.1(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

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

“*Board*” means the board of athletic training created under Iowa Code chapter 147.

“*BOC*” means the Board of Certification or its successor organization.

“*Continuing education*” means the same as defined in Iowa Code section 272C.1.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee completing an approved continuing education activity through live, virtual, online or prerecorded means where the instructor provides proof of completion by the licensee as set forth in these rules.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an athletic trainer in the state of Iowa.

**645—352.2(152D) Continuing education requirements.**

**352.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on March 1 of each odd-numbered year and ending on February 28 of the next odd-numbered year. Each biennium, each person who is licensed to practice as an athletic trainer in this state will have the responsibility to finance the cost and be required to maintain BOC certification or complete a minimum of 40 hours of continuing education approved by the board.

**352.2(2)** Requirements for new licensees. Those persons licensed for the first time or being licensed for the first time after a temporary license shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. The new licensee will be required to maintain BOC certification or complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

**352.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

**352.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**645—352.3(152D,272C) Standards.**

**352.3(1) General criteria.** A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters that integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
  - (1) Date(s), location, course title, presenter(s);

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- (2) Number of program contact hours; and
- (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**352.3(2) Specific criteria.** Continuing education may be obtained through any of the following:

- a. Completing a course provided by a BOC-approved provider of continuing education.
- b. Attending workshops, conferences, or symposiums.
- c. Authoring research, the results of which are published in a recognized professional publication.

A licensee shall receive five hours of credit per page.

d. Presenting professional programs that meet the criteria of this chapter. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presenting at a professional program does not include teaching class at an institution of higher learning at which the applicant is regularly and primarily employed, nor does it include presentations to the lay public. A licensee may be granted no more than ten hours of continuing education credit per biennium for presenting professional programs.

e. Completing academic courses that directly relate to the professional competency of the licensee. Official transcripts indicating successful completion of academic courses that apply to the field of athletic training must be maintained for audit. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic trimester hour = 12 continuing education hours

1 academic quarter hour = 10 continuing education hours

These rules are intended to implement Iowa Code section 272C.2 and chapter 152D.

**ARC 7555C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action****Proposing rulemaking related to discipline for athletic trainers  
and providing an opportunity for public comment**

The Board of Athletic Training hereby proposes to rescind Chapter 353, "Discipline for Athletic Trainers," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 152D and sections 147.36, 272C.3 and 272C.10.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 152D and 272C.

*Purpose and Summary*

The proposed rulemaking defines actions that are inconsistent with professional standards for licensees, which are established to protect the consumer and colleagues. Actions inconsistent with professional standards could result in disciplinary actions against a practitioner's license.

The 19 boards in the legacy Health and Human Services Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the athletic training licensees and are therefore excluded from the general disciplinary chapter.

No public comment was received during the November 21, 2023, public hearing.

*Fiscal Impact*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Venus Vendoures Walsh  
 Division of Licensing  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321-1270  
 Phone: 515.242.6529  
 Email: [venus.vendoures-walsh@dia.iowa.gov](mailto:venus.vendoures-walsh@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 2:50 to 3:10 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> More phone numbers: <a href="tel:meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>
February 14, 2024 2:50 to 3:10 p.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/jji-jaoj-uqy">meet.google.com/jji-jaoj-uqy</a> More phone numbers: <a href="tel:meet/yxd-hmkw-ppo?pin=1779851586643">tel.meet/yxd-hmkw-ppo?pin=1779851586643</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the y and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind 645—Chapter 353 and adopt the following **new** chapter in lieu thereof:

CHAPTER 353  
DISCIPLINE FOR ATHLETIC TRAINERS

**645—353.1(152D) Definitions.**

“*Board*” means the board of athletic training.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as an athletic trainer in Iowa pursuant to Iowa Code chapter 152D and 645—Chapters 351 to 353.

**645—353.2(152D,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in 645—Chapter 13 when the board determines that any of the following acts or offenses listed in such chapter or in Iowa Code section 147.55 have occurred:

**353.2(1)** Professional incompetency. Professional incompetency includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other athletic trainers in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care that is ordinarily exercised by the average athletic trainer acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed athletic trainer in this state.

**353.2(2)** Violation of a regulation, rule or law of this state, another state, or the United States, which relates to the practice of athletic training.

**353.2(3)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual’s practice of athletic training in another state, district, territory or country.

**353.2(4)** Knowingly aiding, assisting, or advising a person to unlawfully practice as an athletic trainer.

**353.2(5)** Representing oneself as a licensed athletic trainer when one’s license has been suspended or revoked, or when one’s license is on inactive status.

These rules are intended to implement Iowa Code chapters 147, 152D and 272C.

**ARC 7374C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to reportable diseases, poisonings and conditions, and quarantine and isolation and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 1, “Reportable Diseases, Poisonings and Conditions, and Quarantine and Isolation,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 136A.2, 139A.2, 139A.3, 139A.4, 139A.21, 139A.31 and 139A.33.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 135, 137 and 139A.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

### *Purpose and Summary*

This proposed chapter provides for disease investigation and disease control through preventive measures including but not limited to quarantine and isolation. This chapter captures reportable communicable and noncommunicable diseases, cancers, and farm-related injuries.

The chapter defines the procedure for members of the public to comply with the reporting requirements for the categories listed above, including:

- Who is required to report.
- When to report.
- What needs to be reported.
- How to report.

The chapter provides for cancer surveillance, which allows for evaluation of trends over time and evaluation of potential cancer clusters, as well as helping Iowa hospitals to monitor and improve the quality and comprehensiveness of their cancer care. Having administrative rules that allow the Iowa Cancer Registry to maintain its contract with the National Cancer Institute (NCI)-funded Surveillance, Epidemiology and End Results (SEER) Program allows the State of Iowa to maintain a high-quality registry at a very low cost to the State.

It also provides for congenital and inherited disorder surveillance to compile, evaluate, retain, and disseminate information on the occurrence, prevalence, causes, treatment, and prevention of congenital disorders. Congenital disorders shall be considered reportable conditions in accordance with rules adopted by HHS and shall be abstracted and maintained by the registry.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 1, 2023.

### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov)

### *Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

February 14, 2024  
11 to 11:30 a.m.

Microsoft Teams meeting ID: 212 588 466 197  
Passcode: SThXzX

February 26, 2024  
1 to 2 p.m.

Microsoft Teams meeting ID: 249 196 980 071  
Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1  
REPORTABLE DISEASES, POISONINGS AND CONDITIONS,  
AND QUARANTINE AND ISOLATION

**641—1.1(139A) Definitions.** For the purpose of these rules, the following definitions will apply:

“*AIDS*” means the same as defined in Iowa Code chapter 141A.

“*Area quarantine*” means the same as defined in Iowa Code chapter 139A.

“*Business*” means the same as defined in Iowa Code chapter 139A.

“*Care provider*” means the same as defined in Iowa Code chapter 139A.

“*Case*” means an individual who has confirmatory evidence of disease.

“*Clinical laboratory*” means any laboratory performing analyses on specimens taken from the body of a person in order to assess that person's health status.

“*Communicable disease*” means the same as defined in Iowa Code chapter 139A.

“*Congenital or inherited disorder*” means any congenital disorder as defined in Iowa Code chapter 136A or any inherited disorder as defined in Iowa Code chapter 136A.

“*Disease surveillance*” means the ongoing, systematic collection, analysis, and interpretation of health-related data essential for planning, implementation, and evaluation of public health programs and practices.

“*Exposure*” means contact with an agent in a manner that could cause disease or infection.

“*HBV*” means the same as Iowa Code chapter 139A.

“*Health care facility*” means the same as Iowa Code chapter 139A.

“*Health care provider*” means the same as defined in Iowa Code chapter 139A.

“*HIV*” means the same as defined in Iowa Code chapter 141A.

“*Hospital*” means the same as defined in Iowa Code chapter 135B.

“*IDSS*” means the Iowa disease surveillance system, a secure electronic statewide disease reporting and surveillance system.

“*Infectious disease*” means a disease caused by the entrance into the body of organisms, including but not limited to bacteria, protozoans, fungi, prions, or viruses which grow and multiply.

“*Infectious tuberculosis*” means pulmonary or laryngeal tuberculosis as evidenced by:

1. Isolation of *M. tuberculosis* complex (positive culture) from a clinical specimen or positive nucleic acid amplification test, or

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

2. Both radiographic evidence of tuberculosis, such as an abnormal chest X ray, CT, PET or MRI scan, and clinical evidence, such as a positive skin test or whole blood assay test for tuberculosis infection, coughing, sputum production, fever, or other symptoms compatible with infectious tuberculosis that lead a health care provider to diagnose infectious tuberculosis according to currently acceptable standards of medical practice and to initiate treatment for tuberculosis.

*“Investigation”* means an inquiry conducted to determine the specific source, mode of transmission, and cause of a disease or suspected disease occurrence and to determine the specific incidence, prevalence, and extent of the disease in the affected or general population. “Investigation” may also include the application of scientific methods and analysis to institute appropriate control measures.

*“Isolation”* means the same as defined in Iowa Code chapter 139A.

*“Local board”* means the same as defined in Iowa Code chapter 139A.

*“Local department”* means the same as defined in Iowa Code chapter 139A.

*“Placard”* means the same as Iowa Code chapter 139A.

*“Poison control or poison information center”* means any organization or program which has as one of its primary objectives the provision of toxicologic and pharmacologic information and referral services to the public and to health care providers (other than pharmacists) in response to inquiries about actual or potential poisonings.

*“Public health disaster”* means an incident as defined in Iowa Code section 135.140.

*“Quarantinable disease”* means any communicable disease that presents a risk of serious harm to public health and that may require isolation or quarantine to prevent its spread. “Quarantinable disease” includes but is not limited to cholera, diphtheria, infectious tuberculosis, plague, smallpox, yellow fever, viral hemorrhagic fevers, novel influenza, and severe acute respiratory syndrome (SARS).

*“Quarantine”* means the same as defined in Iowa Code chapter 139A.

*“Reportable cancers”* means those cancers included in the National Cancer Institute’s Surveillance, Epidemiology and End Results (SEER) Program.

*“Reportable disease”* means any disease or condition approved by the state epidemiologist or medical director and designated by this chapter.

*“Sexually transmitted disease or infection”* or *“STI”* means a disease or infection as identified by this chapter that is transmitted through sexual practices. “Sexually transmitted disease or infection” includes, but is not limited to, acquired immunodeficiency syndrome (AIDS), chlamydia, gonorrhea, hepatitis B, hepatitis C, human immunodeficiency virus (HIV), human papillomavirus, and syphilis.

*“Suspected case”* means an individual that presents with clinical signs or symptoms indicative of a reportable or quarantinable disease.

*“Toxic agent”* means any noxious substance in solid, liquid or gaseous form capable of producing illness in humans including, but not limited to, pesticides as defined in Iowa Code chapter 206, heavy metals, organic and inorganic dusts and organic solvents. Airborne toxic agents may be in the form of dusts, fumes, vapors, mists, gases or smoke.

**641—1.2(139A) Authority.** The director is the principal officer of the state to administer disease, poisoning and condition, and incident reporting and control. The Iowa Cancer Registry, administered by the Department of Epidemiology of the College of Public Health at the University of Iowa, is a public health authority for purposes of collecting cancer data in accordance with this chapter.

**641—1.3(139A,141A) Reportable communicable and infectious diseases, poisonings or conditions, and cancers.** Reportable communicable and infectious diseases, poisonings and conditions under this chapter are those listed in Appendices A and B. The director may also designate any disease, poisoning or condition or syndrome temporarily reportable for the purpose of a special investigation.

**1.3(1) Cancer.** Pursuant to Public Law 92-218 and Public Law 102-515, each occurrence of a reportable cancer that is diagnosed or treated in an Iowa resident or occurs in a nonresident who is diagnosed or treated in an Iowa facility shall be reported to the Iowa Cancer Registry.

**1.3(2) Congenital and inherited disorders.** Each occurrence of a congenital and inherited disorder that is diagnosed or treated in an Iowa resident or occurs in a nonresident who is diagnosed or treated



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

in an Iowa facility is a reportable condition pursuant to Iowa Code chapter 136A, and records of these congenital and inherited disorders shall be abstracted and maintained in a central registry. Congenital and inherited disorder surveillance shall be performed to determine the occurrence and trends of congenital and inherited disorders, to conduct thorough and complete epidemiological surveys, to assist in the planning for and provision of services to children with congenital and inherited disorders and their families, and to identify environmental and genetic risk factors for congenital and inherited disorders.

**641—1.4(135,139A) Reporting requirements.****1.4(1) Who is required to report.***a. Communicable and infectious diseases, and poisonings.*

(1) Health care providers, hospitals, and clinical laboratories and other health care facilities are required to report cases of reportable diseases, poisonings and conditions. Health care providers and hospitals are exempted from reporting communicable and infectious disease laboratory results and blood lead testing if the health care provider or hospital ensures that the laboratory performing the analysis provides a report containing the required information to the department.

(2) School nurses are required to report suspected cases of a reportable disease, poisoning or condition occurring among the children supervised.

(3) Poison control and poison information centers are required to report inquiries about cases of a reportable disease, poisoning or condition received by them.

(4) Medical examiners are required to report their investigatory findings of any death which was caused by or otherwise involved a reportable disease, poisoning or condition.

(5) Occupational nurses are required to report cases of reportable diseases, poisonings and conditions.

(6) Hospitals, health care providers and clinical laboratories outside the state of Iowa shall immediately report any confirmed or suspected case of a reportable disease, poisoning or condition in an Iowa resident.

*b. Reportable cancers.* Health care providers, hospitals, clinical laboratories and health care facilities involved in the diagnosis, care or treatment of individuals with a reportable cancer.

*c. Congenital and inherited disorders.* Health care providers, clinics, clinical laboratories and other health care facilities are required to report cases of a congenital or inherited disorder.

**1.4(2) What to report.** Each report will contain all information as listed in Iowa Code chapter 139A, in addition to:

*a. For communicable and infectious diseases:*

(1) The name of the reportable disease.

(2) The treatment provided for the reportable disease.

*b. For poisonings:*

(1) The analytical result.

(2) In the case of blood lead testing, whether the sample is a capillary or venous blood sample.

(3) For conditions not identified by a laboratory analysis, the date that the condition was diagnosed.

(4) In the case of occupational conditions, the name of the patient's employer.

*c. For reportable cancers:*

(1) Follow-up data.

(2) Demographic, diagnostic, prognostic, treatment, and other medical information.

*d. For congenital and inherited conditions:*

(1) Follow-up data.

(2) Demographic, diagnostic, treatment and other medical information.

(3) Tissue samples may also be submitted.

**1.4(3) How to report.** Information on when and how to report any of the diseases, conditions, or injuries included in this chapter can be found in Appendices A and B.

*a. Immediate reporting by telephone of diseases identified as immediately reportable.* A health care provider and a public, private, or hospital clinical laboratory will immediately report any confirmed or suspect case of a disease identified in Appendix A as immediately reportable to the department.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

*b. Other diseases that carry serious consequences or spread rapidly.* A health care facility, health care provider and a public, private, or hospital clinical laboratory will immediately report any confirmed or suspected case of a common source epidemic or disease outbreak of unusual numbers.

*c. Reporting to other public health authorities.* The department may authorize hospitals, health care providers or clinical laboratories outside the state of Iowa to report any confirmed or suspect case of a reportable disease, poisoning, or condition to another public health authority for the purpose of facilitating a report to the department.

*d. Cancers.* The department has delegated to the Iowa Cancer Registry the responsibility for collecting cancer data.

(1) Those required to report shall submit required data to the Iowa Cancer Registry monthly, in an electronic format specified by the Iowa Cancer Registry. Those required to report may employ registrars with Iowa Cancer Registry-approved training, or contract with the Iowa Cancer Registry or an outside vendor to submit reportable cancer cases and required data elements to the Iowa Cancer Registry.

(2) As needed for SEER surveillance activities, the Iowa Cancer Registry shall have remote electronic access, where available, or physical access to all cancer-relevant medical records.

*e. Congenital and inherited disorders.* The department has delegated to the Iowa Registry for Congenital and Inherited Disorders the responsibility to maintain a central registry for congenital and inherited disorders. The Iowa Registry for Congenital and Inherited Disorders shall:

(1) Prior to collecting the data from health care providers, hospitals, clinics, clinical laboratories and other health care facilities, work with the reporting facility to develop a process for abstracting records which is agreeable to the reporting facility.

(2) Develop and distribute reporting forms where applicable.

(3) Develop an abstracting process for data to be supplemented with information obtained from records from hospitals, treatment centers, outpatient centers, clinics, pathology laboratories and physician offices.

## INVESTIGATION

**641—1.5(135,139A) Investigation of reportable diseases.**

**1.5(1)** A health care provider and a public, private, or hospital clinical laboratory will provide the department, local board, or local department with all information necessary to conduct the investigation, including but not limited to medical records; exposure histories; medical histories; contact information; and test results necessary to the investigation, including positive, pending, and negative test results.

**1.5(2) Issuance of investigatory subpoenas.**

*a.* The department may upon the written request of a local board of health, the state public health medical director or the state public health epidemiologist or designee, subpoena records, reports, or any other evidence necessary to conduct a disease investigation. The subpoena will be signed by the department following review and approval of the written request for subpoena.

*b.* Process to challenge a subpoena. Any person who is aggrieved or adversely affected by compliance with the subpoena and who desires to challenge the subpoena shall follow 441—Chapter 7.

## ISOLATION AND QUARANTINE

**641—1.6(135,193A) Isolation and quarantine.** Isolation and quarantine should be consistent with guidelines provided by the Centers for Disease Control and Prevention.

**1.6(1) General provisions.**

*a. Voluntary confinement.* Prior to instituting mandatory isolation or quarantine pursuant to this rule, the department or a local board of health may request that an individual or group of individuals voluntarily confine themselves to a private home or other facility.

*b. Quarantine and isolation.* The department and local boards of health are authorized to impose and enforce quarantine and isolation restrictions. Quarantine and isolation shall rarely be imposed by the department or by local boards of health. If a quarantinable disease occurs in Iowa, individuals with a

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

suspected or active quarantinable disease and contacts to the case may be quarantined or isolated as the particular situation requires. Any quarantine or isolation imposed by the department or a local board of health shall be established and enforced in accordance with this rule.

**1.6(2) Issuance of isolation or quarantine orders.** The department or the local board of health may isolate or quarantine an individual or groups of individuals, and area quarantine in the rarest of instances, through a written order issued pursuant to this rule. The isolation or quarantine of an individual or group, whether during a declared state of emergency or not, shall be conducted as follows:

*a.* A written administrative order to isolate or quarantine an individual or group of individuals shall be issued when voluntary measures are deemed impracticable or ineffective. Orders shall become effective immediately upon issuance.

*b.* Orders for isolation and quarantine may include, without limitation, confinement in a residence or other private or public premises including medical and nonmedical facilities; conditions on travel or behavior; and exclusion of individuals or groups from certain places, including but not limited to school, workplace, public conveyances, and other places where members of the public may congregate; or a requirement that a person self-monitor specified health conditions (e.g., body temperature) and report the findings.

*c.* Administrative orders to isolate or quarantine an individual or a group of individuals may be issued orally if delay in imposing the isolation or quarantine would pose a serious imminent danger to the public health. If an oral order is issued, a written order shall be issued as soon as is reasonably possible, but in no event later than 24 hours following the issuance of the oral order.

*d.* A copy of the written order shall be provided to the individual to be isolated or quarantined or, if that is not possible, by any means reasonably calculated to provide actual notice. If the order applies to a group of individuals and it is impractical to provide individual copies, the order shall be posted in a conspicuous place in the isolation or quarantine premises.

*e.* The order of isolation or quarantine shall include the following:

(1) Full name and address of person or description of the group subject to the order.

(2) The clinical grounds for believing that the individual or group is infected with, or may have been exposed to, a communicable disease.

(3) The location where the individual or group will be confined during the period of isolation or quarantine.

(4) The exact date and time when the period of isolation or quarantine will expire. If it is not possible to fix an exact date, the order should specify the conditions or circumstances under which the individual or group would no longer pose a threat to the public health and confinement would end (e.g., the disappearance or absence of specified clinical symptoms).

(5) The conditions under which the individual or group will be isolated or quarantined.

(6) Notice of right to challenge the isolation or quarantine.

*f.* When individuals or groups are isolated or quarantined, whether through an administrative order or through voluntary compliance, the department or county board of health shall determine what method and place of isolation or quarantine is appropriate based upon the suitability of an individual's home or other designated facility and the services available.

*g.* To the greatest extent that it is possible to do so without jeopardizing the integrity of the isolation or quarantine, the authority issuing the isolation or quarantine order shall preserve and facilitate the ability of isolated and quarantined individuals to communicate with the outside world and, in particular, to exchange confidential communications with legal and medical advisors of their choice.

*h.* A person diagnosed with or clinically suspected of having infectious tuberculosis shall complete voluntary treatment until, in the opinion of the health care provider or the state public health medical director and epidemiologist, the person's tuberculosis is cured or such person is no longer a threat to public health. If such person refuses to complete the course of voluntary treatment, the department or local board of health may issue an order compelling mandatory treatment. Such order shall include the identity of the person subject to the mandatory treatment order, a description of the treatment ordered, the medical basis upon which the treatment is ordered, and a description of the potential medical and legal consequences of violating such order. A person who violates a mandatory treatment order may

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

be subject to the penalties provided in Iowa Code section 135.38 or 137.117 and may be placed under mandatory quarantine or isolation in accordance with the provisions of this chapter.

**1.6(3) *Appeal from department order imposing isolation or quarantine.***

*a.* Individuals have the right to appeal an order imposing isolation or quarantine. Appeal procedures for department orders are as laid forth in 441—Chapter 7.

*b.* A request for a hearing shall not stay an isolation or quarantine order unless by order of the issuing department or board, or by a district court.

**1.6(4) *Appeal from a local board of health order imposing isolation or quarantine.***

*a. Appeal.* The subject of a board order imposing isolation or quarantine may appeal a written order by submitting a written appeal within ten days of receipt of the written order. The appeal shall be addressed to the issuing board. Unless stayed by order of the board or a district court, the written order for quarantine or isolation shall remain in force and effect until the appeal is finally determined and disposed of upon its merits.

*b. Proceeding.* The appeal proceeding shall be conducted in accordance with this rule and specific local board of health rules governing appeal proceedings. The proceeding shall be held as soon as is practicable and in no case later than ten days from the date of receipt of the appeal. The hearing may be held by telephonic or other electronic means if necessary to prevent additional exposure to the communicable or possibly communicable disease. In extraordinary circumstances and for good cause shown, the board may continue the proceeding date for up to ten days, giving due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence. At the appeal proceeding, the subject of the appeal shall have the right to introduce evidence on all issues relevant to the order. The board, by majority vote, may modify, withdraw, or order compliance with the order under appeal.

*c. Judicial review.* The aggrieved party to the final decision of the board may petition for judicial review of that action by filing an action in the appropriate district court. Petitions for judicial review shall be filed within 30 days after the decision becomes final.

*d. Immediate judicial review of board order.* The board acknowledges that in certain circumstances the subject or subjects of a board order may desire immediate judicial review of a board order in lieu of proceeding with the board's appeal process. The board may consent to immediate jurisdiction of the district court when requested by the subject or subjects of a board order and justice so requires. Unless stayed by order of the board or a district court, the written order for quarantine or isolation shall remain in force and effect until the judicial review is finally determined and disposed of upon its merits.

**1.6(5) *Implementation and enforcement of isolation and quarantine.***

*a. Jurisdictional issues.* The department has primary jurisdiction to isolate or quarantine individuals or groups of individuals if the communicable disease outbreak has affected more than one county or has multicounty, statewide, or interstate public health implications. When imposing isolation or quarantine, the department will coordinate with the local health department as appropriate. If isolation or quarantine is imposed by the department, a local board of health or local health department may not alter, amend, modify, or rescind the isolation or quarantine order.

*b. Assistance of local boards of health and local health departments.* If isolation or quarantine is imposed by the department, the local boards of health and the local health departments in the affected areas will assist in the implementation of the isolation or quarantine order.

*c. Assistance of law enforcement.* Pursuant to Iowa Code chapter 135, all peace officers of the state will enforce and execute a lawful department order for isolation or quarantine within their respective jurisdictions. The department will take all reasonable measures to minimize the risk of exposure to peace officers and others assisting with enforcement of an isolation or quarantine order.

*d. Penalty.* Violation of a lawful isolation or quarantine order will be subject to penalties pursuant to Iowa Code chapter 135.

*e. Enforcement action.* The department may file a civil action in the Polk County district court or in the district court for the county in which the individual resides or is located to enforce a department

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

order for isolation or quarantine. Such action will be filed in accordance with the Iowa Rules of Civil Procedure.

**1.6(6) Control of isolation and quarantine premises.**

*a.* The department or local board of health may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.

*b.* No person shall enter isolation or quarantine premises unless authorized to do so by the department or local board of health.

*c.* Any person entering isolation or quarantine premises may be required to wear personal protective equipment or receive vaccination or any other preventative care as appropriate.

*d.* Any person entering isolation or quarantine premises, with or without authorization, may be subject to an order of quarantine as deemed medically necessary.

**641—1.7(139A,22) Confidentiality.** Reportable disease records and information, with the exception of AIDS and HIV records, that identify a person or a business named in a report may be disclosed under the following limited circumstances:

**1.7(1)** By and between department employees and agents who have a need for the record in the performance of their duties.

**1.7(2)** By and between department employees and agents and local boards of health and local health departments as necessary to conduct disease surveillance and investigation, to the extent necessary to protect the health or life of the named party, or to enforce a department order or an order of a local board of health.

**1.7(3)** By and between department employees and agents and health care providers, laboratories, and hospitals as necessary to conduct disease surveillance or an investigation, to the extent necessary to protect the health or life of the named party, or to enforce a department order or an order of a local board of health.

**1.7(4)** By and between department employees and agents and employees and agents of federal, state, and local agencies as necessary to conduct disease surveillance or an investigation or to enforce a department order or an order of a local board of health.

**1.7(5)** By and between department employees and agents and employees and agents of tribes and tribal public health authorities as necessary to conduct disease surveillance or an investigation or to enforce a department order or an order of a local board of health.

**1.7(6)** Reportable disease information may be included in an isolation or quarantine order or placard as necessary to prevent the spread of a quarantinable disease.

**1.7(7)** Pursuant to rule 641—175.9(17A,22) or 641—175.10(17A,22).

## STATE HYGIENIC LABORATORY

**641—1.8(135,139A) Specimens for which the fee charged by the state hygienic laboratory will be waived.** Pursuant to Iowa Code section 263.8, the state hygienic laboratory will waive testing fees for conditions deemed to be of public health significance by the department with approval from the state medical director or the state epidemiologist. A list of conditions and the criteria for which the fee is waived can be found on the HHS website.

**APPENDIX A**

**Iowa Department of Health and Human Services  
Table of Reportable Communicable and Infectious Diseases**

Report cases of the diseases listed in the following table to the department within the time frame specified in the When to Report column and by the reporting method in the How to Report column.

**To report diseases immediately, use the 24/7 disease reporting telephone hotline: 1-800-362-2736.**

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**IMMEDIATELY report diseases, syndromes, poisonings and conditions of any kind suspected or caused by a biological, chemical, or radiological agent or toxin when there is reasonable suspicion that the disease, syndrome, poisoning or condition may be the result of a deliberate act such as terrorism.**

**IMMEDIATELY report to the department outbreaks of any kind, diseases that occur in unusual numbers or circumstances, unusual syndromes, or uncommon diseases.** Outbreaks may be infectious, environmental or occupational in origin and include food-borne outbreaks or illness secondary to chemical exposure (e.g., pesticides, anhydrous ammonia).

**Report diseases by:**

Entering into the Iowa Disease Surveillance System (IDSS): For IDSS-related questions, call the Center for Acute Disease Epidemiology (CADE) at 1-800-362-2736.

Fax: (515)281-5698

**Mail:**

Iowa Department of Health and Human Services  
Center for Acute Disease Epidemiology  
Lucas State Office Building  
321 E. 12th Street  
Des Moines, Iowa 50319

Isolates or specimens shall be sent to:

State Hygienic Laboratory at the University of Iowa (SHL)  
U of I Research Park  
2490 Crosspark Road  
Coralville, Iowa 52241-4721

For specimen submission questions, call (319)335-4500 or go to [www.shl.uiowa.edu](http://www.shl.uiowa.edu).

<b>Diseases</b>	<b>When to Report</b>	<b>How to Report</b>
Acquired immune deficiency syndrome (AIDS) and AIDS-defining conditions	7 days	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Report by one of the following methods: Phone (515)242-5141 or (515)281-6918 Mail <ul style="list-style-type: none"> <li>• Health care providers: use the Pediatric or Adult Confidential Case Report Form</li> <li>• Laboratories: send copy of lab report or the Iowa Confidential Report of Sexually Transmitted Disease &amp; HIV Infection. Mark envelope "Attention 03"</li> </ul> <b>For HIV/AIDS-related questions, call (515)242-5141</b>
Anthrax	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Botulism (including infant botulism)	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Diseases	When to Report	How to Report
		24/7 disease reporting telephone hotline: 1-800-362-2736
Brucellosis (Brucella)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Campylobacteriosis (Campylobacter)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Chlamydia	3 days	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Report by one of the following methods: Secure electronic data system (as determined by the Department) Fax (515)725-1278 Phone (515)281-3031 Mail <ul style="list-style-type: none"> <li>● Use the Iowa Confidential Report of Sexually Transmitted Disease</li> <li>● Mark envelope "Attention 00"</li> </ul>
Cholera	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Cryptosporidiosis	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Cyclospora	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Diphtheria	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Escherichia coli shiga toxin-producing and related diseases (includes HUS and TTP)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail Laboratories send isolate or specimen to the SHL
Giardiasis (Giardia)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Gonorrhea	3 days	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Report by one of the following methods: Secure electronic data system (as determined by the Department) Fax (515)725-1278 Phone (515)281-3031 Mail <ul style="list-style-type: none"> <li>● Use the Iowa Confidential Report of Sexually Transmitted Disease</li> <li>● Mark envelope "Attention 00"</li> </ul>
Haemophilus influenzae type B invasive disease	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736 Laboratories send isolate or specimen to the SHL
Hansen's disease (leprosy)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Hantavirus syndromes	3 days	Report for Iowa residents. Phone, IDSS, fax or mail

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

<b>Diseases</b>	<b>When to Report</b>	<b>How to Report</b>
Hepatitis A	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone, IDSS or fax
Hepatitis B, C, D, E	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Human immunodeficiency virus (HIV) cases  Death of a person with HIV  Perinatally exposed newborn and child (newborn and child who was born to an HIV-infected mother)	7 days	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Report by one of the following methods: Phone (515)242-5141 or (515)281-6918 Mail <ul style="list-style-type: none"> <li>• Health care providers: use the Pediatric or Adult Confidential Case Report Form</li> <li>• Laboratories: send copy of lab report or the Iowa Confidential Report of Sexually Transmitted Disease &amp; HIV Infection. Mark envelope "Attention 03"</li> </ul> <b>For HIV/AIDS-related questions, call (515)242-5141</b>
Legionellosis (Legionella)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Listeria monocytogenes invasive disease	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone, IDSS, or fax Laboratories send isolate or specimen to the SHL
Malaria	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Measles (rubeola)	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Meningococcal invasive disease	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736 Laboratories send isolate or specimen to the SHL
Mosquito-borne diseases (includes chikungunya, dengue, eastern equine encephalitis, La Crosse, St. Louis, Venezuelan equine encephalitis, West Nile, and western equine encephalitis)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Mumps	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Pertussis	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Plague	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Poliomyelitis	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Psittacosis	3 days	Report for Iowa residents. Phone, IDSS, fax or mail



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

<b>Diseases</b>	<b>When to Report</b>	<b>How to Report</b>
Q fever	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Rabies, animal	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Rabies, human	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Rubella (including congenital)	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone, IDSS, or fax
Salmonellosis (Salmonella)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail Laboratories send isolate or specimen to the SHL
Severe acute respiratory syndrome (SARS)	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Shigellosis (Shigella)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail Laboratories send isolate or specimen to the SHL
Smallpox	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Syphilis	3 days	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Report by one of the following methods: Secure electronic data system (as determined by the Department) Fax (515)725-1278 Phone (515)281-3031 Mail <ul style="list-style-type: none"> <li>● Use the Iowa Confidential Report of Sexually Transmitted Disease</li> <li>● Mark envelope "Attention 00"</li> </ul>
Tetanus	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Tickborne diseases (includes anaplasmosis, babesiosis, ehrlichiosis, Lyme disease, and Rocky Mountain spotted fever)	3 days	Report for Iowa residents. Phone, IDSS, fax or mail
Tuberculosis, pulmonary and laryngeal (infectious)	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone (515)281-7504 or fax to (515)281-4570

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

<b>Diseases</b>	<b>When to Report</b>	<b>How to Report</b>
Tuberculosis, extrapulmonary	3 days	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone (515)281-7504 or fax to (515)281-4570
Tularemia	3 days	Report for Iowa residents. Phone, IDSS or fax
Typhoid fever	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone, IDSS or fax
Vancomycin intermediate Staphylococcus aureus (VISA) and vancomycin-resistant Staphylococcus aureus (VRSA)	1 day	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. Phone, IDSS or fax Laboratories send isolate or specimen to the SHL
Viral hemorrhagic fever (VHF) (e.g., Lassa, Marburg, Ebola, and Crimean-Congo)	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736
Yellow fever	<b>Immediately</b>	Report for Iowa residents and for residents of other states diagnosed or treated in Iowa. 24/7 disease reporting telephone hotline: 1-800-362-2736

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**APPENDIX B****Iowa Department of Health and Human Services  
Table of Reportable Poisonings and Conditions**

Report cases of the poisonings and conditions listed in the following table to the department within the time frame specified in the When to Report column and by the reporting method in the How to Report column.

*To report diseases immediately, use the 24/7 disease reporting telephone hotline: 1-800-362-2736.*

**IMMEDIATELY report diseases, syndromes, poisonings and conditions of any kind suspected or caused by a biological, chemical, or radiological agent or toxin when there is reasonable suspicion that the disease, syndrome, poisoning or condition may be the result of a deliberate act such as terrorism.**

**IMMEDIATELY report to the department outbreaks of any kind, diseases that occur in unusual numbers or circumstances, unusual syndromes, or uncommon diseases.** Outbreaks may be infectious, environmental or occupational in origin and include food-borne outbreaks or illness secondary to chemical exposure (e.g., pesticides, anhydrous ammonia).

Mailing address:

Bureau of Environmental Health Services  
Iowa Department of Health and Human Services  
321 East 12th Street  
Des Moines, Iowa 50319-0075

Telephone: 1-800-972-2026

Fax: (515)281-4529

<b>Poisoning or Condition</b>	<b>Cases to Report</b>	<b>When to Report</b>	<b>How to Report</b>
Arsenic poisoning	Blood arsenic values equal to or greater than 70 µg/L Urine arsenic values equal to or greater than 100 µg/g of creatinine	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Blood lead testing	All analytical results greater than or equal to 20 micrograms per deciliter (µg/dL) in a child under the age of 6 years or a pregnant woman	Daily	By telephone: 1-800-972-2026
	All other analytical values for all blood lead analyses	Weekly	Electronic format specified by the department
Cadmium poisoning	Blood cadmium values equal to or greater than 5 µg/L Urine cadmium values equal to or greater than 3 µg/g of creatinine	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Poisoning or Condition	Cases to Report	When to Report	How to Report
Carbon monoxide (CO) poisoning	Blood carbon monoxide level equal to or greater than 10% carboxyhemoglobin or its equivalent with a breath analyzer test, or a clinical diagnosis of CO poisoning regardless of any test results	Daily	By telephone: 1-800-972-2026
Hypersensitivity pneumonitis	All cases	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Mercury poisoning	Blood mercury values equal to or greater than 2.8 µg/dL Urine mercury values equal to or greater than 20 µg/L	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Methemoglobinemia	Blood analyses showing greater than 5% of total hemoglobin present as methemoglobin	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Microcystin toxin poisoning	All cases	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Noncommunicable respiratory illness	All cases	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Occupationally related asthma, bronchitis or respiratory hypersensitivity reaction	All cases	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Pesticide poisoning (including pesticide-related contact dermatitis)	All cases	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Severe skin disorder	All cases	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.
Toxic hepatitis	All cases	Weekly	Format specified by department. Electronic reporting if available. Alternatives include by mail, telephone, and facsimile.

ARC 7373C

**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to hepatitis programs and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 2, "Hepatitis Programs," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

PUBLIC HEALTH DEPARTMENT[641](cont'd)

This rulemaking is proposed under the authority provided in Iowa Code section 135.19.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 135.19.

*Purpose and Summary*

This proposed chapter defines parameters of a viral hepatitis program. This program is designed to identify people most at risk of exposure to viral hepatitis, to distribute information regarding dangers presented by the disease, and to make available hepatitis A and hepatitis B vaccinations and hepatitis C testing.

This chapter defines a list of individuals by category who are at an increased risk for viral hepatitis exposure and details the nature of educational information to be provided to such individuals, as well as the form and manner of information distribution. A vaccination and testing program is established offering testing through local health departments, clinics, and community-based organizations to individuals most impacted by the viruses. Agencies offering testing and vaccination services are also to provide education materials, pretest and posttest counseling, and referral services.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 1, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024  
11 to 11:30 a.m.

Microsoft Teams meeting ID: 212 588 466 197  
Passcode: SThXzX

February 26, 2024  
1 to 2 p.m.

Microsoft Teams meeting ID: 249 196 980 071  
Passcode: 9dQkSC

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 2 and adopt the following new chapter in lieu thereof:

CHAPTER 2  
HEPATITIS PROGRAMS

VIRAL HEPATITIS PROGRAM—VACCINATIONS AND TESTING

**641—2.1(135) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Contracted agencies*” means local health departments, clinics, and community-based organizations that are funded by the department to provide HCV testing and vaccination services.

“*HCV*” means the hepatitis C virus as defined by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

“*HIV*” means the same as defined in Iowa Code section 141A.1.

“*Viral hepatitis*” means inflammation of the liver caused by one of several viruses: hepatitis A, B, C, D, and E.

**641—2.2(135) Exposure risks for hepatitis C virus.** The following individuals are at increased risk of exposure to HCV as described by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services:

1. People living with HIV;
2. People who have ever injected drugs;
3. People with selected medical conditions, including those who ever received maintenance hemodialysis;
4. Recipients of clotting factors made before 1987;
5. Recipients of blood transfusions, blood products, and organ transplants that occurred before 1992;
6. Health care, emergency medical, and public safety personnel after needle sticks, sharps, or mucosal exposures to HCV-positive blood; and
7. Infants born to mothers living with HCV.

**641—2.3(135) Information for public distribution.** The department will make available educational materials to the public on hepatitis C infection, transmission, and where to seek testing services as defined on the department's website.

**641—2.4(135) Hepatitis vaccination and testing program.**

**2.4(1)** When sufficient state and federal funds are available, the department will maintain a vaccination and testing program. The program shall offer HCV testing and hepatitis A and B vaccinations through local health departments, clinics, and community-based organizations to individuals at an increased risk of exposure to viral hepatitis as described in the Viral Hepatitis

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Prevention and Testing Services Manual dated December 2023 and available on the department's website. Contracted agencies offering testing and vaccination services shall be required to provide integrated HIV, viral hepatitis, and sexually transmitted infection education; pretest and posttest counseling; and referral services.

**2.4(2)** Contracted agencies shall provide individuals presenting for testing and/or vaccination services with education explaining viral hepatitis and how to reduce the risk of acquiring it.

**2.4(3)** Contracted agencies shall provide individuals testing positive for viral hepatitis with information about the diagnosis and treatment options and with a referral list of health care providers to aid in seeking treatment, additional follow-up testing, and other hepatitis-related services.

These rules are intended to implement Iowa Code section 135.19.

**ARC 7372C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to student immunization and immunization education and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 7, "Immunization and Immunization Education: Persons Attending Elementary or Secondary Schools, Licensed Child Care Centers or Institutions of Higher Education," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 22.7, 139A.8 and 139A.26.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 256I.

*Purpose and Summary*

Proposed Chapter 7 describes immunization requirements for all persons enrolled or attempting to enroll in a licensed child care center or a public or nonpublic elementary or secondary school in Iowa including those who are provided private instruction. Required immunizations listed in the chapter are those defined by the Iowa Code or approved by the Council on Health and Human Services.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 4, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
 Lucas State Office Building  
 321 East 12th Street  
 Des Moines, Iowa 50319  
 Phone: 515.304.0963  
 Email: [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7

IMMUNIZATION AND IMMUNIZATION EDUCATION: PERSONS ATTENDING ELEMENTARY OR SECONDARY SCHOOLS, LICENSED CHILD CARE CENTERS OR INSTITUTIONS OF HIGHER EDUCATION

**641—7.1(139A) Definitions.**

“*Admitting official*” means the superintendent of schools or the superintendent’s designated representative if a public school; if a nonpublic school or licensed child care center, the governing official of the school or child care center.

“*Advanced registered nurse practitioner*” or “*ARNP*” means an advanced registered nurse practitioner as defined in 655—Chapter 7.

“*Applicant*” means any person seeking enrollment in a licensed child care center or elementary or secondary school.

“*Certified medical assistant*” means a person who is certified to practice as a certified medical assistant following completion of a postsecondary medical assistant program accredited by the Commission on Accreditation of Allied Health Education Programs or the Accrediting Bureau of Health



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Education Schools and successful completion of the certification examination and who is directed by a supervising physician, physician assistant, or nurse practitioner.

“*Competent private instruction*” is as defined in Iowa Code section 299A.1.

“*Elementary school*” means kindergarten if provided, and grades one through eight or grades one through six when grades seven and eight are included in a secondary school.

“*Enrolled user*” means a user of the registry who has completed an enrollment form that specifies the conditions under which the registry can be accessed and who has been issued an identification code and password by the department.

“*Health screening*” means a vision screen, dental screen, or refugee health screen.

“*Immunization registry*” or “*registry*” means the department of health and human services’ database of confidential, population-based, immunization and health screening records.

“*Institution of higher education*” means a postsecondary school.

“*Nurse*” means a person licensed to practice as a nurse pursuant to Iowa Code chapter 152.

“*On-campus residence hall or dormitory*” means campus housing for students that is owned or leased by the institution of higher education and located on a recognized campus site.

“*Pharmacist*” means a person licensed to practice pharmacy pursuant to Iowa Code chapter 155A.

“*Physician*” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code chapter 148.

“*Physician assistant*” means a person licensed to practice as a physician assistant pursuant to Iowa Code chapter 148C.

“*Postsecondary school*” means a postsecondary institution under the control of the state board of regents, a community college established under Iowa Code chapter 260C, or an accredited private institution as defined in Iowa Code section 261.9.

“*Postsecondary student*” means a person who has officially registered with a postsecondary school, as determined by the school, and who physically attends class on the school’s campus. For purposes of these rules, “postsecondary student” does not include a person who is exclusively registered in a correspondence course or continuing education class or who attends class exclusively by means of distance learning or through other means that do not require the person’s physical presence on the school’s campus.

“*Screening provider*” means an ophthalmologist, optometrist, physician, free clinic, child care center, local public health department, public or accredited nonpublic school, community-based organization, advanced registered nurse practitioner (ARNP), physician assistant, dentist or dental hygienist.

“*Secondary school*” means:

1. A junior high school comprising grades 7, 8 and 9, and a senior high school;
2. A combined junior-senior high school comprising grades 7 through 12;
3. A junior high school comprising grades 7 and 8 and a high school comprising grades 9 through 12;
4. A high school comprising grades 9 through 12.

“*Signature*” means an original signature or the authorized use of a stamped signature or electronic signature.

“*Student*” means an individual who is enrolled in a licensed child care center, elementary school or secondary school.

**641—7.2(139A) Persons included.** The immunization requirements specified elsewhere in these rules apply to all persons enrolled or attempting to enroll in a licensed child care center or a public or nonpublic elementary or secondary school in Iowa including those who are provided competent private instruction.

**641—7.3(139A) Persons excluded.** Exclusions to these rules are permitted on an individual basis for medical and religious reasons pursuant to Iowa Code section 139A.8. Applicants approved for medical or religious exemptions shall submit to the admitting official a valid department certificate of immunization exemption.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

**7.3(1)** To be valid, a medical certificate of immunization exemption shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) exempted, and an expiration date (if applicable) and shall bear the signature of a physician, nurse practitioner, or physician assistant. Language included on the medical certificate of immunization exemption referencing rule 641—7.3(139A) cannot be altered. Any edits or alterations to the medical certificate of immunization exemption referencing rule 641—7.3(139A) will invalidate the certificate.

*a.* A medical exemption may apply to a specific vaccine(s) or all required vaccines. If, in the opinion of the physician, nurse practitioner, or physician assistant issuing the medical exemption, the exemption should be terminated or reviewed at a future date, an expiration date shall be recorded on the certificate of immunization exemption; or

*b.* A medical exemption may apply when the administration of the required vaccine would violate minimum interval spacing and the exemption shall apply only to an applicant who has not received prior doses of the exempted vaccine. An expiration date, not to exceed 60 calendar days, and the name of the vaccine exempted shall be recorded on the medical certificate of exemption.

**7.3(2)** A religious exemption may be granted to an applicant if immunization conflicts with a genuine and sincere religious belief. To be valid, a religious certificate of immunization exemption for religious reasons shall contain, at a minimum, the applicant's last name, first name, and date of birth and shall bear the signature of the applicant or, if the applicant is a minor, of the applicant's parent or guardian and shall attest that immunization conflicts with a genuine and sincere religious belief and that the belief is in fact religious and not based merely on philosophical, scientific, moral, personal, or medical opposition to immunizations. Language included on the religious certificate of immunization exemption referencing rule 641—7.3(139A) cannot be altered. Any edits or alterations to the religious certificate of immunization exemption referencing rule 641—7.3(139A) will invalidate the certificate.

**7.3(3)** Medical and religious exemptions do not apply in times of emergency or epidemic pursuant to Iowa Code section 139A.8.

**641—7.4(139A) Required immunizations.**

**7.4(1)** Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements below:

### IMMUNIZATION REQUIREMENTS

Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements listed below. If, at any time, the age of the child is between the listed ages, the child must have received the number of doses in the "Total Doses Required" column.

Institution	Age	Vaccine	Total Doses Required
<b>Licensed Child Care Center</b>	Less than 4 months of age	This is not a recommended administration schedule, but contains the minimum requirements for participation in licensed child care. <b>Routine vaccination begins at 2 months of age.</b>	
	4 months through 5 months of age	Diphtheria/Tetanus/Pertussis	1 dose
		Polio <sup>1</sup>	1 dose
		<i>haemophilus influenzae</i> type B	1 dose
		Pneumococcal	1 dose
	6 months through 11 months of age	Diphtheria/Tetanus/Pertussis	2 doses
		Polio <sup>1</sup>	2 doses
		<i>haemophilus influenzae</i> type B	2 doses
		Pneumococcal	2 doses
	12 months through 18 months of age	Diphtheria/Tetanus/Pertussis	3 doses
		Polio <sup>1</sup>	2 doses
		<i>haemophilus influenzae</i> type B	2 doses; or 1 dose received at 15 months of age or older.
		Pneumococcal	3 doses; or 2 doses if both doses were received at 12 months of age or older.
	19 months through 23 months of age	Diphtheria/Tetanus/Pertussis	4 doses
		Polio <sup>1</sup>	3 doses
		<i>haemophilus influenzae</i> type B	3 doses if a dose was received on or after 12 months of age; or 2 doses if the first dose was received on or after 12 months of age; or 1 dose if the dose was received at 15 months of age or older.
		Pneumococcal	4 doses if a dose was received on or after 12 months of age; or 3 doses if 1 or more doses were received on or after 12 months of age; or 2 doses if both doses were received at 12 months of age or older.
		Measles/Rubella	1 dose; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
Varicella		1 dose; or the applicant has a reliable history of natural disease.	
24 months of age and older	Diphtheria/Tetanus/Pertussis	4 doses	
	Polio <sup>1</sup>	3 doses	
	<i>haemophilus influenzae</i> type B	3 doses if a dose was received on or after 12 months of age; or 2 doses if the first dose was received on or after 12 months of age; or 1 dose if the dose was received at 15 months of age or older. <b>Hib vaccine is not required for persons 60 months of age or older.</b>	
	Pneumococcal	4 doses if a dose was received on or after 12 months of age; or 3 doses if 1 or more doses were received on or after 12 months of age; or 2 doses if the first dose was received on or after 12 months of age; or 1 dose if the dose was received on or after 24 months of age. <b>Pneumococcal vaccine is not required for persons 60 months of age or older.</b>	
	Measles/Rubella	1 dose; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.	
	Varicella	1 dose; or the applicant has a reliable history of natural disease.	
<b>Elementary or Secondary School (K-12)</b>	4 years of age and older	Diphtheria/Tetanus/Pertussis <sup>2</sup>	5 doses with at least 1 dose received on or after 4 years of age; or 4 doses if the fourth dose was received on or after 4 years of age; and 1 dose of tetanus/diphtheria/acellular pertussis-containing vaccine (Tdap) received on or after 10 years of age for applicants in grades 7 and above, regardless of the interval since the last tetanus/diphtheria-containing vaccine.
		Polio <sup>1</sup>	4 doses, with at least 1 dose received on or after 4 years of age; or 3 doses if the third dose was received on or after 4 years of age.
		Measles/Rubella	2 doses; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
		Hepatitis B	3 doses
		Varicella	2 doses; or the applicant has a reliable history of natural disease.
		Meningococcal (A, C, W, Y)	1 dose received on or after 10 years of age for applicants in grades 7 through 11; and 2 doses with 1 dose received on or after 16 years of age for applicants in grade 12; or 1 dose for applicants in grade 12 if the dose was received on or after 16 years of age.

<sup>1</sup> Doses of oral polio vaccine (OPV) administered on or after April 1, 2016, are not valid doses and do not count toward the polio vaccine requirement.

<sup>2</sup> Applicants 7 through 18 years of age who received the first dose of diphtheria/tetanus/pertussis-containing vaccine at 12 months of age or older should receive a total of 3 doses, with one dose received on or after 4 years of age.

**7.4(2)** Vaccine doses administered less than or equal to four days before the minimum interval or age shall be counted as valid. Doses administered greater than or equal to five days earlier than the minimum interval or age shall not be counted as valid doses and shall be repeated as appropriate.

**7.4(3)** For vaccine administration, the minimum age and intervals recommended by the advisory committee on immunization practices shall be followed.

**641—7.5(139A) Required education.** An institution of higher education with an on-campus residence hall or dormitory shall provide vaccination information on meningococcal disease to enrolled students on a student health form pursuant to Iowa Code section 139A.26. For purposes of this rule, student health form(s) means a document(s) prepared by an institution of higher education that contains, at a minimum, information on meningococcal disease, vaccination information and any recommendations

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

issued by the national Centers for Disease Control and Prevention regarding meningococcal disease. The student health form(s) shall also include space for the postsecondary student to indicate whether or not the postsecondary student has received vaccination against meningococcal disease, including, at a minimum, the date of vaccination. The student health form(s) shall also include space for the postsecondary student to indicate whether or not the postsecondary student has received information on meningococcal disease and benefits of vaccine. If a traditional student health form is not utilized by the institution of higher education, any document(s) containing the above information is acceptable.

**641—7.6(139A) Proof of immunization.**

**7.6(1)** A valid department certificate of immunization shall be submitted by the applicant or, if the applicant is a minor, by the applicant's parent or guardian to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. To be valid, the certificate shall be the certificate of immunization issued by the department, a computer-generated copy from the immunization registry, or a certificate of immunization which has been approved in writing by the department. The certificate shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) administered, the date(s) given, and the signature of a physician, a physician assistant, a nurse, or a certified medical assistant. A faxed copy, photocopy, or electronic copy of the valid certificate is acceptable. The judgment of the adequacy of the applicant's immunization history should be based on records kept by the person signing the certificate of immunization or on that person's personal knowledge of the applicant's immunization history, or comparable immunization records from another person or agency, or an international certificate of vaccination, or the applicant's personal health records. If personal health records are used to make the judgment, the records shall include the vaccine(s) administered and the date given. Persons validating the certificate of immunization are not held responsible for the accuracy of the information used to validate the certificate of immunization if the information is from sources other than their own records or personal knowledge.

**7.6(2)** Persons wishing to enroll who do not have a valid department certificate of immunization available to submit to the admitting official shall be referred to a physician, a physician assistant, a nurse, or a certified medical assistant to obtain a valid certificate.

**641—7.7(139A) Provisional enrollment.**

**7.7(1)** Applicants may be granted provisional enrollment pursuant to Iowa Code section 139A.8. A valid department provisional certificate of immunization shall be submitted by the applicant or, if the applicant is a minor, by the applicant's parent or guardian to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. To qualify for provisional enrollment, applicants shall have received at least one dose of each of the required vaccines or be a transfer student from another school system. A transfer student is an applicant seeking enrollment from one United States elementary or secondary school into another. To be valid, the certificate shall be the certificate of immunization issued by the department, a computer-generated copy from the immunization registry, or a certificate of immunization which has been approved in writing by the department. The certificate shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) administered, the date(s) given, the remaining vaccine(s) required, the reason that the applicant qualifies for provisional enrollment, and the signature of a physician, a physician assistant, a nurse, or a certified medical assistant. Persons validating the provisional certificate of immunization are not held responsible for the accuracy of the information used to validate the provisional certificate of immunization if the information is from sources other than their own records or personal knowledge. Persons signing the provisional certificate of immunization shall certify that they have informed the applicant or, if the applicant is a minor, the applicant's parent or guardian of the provisional enrollment requirements.

*a.* Any applicant seeking provisional enrollment who does not have a valid department provisional certificate of immunization to submit to the admitting official shall be referred to a physician, a physician assistant, a nurse, or a certified medical assistant to obtain a valid certificate.

*b.* Reserved.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

**7.7(2)** The amount of time allowed for provisional enrollment shall be as soon as medically feasible but shall not exceed 60 calendar days. The period of provisional enrollment shall begin on the date the provisional certificate is signed. The person signing the provisional certificate shall assign an expiration date to the certificate and shall indicate the remaining immunizations required to qualify for a certificate of immunization.

**7.7(3)** The applicant or parent or guardian shall ensure that the applicant receive the necessary immunizations during the provisional enrollment period and shall submit a certificate of immunization to the admitting official by the end of the provisional enrollment period.

**7.7(4)** If at the end of the provisional enrollment period the applicant or parent or guardian has not submitted a certificate of immunization, the admitting official shall immediately exclude the applicant from the benefits, activities, and opportunities of the school or licensed child care center until the applicant or parent or guardian submits a valid certificate of immunization.

**7.7(5)** If at the end of the provisional enrollment period the applicant has not completed the required immunizations due to minimum interval requirements, a new department provisional certificate of immunization shall be submitted to the admitting official. The admitting official must maintain all issued certificates of provisional immunization with the original provisional certificate until the applicant submits a certificate of immunization.

**641—7.8(139A) Records and reporting.**

**7.8(1)** It shall be the duty of the admitting official of a licensed child care center or elementary or secondary school to ensure that the admitting official has a valid department certificate of immunization, certificate of immunization exemption, or provisional certificate of immunization on file for each student by the first day of attendance.

*a.* The admitting official shall keep the certificates on file in the school or licensed child care center in which the student is enrolled and assist the student or parent or guardian in the transfer of the certificate to another school or licensed child care center upon the transfer of the student to another school or licensed child care center.

*b.* Unless otherwise requested by the applicant, or parent or guardian, the admitting official shall retain the department certificate of immunization, or certificate of immunization exemption, or provisional certificate of immunization for three years commencing upon the transfer or graduation of the applicant or the school may choose to provide the permanent immunization record to the student at time of graduation. Included with the immunization record a letter should state that this is an important document that will be needed by the student for college or employment and should be permanently retained.

**7.8(2)** It shall be the duty of the local boards of health to audit the department certificates of immunization, certificates of immunization exemption, and provisional certificates of immunization in the schools within their jurisdiction to determine compliance with Iowa Code section 139A.8. The local boards of health shall furnish the department within 60 days of the first official day of school a report of the audit. The report shall be submitted for each school within the local board of health's jurisdiction and shall include the enrollment by grade, and the number of department certificates of immunization, certificates of immunization exemption, and provisional certificates of immunization by grade.

**7.8(3)** The local board of health and the department shall have the right to have access to the department certificates of immunization, certificates of immunization exemption, and the provisional certificates of immunization of children enrolled in elementary and secondary schools and licensed child care centers within the constraints of the privacy rights of parents and students.

**7.8(4)** The admitting official of an institution of higher education shall provide to the department by December 1 each year aggregate data regarding compliance with Iowa Code section 139A.26. The data shall be forwarded to the department within 30 days. The data shall include, but not be limited to, the total number of incoming postsecondary freshmen students living in a residence hall or dormitory who have:

- a.* Enrolled in the institution of higher education; and
- b.* Been provided information on meningococcal disease; and

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

- c. Been immunized with meningococcal vaccine.

**641—7.9(139A) Compliance.** Applicants not presenting proper evidence of immunization, or exemption, are not entitled to enrollment in a licensed child care center or elementary or secondary school under the provisions of Iowa Code section 139A.8. It shall be the duty of the admitting official to deny enrollment to any applicant who does not submit proper evidence of immunization and to exclude a provisionally enrolled applicant in accordance with this chapter.

**641—7.10(22) Statewide registry.**

**7.10(1) Statewide registry.** The department shall maintain a statewide immunization and health screening registry.

**7.10(2) Purpose and permitted uses of registry.**

a. The registry shall contain immunization and health screening information, including identifying and demographic data, to allow enrolled users to maintain and access a database of immunization and health screening histories for purposes of ensuring patients are fully immunized and screened.

b. The registry may be used to track inventory or utilization of pharmaceutical agents identified by the department to prepare for or respond to an emergency event.

c. Enrolled users shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purpose other than those expressly provided in this rule.

d. The registry shall contain health screening data, including screening results and follow-up information.

**7.10(3) Release of information to the registry.** Enrolled users shall provide immunization and health screening information, including identifying and demographic data, to the registry. Information provided may include, but is not limited to, the following:

- a. Name of patient;
- b. Gender of patient;
- c. Date of birth;
- d. Race;
- e. Ethnicity;
- f. Birth state and birth country;
- g. Address;
- h. Parents' names;
- i. Mother's maiden name;
- j. Type of vaccination administered;
- k. Dose or series number of vaccine;
- l. Date vaccination was administered;
- m. Lot number;
- n. Date of health screening;
- o. Health screening results;
- p. Source of health screening;
- q. Health screening follow-up information;
- r. Patient comments;
- s. Provider name, license, and business address; and
- t. Patient history, including previously unreported doses.

**7.10(4) Confidentiality of registry information.** Immunization and health screening information, including identifying and demographic data maintained in the registry, is confidential and may not be disclosed except under the following limited circumstances:

- a. The department may release information from the registry to the following:
  - (1) The person or the parent or legal guardian of the person immunized or screened.
  - (2) Enrolled users of the registry who have completed a department enrollment form that specifies the conditions under which the registry can be accessed;

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

(3) Persons or entities requesting immunization or health screening data in an aggregate form that does not identify an individual either directly or indirectly.

(4) Agencies that complete an agreement with the department which specifies conditions for access to registry data and how that data will be used. Agencies shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purposes other than those expressly provided in this rule.

(5) A representative of a state or federal agency, or entity bound by that state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency is subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa. State or federal agencies shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purposes other than those expressly provided in this rule.

(6) The admitting official of a licensed child care center, elementary school, secondary school, or postsecondary school; or medical or health care providers providing continuity of care.

(7) Users from other states or jurisdictions who have signed and completed enrollment in the state's or jurisdiction's immunization registry.

*b.* Users shall not release data obtained from the registry except to the person or the parent or legal guardian of the person immunized or screened, admitting officials of licensed child care centers and schools, medical or health care providers providing continuity of care, and other enrolled users of the registry.

**7.10(5)** *Suspend or terminate access.* The department may suspend or terminate an enrolled user's access consistent with department policy if the user violates this chapter, department enrollment forms, or the IRIS Security and Confidentiality Policy (2021). The department will approve, suspend, terminate, and reinstate user access in accordance with this chapter and department policy.

**641—7.11(22) Release of immunization and health screening information.**

**7.11(1)** *Between a physician, physician assistant, nurse, certified medical assistant, pharmacist, or screening provider and the elementary, secondary, or postsecondary school or licensed child care center that the student attends.* A physician, a physician assistant, a nurse, a certified medical assistant, a pharmacist, or a screening provider shall disclose a student's or patient's immunization or health screening information, including the name, date of birth, and demographic information; vaccine(s) administered and the month, day and year of administration; health screening results; and clinic source and location, to an elementary, secondary, or postsecondary school or a licensed child care center upon written or verbal request from the elementary, secondary, or postsecondary school or licensed child care center. Written or verbal permission from a student or parent is not required to release this information to an elementary, secondary, or postsecondary school or licensed child care center that the student attends.

**7.11(2)** *Among physicians, physician assistants, nurses, certified medical assistants, pharmacists or screening providers.* Immunization or health screening information, including the student's or patient's name, date of birth, and demographic information; vaccine(s) administered and the month, day and year of administration; health screening results; and clinic source and location, shall be provided by a physician, physician assistant, nurse, certified medical assistant, pharmacist, or screening provider to another health care provider without written or verbal permission from the student, parent, guardian or patient.

**7.11(3)** *Among an elementary school, secondary school, postsecondary school, and licensed child care center that the student attends.* An elementary school, secondary school, postsecondary school, and licensed child care center shall disclose a student's immunization or health screening information, including the student's name, date of birth, and demographic information; vaccine(s) administered and the month, day and year of administration; health screening results; and clinic source and location, to another elementary school, secondary school, postsecondary school, and licensed child care center that the student attends. Written or verbal permission from a student, or if the student is a minor, the student's

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parent or guardian, is not required to release this information to an elementary school, secondary school, postsecondary school, and licensed child care center that the student attends.

**7.11(4)** *Among the department and a physician, physician assistant, nurse, certified medical assistant, pharmacist, screening provider, elementary school, secondary school, postsecondary school, and licensed child care center.* A student's or patient's immunization or health screening information, including name, date of birth, grade, and demographic information; vaccine(s) administered and the month, day and year of administration; and health screening results, clinic source, and location, all in a format specified by the department, shall be disclosed upon written or verbal request among the department, physicians, physician assistants, nurses, certified medical assistants, pharmacists, screening providers, elementary schools, secondary schools, postsecondary schools, and licensed child care centers. Written or verbal permission from a student, patient, parent, or guardian is not required to release this information.

**7.11(5)** *Among the department and physicians, physician assistants, nurses, resettlement agencies, federal, state, and local government agencies, and certified medical assistants conducting refugee health screenings.* Refugee health screenings shall be disclosed only as indicated in this rule. Immunization or health screening information, including the patient's name, date of birth, and demographic information; the vaccine(s) administered and the month, day, and year of administration; health screening results; and clinic source and location, shall be disclosed upon written or verbal request among the department, physicians, physician assistants, nurses, certified medical assistants, resettlement agencies, federal, state, and local government agencies, or screening providers to another health care provider or the department. Written or verbal permission from the parent, guardian or patient is not required to release this information.

These rules are intended to implement Iowa Code sections 139A.8, 139A.26 and 22.7(2).

**ARC 7371C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to HIV and AIDS  
and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to amend Chapter 11, "Human Immunodeficiency Virus (HIV) Infection and Acquired Immune Deficiency Syndrome (AIDS)," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 135, 139A, 141A and 915.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 141A.5(2)"c," 135.11(20), 135.11(22), 139A.33, and 139A.19 and the Public Health Service (PHS) Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009.

*Purpose and Summary*

Proposed Chapter 11 describes HHS procedures and programs related to the Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS). This includes reporting of new diagnoses, protocols concerning individuals voluntarily seeking testing, procedures when a health care worker has an occupational exposure, reporting requirements should a positive



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test be confirmed, and notification and testing requirements when a third party is found to have been exposed.

These rules additionally implement HIV-related training programs and set procedures for eligibility and enrollment in the Ryan White Program. The Ryan White Program is a federally designated program that supports eligible low-income Iowans living with HIV/AIDS with medical and support services and assistance with the cost of medication and health insurance. Under federal legislation, it is the payer of last resort for HIV-related services. The Ryan White Program is not an entitlement program and does not create a right to assistance.

The procedures and programs described in this chapter are designed to provide appropriate individual- and community-level protections related to an HIV/AIDS diagnosis. They also provide for access to health care services for people diagnosed and living with HIV/AIDS in Iowa.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 4, 2023.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov)

#### *Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

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*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11

HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

**641—11.1(139A,141A) Definitions.**

*“AIDS”* means the same as defined in Iowa Code section 141A.1.

*“AIDS-related condition”* means the same as defined in Iowa Code section 141A.1.

*“Alleged offender”* means the same as defined in Iowa Code section 915.40.

*“Benefits and drug assistance program”* or *“BDAP”* means the Iowa benefits and drug assistance program, a component of the Ryan White program administered by the bureau of HIV, STI, and hepatitis within the department.

*“Blood bank”* means a facility for the collection, processing, or storage of human blood or blood derivatives, or from which or by means of which human blood or blood derivatives are distributed or otherwise made available.

*“Blood-borne viral hepatitis”* means hepatitis B or hepatitis C.

*“Care provider”* means the same as defined in Iowa Code section 139A.2.

*“CDC”* means the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services.

*“Certification of a significant exposure report”* means the determination by an authorized infection preventionist, occupational health professional, or other personnel trained in infection control or infectious disease medicine and designated by a facility to review significant exposure reports that the incident described by the exposed care provider meets the definition of a significant exposure as defined in this rule.

*“Confirmed positive test”* means a reactive result or detectable quantity on any HIV-related test, including an antibody test, an antigen test, a culture, a nucleic acid amplification test, or other test or combination of tests, that is considered to be confirmatory according to prevailing medical technology and algorithms or guidance from CDC. When the confirmed positive test involves more than one test, all test results should be included in any reports to the department.

*“Contagious or infectious disease”* means hepatitis in any form, meningococcal disease as defined in these rules, AIDS or HIV as defined in Iowa Code section 141A.1, tuberculosis as defined in these rules, and any other disease determined to be life-threatening to a person exposed to the disease based upon a determination by the state epidemiologist or medical director and in accordance with guidelines of the centers for disease control and prevention of the U.S. Department of Health and Human Services.

*“Department of corrections”* means the Iowa department of corrections.

*“Designated representative”* means a person who is designated by a department, agency, division, or service organization to act on behalf of the exposed care provider as a liaison with the facility that received the source patient when the exposure occurred in the field or during patient transport.

*“Director of a plasma center, blood bank, clinical laboratory, organ procurement organization, or public health laboratory”* means the person responsible for direction and operation of the facility, the medical director, or the person designated by the director or medical director to ensure compliance with applicable regulations and requirements.

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*“Emergency medical services personnel”* means “emergency medical care provider” as defined in rule 641—131.1(147A).

*“Exposure”* means the same as defined in Iowa Code section 139A.2.

*“HBV”* means hepatitis B virus.

*“Health care facility”* means the same as defined in Iowa Code section 139A.2.

*“Health care provider”* means the same as defined in Iowa Code section 141A.1.

*“Health facility”* means the same as defined in Iowa Code section 141A.1.

*“HIV”* means the same as defined in Iowa Code section 141A.1.

*“HIV infection”* means having acquired the human immunodeficiency virus.

*“HIV-related test”* means the same as defined in Iowa Code section 141A.1.

*“Home health services”* means health care services provided by a care provider in a patient’s home or other residence.

*“Identifiable third party”* means a sexual partner of or a person who shares drug injecting equipment with a person who has been diagnosed with HIV infection.

*“Infectious bodily fluids”* means bodily fluids capable of transmitting HIV as listed in “Updated U.S. Public Health Service guidelines for the management of occupational exposures to HIV and recommendations for postexposure prophylaxis,” dated September 25, 2013, and updated May 23, 2018, published by the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, Georgia 30333, on its website. To prevent HIV and blood-borne viral hepatitis disease transmission, this reference indicates that standard precautions should be followed for exposure to the following infectious bodily fluids: blood, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, vaginal secretions, and saliva contaminated with blood. HIV and blood-borne viral hepatitis disease transmission has not occurred from feces, nasal secretions, sputum, sweat, tears, urine, vomitus, and saliva when it is not contaminated with blood.

*“Laboratory”* means a clinical or public health laboratory, a plasma center, or a blood bank inside or outside the boundaries of Iowa.

*“Meningococcal disease”* means acute infectious bacterial meningococcal infection presenting as invasive disease characterized by one or more clinical syndromes including bacteremia, sepsis, or meningitis. “Meningococcal disease” does not include nasopharyngeal colonization by *Neisseria meningitidis*.

*“Payer of last resort”* means a requirement to coordinate services and seek payment from all other sources before Ryan White program funds are used.

*“Physician”* means a person currently licensed pursuant to Iowa Code chapter 148.

*“Physician assistant”* means a person currently licensed under Iowa Code chapter 148C.

*“Plasma center”* means a facility that conducts plasmapheresis.

*“Plasmapheresis”* means the removal of blood from a human being to obtain plasma with the subsequent reinfusion of the remaining formed elements into the donor, but excludes such a procedure performed for the purpose of improving the health of the donor.

*“Public health laboratory”* means a laboratory operated by an agency of city, county or state government for the purpose of supporting disease control activities.

*“Respite care services”* means health care services provided by a care provider in a patient’s home or other residence on a short-term, temporary basis as relief to those who are caring for family members.

*“Ryan White program”* means the Ryan White part B program administered by the bureau of HIV, STI, and hepatitis within the department, which provides case management, behavioral health, other supportive services, and assistance with the costs of housing, health insurance, and treatment medications for eligible low-income individuals diagnosed with HIV.

*“Sexually transmitted disease or infection”* means “sexually transmitted disease or infection” as defined in rule 641—1.1(139A).

*“Significant exposure”* means a situation in which there is a risk of contracting disease through exposure to a patient’s infectious bodily fluids in a manner capable of transmitting an infectious agent as determined by CDC. Exposure includes contact with blood or other infectious bodily fluids to which

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standard precautions apply through percutaneous inoculation or contact with an open wound, nonintact skin, or mucous membranes during the performance of normal job duties. Significant exposures include:

1. Transmission of blood, bloody fluids, or other infectious bodily fluids of the source patient onto a mucous membrane (mouth, nose, or eyes) of the care provider.
2. Transmission of blood, bloody fluids, or other infectious bodily fluids of the source patient onto an open wound or lesion with significant breakdown in the skin barrier, including a needle puncture with a needle contaminated with blood, bloody fluids, or other infectious bodily fluids.

“*Significant exposure report*” means the Report of Exposure to HIV or Other Infectious Disease form provided by the department. This is the only form authorized to be used to document a significant exposure to infectious bodily fluids such that the source patient is deemed to consent to a test to determine if the patient has a contagious or infectious disease, and is deemed to consent to notification of the care provider of the results of the test, pursuant to Iowa Code section 139A.19.

“*Tuberculosis*” means infectious tuberculosis as defined in rule 641—1.1(139A).

**641—11.2(141A) HIV testing—obtaining consent—voluntary HIV-related tests for adults who are not pregnant.**

**11.2(1)** Prior to conducting a voluntary HIV-related test on an adult, the health care provider requesting the test shall provide information to the subject of the test concerning HIV testing and where to obtain additional information regarding HIV infection and risk reduction.

**11.2(2)** Patient consent for testing must be obtained as detailed in Iowa Code section 141A.6.

**11.2(3)** Once an adult has been informed of a confirmed positive HIV-related test, no HIV-specific consent for medical procedures and tests shall be required for subsequent medical procedures and tests involved in the care or treatment of the adult with HIV infection.

**641—11.3(139A,141A) HIV testing—obtaining consent—voluntary HIV-related tests for minors who are not pregnant.**

**11.3(1)** Patient consent for testing must be obtained as detailed in Iowa Code section 141A.6. A minor shall have the legal capacity to act and give consent pursuant to Iowa Code section 139A.35.

**11.3(2)** Prior to conducting a voluntary HIV-related test on a minor, the health care provider requesting the test shall provide information to the subject of the test concerning HIV testing and where to obtain additional information regarding HIV infection and risk reduction.

**11.3(3)** A minor shall be informed prior to testing of requirements for health facilities to inform the minor’s legal guardian of a positive test result pursuant to Iowa Code section 141A.7.

**11.3(4)** Prior to the test, a minor shall give written consent for performance of the HIV-related test and to the notification of the legal guardian should the test be confirmed as positive.

**11.3(5)** Once a minor has been informed of a confirmed positive HIV-related test and the legal guardian has been notified, no HIV-specific consent for medical procedures and tests shall be required for subsequent medical procedures and tests involved in the care or treatment of a minor with HIV infection.

**641—11.4(141A) HIV testing—obtaining consent—voluntary HIV-related tests for pregnant women.**

**11.4(1)** Health care providers that offer prenatal care to women shall provide HIV testing to all pregnant women as described in Iowa Code section 141A.4. No written or oral consent shall be required.

**11.4(2)** The testing shall occur as early as possible during each pregnancy.

**11.4(3)** The health care provider requesting the test shall make information available about HIV prevention, risk reduction, and treatment to all pregnant women pursuant to Iowa Code section 141A.4.

**11.4(4)** A pregnant woman who is a minor shall be informed prior to testing of requirements for health facilities to inform the minor’s legal guardian of a positive test result as described in Iowa Code section 141A.7.

**11.4(5)** If a pregnant woman declines the test, the decision shall be documented as described in Iowa Code section 141A.4. A health care provider shall encourage women who decline the test early in prenatal care to be tested at a subsequent visit.

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**11.4(6)** Once a pregnant woman has been informed of a confirmed positive HIV-related test and, if the pregnant woman is a minor, the legal guardian has been notified, no HIV-specific consent for medical procedures and tests shall be required for subsequent medical procedures and tests involved in the care or treatment of a pregnant woman with HIV infection.

**641—11.5(141A) HIV test results—posttest counseling.**

**11.5(1)** Upon informing the subject of an HIV-related test of a confirmed positive test result, the health care provider who requested the test or other designated personnel shall initiate counseling concerning the emotional and physical health effects of HIV infection as described in Iowa Code section 141A.7.

**641—11.6(141A) Reporting of diagnoses and HIV-related tests, events, and conditions to the department.**

**11.6(1)** The following constitute reportable events related to HIV infection:

- a.* A test result indicating HIV infection, including:
  - (1) Confirmed positive results on any HIV-related test or combination of tests, including antibody tests, antigen tests, cultures, and nucleic acid amplification tests.
  - (2) A positive result or report of a detectable quantity on any other HIV detection (non-antibody) tests, and results of all viral loads, including nondetectable levels.
  - (3) Results of genotypic resistance assays.
- b.* AIDS and AIDS-related conditions, including all levels of CD4+ T-lymphocyte counts.
- c.* Birth of an infant to an HIV-infected mother (perinatal exposure) or any (positive, negative, or undetectable) non-antibody detection test (antigen test, viral culture, viral load, or qualitative nucleic acid amplification test) on an infant 18 months of age or younger.
- d.* Death resulting from an AIDS-related condition, or death of a person with HIV infection.

**11.6(2)** Reportable events as described in this rule shall be reported to the department pursuant to Iowa Code section 141A.6. The following reporting requirements are in addition to those described in Iowa Code section 141A.6.

- a.* Within seven days of the receipt of a person's confirmed positive test result indicating HIV infection, the director of a plasma center, organ procurement organization, or public health laboratory that performed the test or that requested the confirmatory test shall make a report to the department.
- b.* Within seven days of the birth of an infant to a mother diagnosed with HIV or a receipt of a laboratory result (positive, negative, or undetectable) of a non-antibody detection test (antigen test, viral culture, viral load, or qualitative nucleic acid amplification test) on an infant 18 months of age or younger, the attending physician shall make a report to the department.

**11.6(3)** The report shall be made on a form provided by the department that includes those form fields described in Iowa Code section 141A.6 unless approval from the department has been obtained for use of other reporting formats.

**11.6(4)** All persons who experience a reportable event while receiving services in the state, regardless of state of residence, shall be reported.

Rules 641—11.1(139A,141A) to 641—11.6(141A) are intended to implement Iowa Code sections 139A.35, 141A.4, 141A.6, and 141A.7.

**641—11.7(141A) Confidentiality of information.** In addition to the entities described in Iowa Code section 141A.9, medical information secured pursuant to Iowa Code section 141A.9(1) may be shared between employees and agents of the department and employees and agents of tribes and tribal public health authorities that have a need for the information in the duties related to HIV prevention, disease surveillance, or care of persons with HIV, only as necessary to administer the program for which the information is collected or to administer a program in the tribe or tribal public health authority. Confidential information transferred to other persons or entities under this rule shall continue to maintain its confidential status as described in Iowa Code section 141A.9.

This rule is intended to implement Iowa Code section 141A.9.

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**641—11.8(135) HIV and AIDS training programs where occupational exposure to blood or other potentially infectious materials may occur.**

**11.8(1) Personnel covered by the rule.**

*a.* Nonemergency personnel. All supervisory and patient care personnel of any agency listed below:

- (1) A licensed hospice,
  - (2) A homemaker-home health aide provider agency which receives state homemaker-home health aide funds, or
  - (3) An agency that provides respite care services.
- b.* Emergency and law enforcement personnel. All personnel from the following agencies:
- (1) Emergency medical services.
  - (2) Fire services.
  - (3) Law enforcement.

**11.8(2) Topics covered.** Training programs must address the following topics, consistent with standards from the Occupational Safety and Health Administration of the U.S. Department of Labor:

- a.* Symptoms and modes of transmission of blood-borne diseases, including human immunodeficiency virus and viral hepatitis,
- b.* Location and handling of personal protective equipment,
- c.* Information on the hepatitis B vaccine, and
- d.* Follow-up procedures in the event of an exposure.

**11.8(3) Timing of training.** Training must occur before an initial assignment of tasks where occupational exposure to blood or other potentially infectious materials may take place and at least annually thereafter.

This rule is intended to implement Iowa Code section 135.11.

**641—11.9(139A,141A) Partner notification program.**

**11.9(1)** The department will maintain a partner notification program for persons known to have tested positive for sexually transmitted diseases or infections pursuant to the procedures described in Iowa Code sections 141A.5 and 139A.33.

**11.9(2)** Services provided include, but are not limited to, counseling about the disease or infection, risk reduction techniques, linkage to medical care and treatment, assessment and referral to social and prevention services, and elicitation of exposed partners' names and contact information for referral to testing, as described in the Partner Services Program Manual dated December 2023, adopted and incorporated by this reference. The manual contains the policies and procedures utilized in the implementation of the program. The manual is updated annually. A copy of the manual is available on the department website.

**11.9(3)** The department may delegate its partner notification duties under this rule for persons who have tested positive for HIV or other sexually transmitted diseases to a local health authority or a physician or other health care provider unless the authority or physician or other health care provider refuses or neglects to conduct the partner notification program in a manner deemed to be effective by the department.

**641—11.10(141A) Direct notification of an identifiable third party by a physician, physician assistant or the department.**

**11.10(1)** Direct notification shall be used when a person diagnosed with HIV is having continuing contact with a sexual or needle-sharing partner who is unaware of the person's infection and when both of the following situations exist:

- a.* A physician or physician assistant for the person diagnosed with HIV is of the good-faith opinion that the nature of the continuing contact through sexual intercourse or the sharing of drug injecting equipment poses an imminent danger of HIV transmission to the third party.

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*b.* When the physician or physician assistant believes in good faith that the person diagnosed with HIV, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program.

**11.10(2)** The department or a physician or a physician assistant may reveal the identity of a person diagnosed with HIV pursuant to this rule only to the extent necessary to protect a third party from the direct threat of transmission. Notification of a person pursuant to this rule shall be made confidentially. Nothing in this rule shall be interpreted to create a duty to warn third parties of the danger of exposure to HIV through contact with a person diagnosed with HIV.

**11.10(3)** When the physician or physician assistant is of the good-faith opinion and belief that third-party notification should be performed, notification of a person pursuant to this rule shall be made:

- a.* Directly by the physician or physician assistant, or
- b.* By the department at the request of the physician or physician assistant.

**11.10(4)** Notification by the physician or physician assistant. Prior to notification of a third party by the physician or physician assistant of a person diagnosed with HIV, the physician or physician assistant shall make reasonable efforts to inform, in writing, the person diagnosed with HIV. The written information shall state that, due to the nature of the person's continuing contact through sexual intercourse or the sharing of drug injecting equipment with the third party and the physician's or physician assistant's belief that the person diagnosed with HIV, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program, the physician or physician assistant is forced to take action to provide notification to the third party. The physician or physician assistant, when reasonably possible, shall provide the following information to the person diagnosed with HIV:

- a.* The nature of the disclosure and the reason for the disclosure.
- b.* The anticipated date of disclosure.
- c.* The name of the party or parties to whom disclosure is to be made.

NOTE: Reasonable efforts to inform, in writing, the person diagnosed with HIV shall be deemed satisfied when the physician or physician assistant delivers the written notice in person or directs a written notice to the diagnosed person's last-known address by restricted certified mail, return receipt requested, at least five days prior to the anticipated date of disclosure to the third party.

**11.10(5)** When performed by the diagnosed person's physician or physician assistant, notification of the third party and any disclosure concerning the purpose of that notification shall be made in person. However, initial contact with the third party may be made by telephone, mail, or other electronic means to arrange the meeting with the physician or physician assistant at the earliest opportunity to discuss an important health matter. The nature of the health matter to be discussed shall not be revealed in the telephone call, letter, or other electronic message.

**11.10(6)** Notification by the department.

*a.* The physician or physician assistant attending the person diagnosed with HIV shall provide by telephone to the department any relevant information provided by the person diagnosed with HIV regarding any party with whom the person diagnosed with HIV has had sexual relations or has shared drug injecting equipment. The information may include the third party's name, address, telephone number, and any other locating information known to the physician or physician assistant. The department shall use the information in accordance with procedures established for the voluntary partner notification program.

*b.* Notification of the third party and any disclosure concerning the purpose of that notification shall be made in person. However, initial contact with the third party may be made by telephone, mail, or other electronic means to arrange the meeting with the department representative. The nature of the matter to be discussed shall not be revealed in the telephone call, letter, or other electronic message.

**11.10(7) Confidentiality.** The physician or physician assistant of the person diagnosed with HIV and the department shall protect the confidentiality of the third party and the person diagnosed with HIV. The identity of the person diagnosed with HIV shall remain confidential unless it is necessary to reveal it to the third party so that the third party may avoid exposure to HIV. If the identity of the person diagnosed with HIV is revealed, the third party shall be presented with a statement in writing at the time

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of disclosure which includes the following or substantially similar language: “Confidential information revealing the identity of a person diagnosed with HIV has been disclosed to you. The confidentiality of this information is protected by state law. State law prohibits you from making any further disclosure of the information without the specific written consent of the person to whom it pertains. Any breach of the required confidential treatment of this information subjects you to legal action and civil liability for monetary damages. A general authorization for the release of medical or other information is not sufficient for this purpose.”

**11.10(8) Immunity.** A health care provider attending a person diagnosed with HIV has no duty to disclose to or to warn third parties of the dangers of exposure to HIV through contact with the person diagnosed with HIV and is immune from any liability, civil or criminal, for failure to disclose to or warn third parties of the condition of the person diagnosed with HIV.

Rules 641—11.9(139A,141A) to 641—11.10(141A) are intended to implement Iowa Code sections 139A.33 and 141A.5.

**641—11.11(139A,141A) Care provider notification upon exposure to contagious or infectious diseases—exposures in nonclinical settings.**

**11.11(1)** If a care provider sustains a significant exposure from a patient while rendering health care or other services, other than home-health or respite care services, outside of a health care facility or hospital, the care provider shall file a significant exposure report as soon as reasonably possible following the exposure. When the exposure occurred outside a clinical setting, a care provider who has sustained a significant exposure should file this report with the infection control, occupational health, or other designated office of the facility to which the patient was transported.

**11.11(2)** The source patient to whom the care provider was exposed is deemed to consent to a test to determine if the patient has a contagious or infectious disease and is deemed to consent to notification of the care provider or the designated representative of the results of the test, upon submission of a significant exposure report and certification of the significant exposure by an authorized infection preventionist, occupational health professional, or other professional trained in infectious disease control. No further consent from the source patient is required. However, the source patient shall be notified that an exposure has occurred and shall be told which specific tests are being performed to determine the presence of contagious or infectious diseases. If the source patient is a minor, the minor shall be informed prior to an HIV-related test that, upon positive confirmation of an HIV-related test result, the minor’s legal guardian shall be informed of the positive result, pursuant to Iowa Code section 141A.7(3).

**11.11(3)** Hospitals, clinics, or other health care facilities, institutions administered by the department of corrections, and jails shall have written policies and procedures pursuant to Iowa Code section 139A.19. In addition to those policies and procedures required by Iowa Code section 139A.19, hospitals, clinics, or other health care facilities, institutions administered by the department of corrections, and jails shall have written policies and procedures for reviewing and certifying significant exposure report forms, testing a source patient, and notifying a care provider who sustained a significant exposure while rendering health care services or other services to the source patient when the source patient is delivered to the facility and the exposure occurred prior to the delivery.

**11.11(4)** The hospital, clinic, or other health care facility to whom the source patient is delivered shall conduct the test. If the source patient is delivered to an institution administered by the department of corrections, the test shall be conducted by the staff physician of the institution. If the source patient is delivered to a jail, the test shall be conducted by the attending physician of the jail or the county medical examiner. If the source patient was deemed to consent upon certification of a significant exposure report, the sample and test results shall only be identified by a number.

**11.11(5)** If a test result is positive, the hospital, clinic, or other health care facility, or other person performing the test shall notify the source patient and make any required reports to the department pursuant to Iowa Code sections 139A.3 and 141A.6. The report to the department shall include the name of the source patient.



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

**11.11(6)** If a source patient is diagnosed or confirmed as having a contagious or infectious disease, the hospital, clinic, or other health care facility, or other person performing the test shall notify the care provider or the designated representative of the care provider who shall then notify the care provider. If the source patient is a minor and is diagnosed with HIV infection, the hospital, clinic, or other health facility, or other person performing the test shall notify the legal guardian of the minor.

**11.11(7)** The notification shall advise the care provider of possible exposure to a particular contagious or infectious disease and recommend that the provider seek medical attention. The notification shall be provided as soon as reasonably possible following determination that the source patient has a contagious or infectious disease. The notification shall not include the name of the source patient unless the patient consents. If the care provider who sustained a significant exposure determines the identity of a source patient who has been diagnosed or confirmed as having a contagious or infectious disease, the identity of the source patient shall be confidential information and shall not be disclosed by the care provider to any other person unless a specific written release is obtained from the source patient.

**11.11(8)** This rule does not preclude a hospital, clinic, other health care facility, or a health care provider from providing notification to a care provider under circumstances in which the hospital's, clinic's, other health care facility's, or health care provider's policy provides for notification of the hospital's, clinic's, other health care facility's, or health care provider's own employees of exposure to a contagious or infectious disease that is not life-threatening if the notice does not reveal a source patient's name, unless the patient consents.

**11.11(9)** The infection control, occupational health, or other designated office of the facility shall maintain a record of all significant exposure reports it receives and shall retain each report for a period of five years.

**11.11(10)** The significant exposure report form is a confidential record pursuant to Iowa Code section 141A.9.

**641—11.12(139A,141A) Care provider notification upon exposure to contagious or infectious diseases—exposures in clinical settings.**

**11.12(1)** If a care provider sustains a significant exposure from a patient while rendering health care services or other services within a hospital, clinic, or other health care facility, or while delivering home-health or respite care services, the care provider shall file a report as soon as reasonably possible following the exposure. A care provider who has sustained a significant exposure should file the report with the infection control, occupational health, or other office designated by the facility in which the exposure occurred, or by the facility which has oversight for the delivery of home-health or respite care services.

*a.* If a general consent form was signed and in effect at the time of the significant exposure and the source patient is an adult, a significant exposure report form shall not be required to document the significant exposure. The health care facility or hospital may use an employee incident report or other similar form for this purpose. The source patient to whom the care provider was exposed is deemed to consent to a test to determine if the patient has a contagious or infectious disease and is deemed to consent to notification of the care provider or the designated representative of the results of the test, upon submission and review of an employee incident report and certification of the significant exposure by an authorized infection preventionist, occupational health professional, or other professional trained in infectious disease control. No further consent from the source patient is required. However, a source patient shall be notified that an exposure has occurred and shall be told which specific tests are being performed. Prior to conducting an HIV-related test, the health care facility or hospital shall provide information to the source patient concerning testing and a means of obtaining additional information regarding HIV infection and risk reduction pursuant to Iowa Code section 141A.6.

*b.* If no consent form was signed or in effect at the time of the exposure, or if the source patient is a minor, the source patient is deemed to consent to a test to determine if the patient has a contagious or infectious disease and is deemed to consent to notification of the care provider or the designated representative of the results of the test upon submission of a significant exposure report form and

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

certification of the significant exposure by an authorized infection preventionist, occupational health professional, or other professional trained in infectious disease control. Source patients shall be notified that an exposure has occurred and shall be told which specific tests are being performed to determine the presence of contagious or infectious diseases. If the source patient is a minor, the minor shall be informed prior to an HIV-related test that, upon positive confirmation of an HIV-related test result, the minor's legal guardian shall be informed of the positive result, pursuant to Iowa Code section 141A.7(3).

**11.12(2)** Hospitals, clinics, or other health care facilities, institutions administered by the department of corrections, and jails shall have written policies and procedures for reviewing and certifying significant exposure report forms or other employee incident report forms, testing a source patient, and notifying a care provider who sustained a significant exposure while rendering health care services or other services to a patient during the admission, care, or treatment of the patient at the facility, or while delivering home-health or respite care services.

**11.12(3)** The hospital, clinic, or other health care facility where exposure occurred or which has oversight for the delivery of home-health or respite care services shall conduct the test. If a general consent form was signed and in effect and the source patient is an adult, the sample and test results shall be identified by name. If the source patient was deemed to consent to a test and to notification of the care provider upon certification of a significant exposure report pursuant to these rules because no general consent was signed and in effect at the time of the exposure or because the source patient is a minor, the sample and test results shall be identified only by a number.

**11.12(4)** If a test result is positive, the hospital, clinic, or other health care facility or other person performing the test shall notify the source patient and make any required reports to the department pursuant to Iowa Code sections 139A.3 and 141A.6. The reports to the department shall include the name of the source patient.

**11.12(5)** If a source patient is diagnosed or confirmed as having a contagious or infectious disease, the hospital, clinic, or other health care facility or other person performing the test shall notify the care provider or the designated representative of the care provider who shall then notify the care provider. If the source patient is a minor and is diagnosed with HIV infection, the hospital, clinic, or other health care facility or other person performing the test shall notify the legal guardian of the minor.

**11.12(6)** The notification shall advise the care provider of possible exposure to a particular contagious or infectious disease and recommend that the provider seek medical attention. The notification shall be provided as soon as reasonably possible following determination that the source patient has a contagious or infectious disease.

**11.12(7)** The infection control, occupational health, or other designated office of the facility shall maintain a record of all significant exposure reports it receives and shall retain each report for a period of five years.

**11.12(8)** The significant exposure report form is a confidential record pursuant to Iowa Code section 141A.9.

Rules 641—11.11(139A,141A) to 641—11.12(139A,141A) are intended to implement Iowa Code section 139A.19.

**641—11.13(915) Testing, reporting, and counseling of convicted of alleged sexual assault assailants.**

**11.13(1)** Prior to ordering an HIV-related test on a convicted or alleged offender pursuant to Iowa Code sections 915.40 through 915.43, the physician or practitioner shall provide information to the subject of the test concerning testing and where to obtain additional information on HIV transmission and risk reduction, pursuant to Iowa Code section 141A.6. The department may be contacted for brochures that may assist in meeting the requirements of Iowa Code section 141A.6.

**11.13(2)** At any time that the subject of an HIV-related test is informed of confirmed positive test results, the physician or other practitioner who ordered the test shall initiate counseling concerning the emotional and physical health effects of HIV infection, as required under Iowa Code section 141A.7, and shall make any required reports to the department pursuant to Iowa Code section 141A.6.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

*a.* The physician or other practitioner shall encourage a person diagnosed with HIV to participate in the voluntary partner notification program pursuant to rule 641—11.9(139A,141A).

*b.* The physician or other practitioner may provide to the department any relevant information provided by the person diagnosed with HIV regarding any party with whom the person has had sexual relations or has shared drug injecting equipment.

This rule is intended to implement Iowa Code section 135.11(22).

**641—11.14(141A) Ryan White program.**

**11.14(1) General purpose and incorporation.** The Ryan White program is a state-administered program that provides support services and assistance with the costs of health insurance and treatment medications for eligible low-income individuals diagnosed with HIV when adequate state and federal funding is available for administration of the program.

*a.* The program is authorized under Part B of Title XXVI of the Public Health Service Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Public Law 111-87). This legislation requires that the Ryan White program, including the benefits and drug assistance program, be the payer of last resort for HIV-related services. The Ryan White program is not an entitlement program and does not create a right to assistance. In the event that funding is exhausted or terminated or there are changes in state or federal guidelines, programs, or regulations that impact funding available to the program, the department reserves the right to close enrollment, cease to provide specific services, or alter eligibility criteria until such time that funding is again sufficient.

*b.* The Ryan White program will be administered in accordance with the Ryan White Program Manual dated December 2023, adopted and incorporated by this reference. The manual contains the policies and procedures utilized in the implementation of the program. The manual is updated annually. A copy of the manual is available at the department website.

*c.* The benefits and drug assistance program will be administered in accordance with the Benefits and Drug Assistance Program Manual dated December 2023, adopted and incorporated by this reference. The manual contains the policies and procedures utilized in the implementation of the program. The manual is updated annually. A copy of the manual is available at the department website.

**11.14(2) Collaboration with Iowa Medicaid.** To ensure that the Ryan White program is the payer of last resort and to maximize the efficiency and effectiveness of HIV-related prevention and care services, Iowa Medicaid shall grant the department access to client information for persons enrolled in Medicaid.

**11.14(3) Confidentiality.** Applications, assessments, and all other client-level information received or maintained by the department in connection with the Ryan White program shall be considered confidential information in accordance with Iowa Code section 141A.9.

This rule is intended to implement Iowa Code section 141A.3.

**ARC 7367C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to grants to counties water well program  
and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 24, “Private Well Testing, Reconstruction, and Plugging—Grants to Counties,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 135.11.

*State or Federal Law Implemented*

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

This rulemaking implements, in whole or in part, Iowa Code sections 135.11 and 455E.11.

*Purpose and Summary*

This chapter sets forth HHS procedure for administering the Grants to Counties Program for the purpose of testing private water wells, reconstructing private water wells, and the proper plugging of abandoned private water wells within the jurisdiction of each county board of health.

Grant program parameters are defined in Iowa Code section 455E.11. HHS administers these grants in coordination with the Iowa Department of Natural Resources.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 24 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 24

## PRIVATE WELL TESTING, RECONSTRUCTION, AND PLUGGING—GRANTS TO COUNTIES

**641—24.1(455E,135) Grant procedures.**

**24.1(1)** The department has adopted policies to administer the awarding of grants for the grants to counties program. Grants will be awarded pursuant to Iowa Code section 455E.11.

**24.1(2)** The department will:

- a. Determine program objectives;
- b. Set eligible and ineligible grant costs for which the department will reimburse county programs;
- c. Define performance requirements for grant recipients that set minimum standards to be met by all county programs;
- d. Develop a grant application and a grant application submission procedure;
- e. Terminate a grant found to be obtained by fraud or misrepresentation regardless of whether grant moneys have already been given to the grantee;
- f. Allow for an applicant to appeal the denial of a properly submitted grant application. Appeals shall be governed by 441—Chapter 7.

This rule is intended to implement Iowa Code sections 455E.11 and 135.11(26).

ARC 7507C

**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to establishment of new certificate of live birth following adoption and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to amend Chapter 95, “Vital Records: General Administration,” and Chapter 99, “Vital Records Modifications,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in 2023 Iowa Acts, Senate File 517.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 144.13.

*Purpose and Summary*

The purpose of this proposed rulemaking is to implement 2023 Iowa Acts, Senate File 517. This rulemaking allows adopted adults to add omitted parents to their birth certificate.

A Regulatory Analysis, including the proposed rule text, was published on November 29, 2023. A public hearing was held on December 20, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 28, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [compliancecerules@idph.iowa.gov](mailto:compliancecerules@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend paragraph **95.6(1)“b”** as follows:

*b.* The state registrar shall charge a fee of \$15 to prepare an adoption certificate, amend a certificate, amend a certificate of live birth to reflect a legal change of name, prepare a delayed certificate, process other administrative or legal actions, prepare a noncertified copy of an original certificate of birth pursuant to Iowa Code ~~section~~ sections 144.23A and 144.24A, or prepare copies of supporting documents on file in the state registrar's office. No fee shall be charged for establishment of paternity.

ITEM 2. Amend rule 641—99.14(144) as follows:

**641—99.14(144) Establishment of new certificate of live birth following adoption.**

**99.14(1) to 99.14(4)** No change.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**99.14(5)** In accordance with Iowa Code section 144.23A, an adopted person may apply to the state registrar to have the adopted person's original certificate of birth prior to adoption reestablished to include the name of an omitted biological parent.

**99.14(5) 99.14(6)** The new certificate of live birth after adoption shall not be on file at the county registrar's office.

**99.14(6) 99.14(7)** The state registrar shall reveal the date of the adoption and the name and address of the court that issued the adoption decree upon the receipt of a completed, notarized Revelation of County of Adoption form from an adult adopted person, a biological parent, an adoptive parent, or the legal representative of the adult adopted person, the biological parent, or the adoptive parent pursuant to Iowa Code section 144.24.

**99.14(7) 99.14(8)** Administrative and certified copy fees shall be charged and remitted pursuant to rule 641—95.6(144).

**ARC 7508C**

## **PUBLIC HEALTH DEPARTMENT[641]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to state-funded family medicine obstetrics fellowship program and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to adopt a new Chapter 106, "State-Funded Family Medicine Obstetrics Fellowship Program," Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 135.182 and 2023 Iowa Acts, Senate File 561.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 135.182.

#### *Purpose and Summary*

The proposed chapter allows Iowa teaching hospitals to participate in a Family Medicine/Obstetrics Fellowship program. Participating hospitals are eligible to apply for reimbursement for the cost of training and teaching the fellows.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to rule 441—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Joe Campos  
 Lucas State Office Building  
 321 East 12th Street  
 Des Moines, Iowa 50319  
 Phone: 515.304.0963  
 Email: [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 641—Chapter 106:

CHAPTER 106

STATE-FUNDED FAMILY MEDICINE OBSTETRICS FELLOWSHIP PROGRAM

**641—106.1(135) Definitions.**

“*Rural area*” means all nonmetropolitan (metro) counties and all metro census tracts with rural-urban commuting area (RUCA) codes 4 through 10. The U.S. Department of Agriculture’s (USDA’s) Economic Research Service (ERS) creates RUCA codes using U.S. Census data.

“*Underserved area*” means an area, population group, or facility designated by the U.S. Department of Health and Human Services as a health professional shortage area for primary care.

**641—106.2(135) Fellowship cost reimbursement to participating teaching hospital.**

**106.2(1)** A teaching hospital may apply to the department of health and human services through a request for proposal (RFP) process if the teaching hospital intends to administer an obstetrics (OB) fellowship program and request reimbursement for expenses from the family medicine OB fellowship program fund. After the first RFP, RFPs will be posted as needed based on expressed interest from additional teaching hospitals.

**106.2(2)** A participating teaching hospital, which has been accepted into the family medicine OB fellowship program through the RFP process, may submit a reimbursement claim to the department for a fellow who has completed the requirements in Iowa Code section 135.182 as enacted by 2023 Iowa Acts, Senate File 561, section 67. A copy of the five-year program agreement must be submitted to the department for verification of the required five years of service in a rural or underserved area.



PUBLIC HEALTH DEPARTMENT[641](cont'd)

**106.2(3)** Subject to availability, funds from the family medicine OB fellowship program fund shall be used in accordance with Iowa Code section 135.182, and reimbursement will be no greater than the lesser of the amount of funds expended by the teaching hospital on the OB fellow or \$140,000 per fellow.

**106.2(4)** If the department receives more claims than funds available, the department will maintain a wait list of eligible fellows and will manage reimbursements to a participating teaching hospital for eligible fellows' claims on a first-come, first-served basis. The department will reimburse a participating teaching hospital for eligible fellows who are on the wait list if additional funds become available.

**106.2(5)** A participating teaching hospital shall return prorated funds to the department if a fellow does not meet the requirements of Iowa Code section 135.182. The amount of returned funds shall be directly proportional to the portion of the five-year service not completed by the OB fellow.

These rules are intended to implement Iowa Code section 135.182.

**ARC 7366C**

## **PUBLIC HEALTH DEPARTMENT[641]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to smokefree air and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 153, "Smokefree Air," Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 142D.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 142D.

#### *Purpose and Summary*

Proposed Chapter 153 defines the procedure for implementing Iowa's Smokefree Air Act. This includes the duty of employers, owners, or other persons having control of an area where smoking is prohibited to inform employees and persons accessing the site of that prohibition through proper signage. The rules also describe the procedure for receiving complaints and implementing enforcement actions against persons who fail to comply with provisions of the Act. Enforcement action may be taken against a person who smokes in an area where smoking is prohibited or a person who owns, operates, manages or otherwise has custody or control of a place where smoking is prohibited and fails to properly prohibit smoking.

This chapter describes the procedure to support the requirements for signage, complaints, and enforcement detailed in the Iowa Code. This chapter does not create additional, substantive requirements.

#### *Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

#### *Waivers*

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 153 and adopt the following **new** chapter in lieu thereof:

CHAPTER 153  
SMOKEFREE AIR

**641—153.1(142D) Definitions.** For the purposes of this chapter, definitions found in Iowa Code section 142D.2 and the following definitions apply:

“*Ashtray*” means any receptacle, including a can, bottle, bowl, tray, or other vessel that is used for extinguishing or disposing of any lighted cigar, cigarette, pipe, or other tobacco product in any manner or form including ash, cigarette butts or filters, or cigar stubs. However, “ashtray” shall not include any receptacle located outdoors and on the perimeter of any public place, the perimeter of the grounds of any public building, the perimeter of school grounds, or the perimeter of any other outdoor space subject to the prohibition in Iowa Code chapter 142D.

“*Entrance*” means any doorway to an enclosed area used by the public or employees for ingress to any public place or place of employment, but does not include any doorway designated for use as

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

an exit in an emergency only. "Entrance" also includes the commonly understood points of entry to an outdoor area, subject to the prohibitions of this chapter, such as a driveway, sidewalk, pathway, access road, gate, or dedicated point of entry, but not including a street, road, highway, or sidewalk in the public right-of-way.

*"Grounds of any public building"* means an outdoor area of a public building that is used in connection with the building, including but not limited to a sidewalk or driveway immediately adjacent to the building, but not including a sidewalk in the public right-of-way; a sitting or standing area immediately adjacent to the building; a patio; a deck; a curtilage or courtyard; a swimming or wading pool; a beach; or any other outdoor area as designated by the person having custody or control of the public building. A person having custody or control of a public building may exclude from the designated grounds of any public building the following: a parking lot, the course of play at a golf course, a hiking trail, locations of an individual campsite or campfire, or a lake, river, or other body of water. Nothing in this definition prohibits any owner, operator, manager, or other person having custody or control of an area that is exempt from the prohibitions of Iowa Code chapter 142D from declaring the entire area or property a nonsmoking place.

*"Public building"* means an enclosed area owned, leased, or operated by or under the control of the state government or its political subdivisions.

**641—153.2(142D) Duties of employers, owners, operators, managers, and persons having custody or control of a public place, place of employment, area declared nonsmoking pursuant to Iowa Code chapter 142D or outdoor areas where smoking is prohibited.**

**153.2(1)** The employer, owner, operator, manager, or person having custody or control of a place where smoking is prohibited under Iowa Code chapter 142D shall:

*a.* Not permit smoking in a public place, place of employment, outdoor area where smoking is prohibited, or area declared nonsmoking pursuant to Iowa Code chapter 142D.

*b.* Inform all current employees and all prospective employees upon application for employment of the prohibitions of Iowa Code chapter 142D.

*c.* Not retaliate against any employee, applicant for employment, or customer who exercises any rights, registers a complaint, or attempts to prosecute a violation pursuant to Iowa Code chapter 142D.

*d.* Post signs in and at every entrance to the public place, place of employment, area declared nonsmoking, and outdoor area where smoking is prohibited that inform persons that they are entering a "no smoking" facility or area.

(1) The signs shall be clear and conspicuous in or at the entrance where posted.

(2) The signs shall be at least 24 square inches in size (for example, 4 inches by 6 inches) and shall be in legible font type.

(3) The signs shall contain the words "No Smoking" or the international "no smoking" symbol; the telephone number for reporting complaints, 1.888.944.2247; and the department website, [hhs.iowa.gov/smokefreeair](https://hhs.iowa.gov/smokefreeair).

*e.* Place "no smoking" signs in every vehicle that constitutes a public place, place of employment, or area declared nonsmoking pursuant to Iowa Code section 142D.5.

(1) Such signs shall be clear and conspicuous from the exterior of the vehicle.

(2) The signs shall be at least 9 square inches (for example, 3 inches by 3 inches) and shall be in legible font type.

(3) The signs shall contain the words "No Smoking" or the international "no smoking" symbol; the telephone number for reporting complaints, 1.888.944.2247; and the department's website, [hhs.iowa.gov/smokefreeair](https://hhs.iowa.gov/smokefreeair).

(4) Nothing in this rule requires the placement of a sign in any vehicle that the director of the department of administrative services or the director of transportation orders to receive a regular registration plate pursuant to Iowa Code section 321.19.

*f.* Remove all ashtrays from areas where smoking is prohibited.

**153.2(2)** The owner or operator of a building or facility that contains more than one public place, place of employment, or area declared nonsmoking pursuant to Iowa Code chapter 142D which is

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

controlled by other employers, owners, or operators shall comply with the provisions of these rules for the area of the building or facility under the owner's or operator's control.

**153.2(3)** An employer, owner, or operator of a public place, place of employment or area declared nonsmoking pursuant to Iowa Code chapter 142D that is within a public place that is owned or operated by another person shall comply with the provisions of these rules for the area under the control of the employer, owner, or operator within that public place.

**153.2(4)** An employer, owner, operator, manager, or person having custody or control of a place where smoking is prohibited under Iowa Code chapter 142D shall inform any individual smoking in a place where smoking is prohibited that the individual is violating the smokefree air Act and shall request that the individual stop smoking immediately.

*a.* If the individual refuses to stop smoking, the employer, owner, operator, manager, or person having custody or control of the place where smoking is prohibited may discontinue service to that individual.

*b.* If the individual refuses to stop smoking, the employer, owner, operator, manager, or person having custody or control of the place where smoking is prohibited may request that the individual leave the area where smoking is prohibited.

*c.* If the individual refuses to leave the area where smoking is prohibited, the employer, owner, operator, manager, or person having custody or control of the place where smoking is prohibited may notify the state or local law enforcement agency with jurisdiction over the area where smoking is prohibited.

**641—153.3(142D) Leases.** Any lease entered into by the state or its political subdivisions shall require that all areas where smoking is prohibited pursuant to Iowa Code chapter 142D comply with the provisions of these rules and Iowa Code chapter 142D.

**641—153.4(142D) Complaints and enforcement.**

**153.4(1) Duties of department.** The department will maintain a system for receiving and investigating complaints against persons who own, operate, manage, or otherwise have custody or control of a place where smoking is prohibited and who fail to comply with the provisions of Iowa Code chapter 142D.

*a.* The department may designate one or more public agencies through a 28E agreement or other written contract to assist with enforcement.

*b.* The department may refer complaints regarding a violation to the law enforcement authorities of the state or of the political subdivision of the state in which the alleged violation occurred.

**153.4(2) Enforcement against a person who smokes in an area where smoking is prohibited.** Pursuant to Iowa Code chapter 142D, the department designates the law enforcement authorities of the state and of each political subdivision of the state to assist with enforcement. A peace officer may issue a citation in lieu of arrest pursuant to Iowa Code chapter 805 against a person who smokes in an area where smoking is prohibited pursuant to Iowa Code chapter 142D, and such person shall pay a civil penalty pursuant to Iowa Code section 805.8C(3) for each violation.

**153.4(3) Enforcement against a person who owns, operates, manages, or otherwise has control of a place where smoking is prohibited.** Pursuant to Iowa Code chapter 142D, the department designates the law enforcement authorities of the state and of each political subdivision of the state to assist with enforcement. The department or its designee may initiate a civil action against an owner, operator, manager, or person who otherwise has custody or control of a place where smoking is prohibited pursuant to Iowa Code chapter 142D, and such person shall pay the applicable civil penalty pursuant to Iowa Code chapter 142D.

**153.4(4) Manner of filing a complaint.** Any person may register a complaint with the department by calling the toll-free number, 1.888.944.2247, or registering a complaint on the department's website, [hhs.iowa.gov/smokefreeair](https://hhs.iowa.gov/smokefreeair).

**153.4(5) Contents of the complaint.** A complaint filed with the department shall include:

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*a.* The name or location of the public place, place of employment, area declared a nonsmoking place pursuant to Iowa Code chapter 142D, or outdoor area where smoking is prohibited which is the subject of the complaint;

*b.* A description of the occurrence that prompted the complaint; and

*c.* Any other information relevant to the occurrence.

**153.4(6) *Review of complaint by department.*** Upon receipt of a complaint, the department or its designee may contact the individual making the complaint to confirm the details of the complaint and obtain any additional information.

**153.4(7) *Information from inspections.*** Information received by the department of one or more violations of Iowa Code chapter 142D as a result of an inspection of a public place by the state or political subdivision of the state shall be considered a credible complaint under this rule.

**153.4(8) *Notice of potential violation.*** If the department determines that a complaint against a public place, place of employment, area declared nonsmoking pursuant to Iowa Code chapter 142D, or outdoor areas where smoking is prohibited is credible:

*a.* For the first complaint, the department shall:

(1) Issue a written notice of potential violation to the owner, operator or person having custody or control including the details of the complaint.

(2) Include in the notice educational materials about how to comply with Iowa Code chapter 142D, and information on whom to contact for further information and assistance for compliance.

*b.* For the second and subsequent complaints within one year, the department:

(1) Shall issue a subsequent notice of potential violation to the owner, operator, or person having custody or control.

(2) May authorize one or more public agencies to conduct a compliance check of the location.

(3) May pursue any remedy authorized by Iowa Code chapter 142D, including the enforcement of civil penalties.

**641—153.5(142D) *Limitation of rules.*** Nothing in these rules is intended to limit any other state administrative rule or federal regulation that prohibits smoking.

These rules are intended to implement Iowa Code chapter 142D.

**ARC 7360C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to the medical cannabidiol program and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 154, “Medical Cannabidiol Program,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 124E.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 124E.

*Purpose and Summary*

Proposed Chapter 154 implements a medical cannabidiol program for the in-state manufacture and dispensing of medical cannabis products for patients with qualifying debilitating medical conditions. Registration cards to purchase at a dispensary in Iowa are issued to patients who are at least 18 years of

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

age, who are permanent residents of Iowa, and who are determined by a health care practitioner to suffer from a medical condition that qualifies for use of medical cannabidiol. Registration cards may also be issued to the primary caregivers of such patients.

The chapter defines licensing requirements for medical cannabidiol manufacturers and dispensaries, fees for application and licensure, safety protocols, marketing and advertising restrictions, and limits on manufacturing and dispensing. Manufacturers may only manufacture products in the forms recommended by the Medical Cannabidiol Board and approved by the Board of Medicine. The General Assembly maintains sole authority to revise the definition of medical cannabidiol.

The HHS maintains a secure sales and inventory tracking system available to dispensaries 24 hours a day, seven days a week for the purpose of verifying that a person is lawfully in possession of a registration card and for tracking the date of the sale and quantity purchased. This system tracks products and inventory from creation by a manufacturer to transfers for testing and delivery, dispensing at a dispensary, and chain of custody or “seed-to-sale.”

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 4, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [compliancecerules@idph.iowa.gov](mailto:compliancecerules@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024  
11 to 11:30 a.m.

Microsoft Teams meeting ID: 212 588 466 197  
Passcode: SThXzX

February 26, 2024  
1 to 2 p.m.

Microsoft Teams meeting ID: 249 196 980 071  
Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 154 and adopt the following **new** chapter in lieu thereof:

CHAPTER 154  
MEDICAL CANNABIDIOL PROGRAM

**641—154.1(124E) Definitions.** For the purposes of these rules, the following definitions shall apply:

*“Acceptance criteria”* means the specified limits placed on characteristics of an item or method that are used to determine data quality.

*“Action level”* means the threshold value that provides the criterion for determining whether a sample passes or fails a test performed pursuant to these rules.

*“Advertisement”* means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of medical cannabidiol.

*“Analyte”* means a chemical, compound, element, bacteria, yeast, fungus, or toxin to be identified or measured.

*“Analytical batch”* means a group of samples that are prepared together for the same analysis and analyzed sequentially using the same instrument calibration curve and common analytical quality control checks.

*“Analytical method”* means a technique used qualitatively or quantitatively to determine the composition of a sample or a microbial contamination of a sample.

*“Audit”* means a review by authorized personnel that includes select scope engagement or other methods of review that analyze operational or compliance issues.

*“Background investigation”* means a thorough review of an entity, an owner, investors, and employees conducted by the department of public safety, including but not limited to state and national criminal history records, credit records, and internal revenue service records.

*“Batch”* means a specifically identified quantity of dried flower and other cannabis plant matter that is uniform in strain or cultivar, harvested at the same time, and cultivated using the same pesticides and other crop inputs.

*“Biosecurity”* means a set of preventative measures designed to reduce the risk of transmission of:

1. Infectious diseases in crops;
2. Quarantined pests;
3. Invasive alien species;
4. Living modified organisms.

*“Cannabinoid”* means a chemical compound that is unique to and derived from cannabis.

*“Cannabis”* means seeds, plants, cuttings, or plant waste material from *Cannabis sativa* L. or *Cannabis indica* used in the manufacture of medical cannabidiol.

*“CBD”* means cannabidiol, Chemical Abstracts Service number 13956-29-1.

*“CBDA”* means cannabidiolic acid, Chemical Abstracts Service number 1244-58-2.

*“Certificate of analysis”* means the report prepared for the requester about the analytical testing performed and the results obtained by a laboratory.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*Certified*” means that a laboratory demonstrates to the satisfaction of the department its ability to consistently produce valid data within the acceptance limits as specified in the department’s requirements for certification and meets the minimum requirements of this chapter and all applicable regulatory requirements.

“*Certified reference material*” means a reference material prepared by a certifying body.

“*Combusted*” means the addition of a flame to medical cannabidiol or raw flower cannabis for the purposes of burning for inhalation, or smoking cannabis.

“*Consumable hemp product*” means a hemp product that includes a substance that is metabolized or is otherwise subject to a biotransformative process when introduced into the human body.

1. A consumable hemp product may be introduced into the human body by ingestion or absorption by any device including but not limited to an electronic device.

2. A consumable hemp product may exist in a solid or liquid state.

3. A hemp product is deemed to be a consumable hemp product if it is any of the following:

- Designed by the processor, including the manufacturer, to be introduced into the human body.
- Advertised as an item to be introduced into the human body.
- Distributed, exported, or imported for sale or distribution to be introduced into the human body.

“Consumable hemp product” includes but is not limited to any of the following:

1. A noncombustible form of hemp that may be digested, such as food; internally absorbed, such as chew or snuff; or absorbed through the skin, such as a topical application.

2. Hemp processed or otherwise manufactured, marketed, sold, or distributed as food, a food additive, a dietary supplement, or a drug.

“Consumable hemp product” does not include a hemp product if the intended use of the hemp product is introduced into the human body by any method of inhalation, as prohibited under Iowa Code section 204.14A.

“*Crop input*” means any substance applied to or used in the cultivation and growth of a cannabis plant. “Crop input” includes, but is not limited to, pesticides, fungicides, fertilizers, and other soil or medium amendments.

“*Date of expiration*” means one year from the date of issuance of the medical cannabidiol registration card by the department of transportation.

“*Date of issuance*” means the date of issuance of the medical cannabidiol registration card by the department.

“*Debilitating medical condition*” means the same as defined in Iowa Code section 124E.2.

“*Dispensary*” means an individual or entity licensed by the department to dispense medical cannabidiol to patients and primary caregivers pursuant to Iowa Code chapter 124E and these rules. “Dispensary” includes the employees and agents of the dispensary.

“*Dispensary facility*” means any secured building, space, grounds, and physical structure of a dispensary licensed by the department to dispense medical cannabidiol and where the dispensing of medical cannabidiol is authorized.

“*Dispense*” or “*dispensing*” means to supply medical cannabidiol to patients pursuant to Iowa Code chapter 124E and these rules.

“*Disqualifying felony offense*” means the same as defined in Iowa Code section 124E.2.

“*Edible medical cannabidiol products*” means food items containing medical cannabidiol. “Edible medical cannabidiol products” does not include pills, tinctures, oils, or other forms of medical cannabidiol that may be consumed orally or through the nasal cavity that do not contain food or food additives; provided that food or food additives used as carriers, excipients, or processing aids shall not be considered food or food additives.

“*Field duplicate sample*” means a sample that is taken in the identical manner and from the same batch, process lot, or lot being sampled as the primary sample. A field duplicate sample is analyzed separately from the primary sample and is used for quality control only.

“*Health care practitioner*” means the same as defined in Iowa Code section 124E.2.



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*“Inspection”* means an on-site evaluation by the department, the department of public safety, or a department-approved independent consultant of facilities, records, personnel, equipment, methodology, and quality assurance practices for compliance with these rules.

*“Investor”* means a person making a cash investment of at least 5 percent interest in an applicant or licensed manufacturer or dispensary with the expectation of receiving financial returns.

*“Laboratory”* means the same as defined in Iowa Code section 124E.2.

*“Limit of detection”* or *“LOD”* means the lowest quantity of a substance or analyte that can be distinguished from the absence of that substance within a stated confidence limit.

*“Limit of quantitation”* or *“LOQ”* means the minimum concentration of an analyte in a specific matrix that can be reliably quantified while also meeting predefined goals for bias and imprecision.

*“Lot”* means a specific quantity of medical cannabidiol that is uniform and intended to meet specifications for identity, strength, purity, and composition, and that is manufactured, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling record.

*“Lot number”* means a unique numeric or alphanumeric identifier assigned to a lot by a manufacturer when medical cannabidiol is produced. The lot number shall contain the manufacturer’s number and a sequence to allow for inventory, traceability, and identification of the plant batches used in the production of a lot of medical cannabidiol.

*“Manufacture”* or *“manufacturing”* means the process of converting harvested cannabis plant material into medical cannabidiol.

*“Manufacturer”* means an individual or entity licensed by the department to produce medical cannabidiol and distribute it to dispensaries pursuant to Iowa Code chapter 124E and these rules. “Manufacturer” includes the employees and agents of the manufacturer.

*“Manufacturing facility”* means any secured building, space, grounds, and physical structure of a manufacturer for the cultivation, harvesting, packaging, processing, storage, and distribution of cannabis or medical cannabidiol and where access is restricted to designated employees of a manufacturer and escorted visitors.

*“Matrix”* means the component or substrate that contains the analyte of interest.

*“Matrix spike duplicate”* means a duplicate sample prepared by adding a known quantity of a target analyte to a field sample matrix or other matrix that is as closely representative of the matrix under analysis as possible.

*“Matrix spike sample”* means a sample prepared by adding a known quantity of the target analyte to a field sample matrix or to a matrix that is as closely representative of the matrix under analysis as possible.

*“Medical assistance program”* means IA Health Link, Medicaid Fee-for-Service, or hawki, as administered by the Iowa Medicaid enterprise of the department.

*“Medical cannabidiol”* means the same as defined in Iowa Code section 124E.2.

*“Medical cannabidiol waste”* means medical cannabidiol that is unused, unwanted, damaged, defective, expired, or contaminated and that is returned to a dispensary or manufacturer for disposal.

*“Medical cannabis goods”* means medical cannabidiol process lots, medical cannabidiol products, and cannabis plant material, including dried tissue.

*“Method blank”* means an analyte-free matrix to which all reagents are added in the same volumes or proportions as are used in sample preparation.

*“National criminal history background check”* means fingerprint processing through the department of public safety and the Federal Bureau of Investigation (FBI) and review of records on file with national organizations, courts, and law enforcement agencies to the extent allowed by law.

*“Owner”* means a person with a 5 percent or greater ownership interest in an applicant or licensed manufacturer or dispensary.

*“Patient”* means a person who is a permanent resident of the state of Iowa who suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol pursuant to Iowa Code chapter 124E and these rules.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*Patient registration number*” means the unique identification number issued to a patient by the department upon approval of a patient’s application by the department as described in these rules.

“*Percent recovery*” means the percentage of a measured concentration relative to the added (spiked) concentration in a reference material, matrix spike sample, or matrix spike duplicate.

“*Plant material*” means any plant of *Cannabis sativa* L. or *Cannabis indica*, or any part thereof, including flowers, leaves, trichomes, and tissue.

“*Plant material waste*” means plant material that is not used in the production of medical cannabidiol in a form allowable under these rules.

“*Primary caregiver*” means the same as defined in Iowa Code section 124E.2.

“*Primary care provider*” means any health care practitioner involved in the diagnosis and treatment of a patient’s debilitating medical condition.

“*Primary sample*” means a portion of a batch, process lot, or lot that is used for testing for identity, strength, purity, and composition.

“*Process lot*” means any amount of cannabinoid concentrate or extract that is uniform, produced from one or more batches, and used for testing for identity, strength, purity, and composition prior to being packaged.

“*Product expiration date*” means the date after which a medical cannabidiol product is sold by a manufacturer or a dispensary.

“*Production*” or “*produce*” means:

1. Cultivating or harvesting plant material;
2. Processing or manufacturing; or
3. Packaging of medical cannabidiol.

“*Proficiency test*” means an evaluation of a laboratory’s performance against preestablished criteria by means of interlaboratory comparisons of test measurements.

“*Qualitative analysis*” means identification of an analyte in a substance or mixture.

“*Quality assurance*” means a set of operating principles to produce data of known accuracy and precision. “Quality assurance” encompasses employee training, equipment preventative maintenance procedures, calibration procedures, and quality control testing, among other things.

“*Quality control*” means a set of measures implemented within an analytical procedure to ensure that the measurement system is operating in a state of statistical control in which errors have been reduced to acceptable levels.

“*Quality control samples*” means samples produced and used for the purpose of ensuring quality control. Quality control samples include but are not limited to blank samples, spike samples, duplicate samples, and reference material samples.

“*Reagent*” means a compound or mixture added to a system to cause a chemical reaction or to test if a reaction occurs. A reagent may be used to tell whether or not a specific chemical substance is present by causing a reaction to occur with the chemical substance.

“*Recall*” means the return of medical cannabidiol from patients and dispensaries to a manufacturer because of the potential for serious health consequences from the use of the medical cannabidiol.

“*Reference material*” means a material containing a known concentration of an analyte of interest that is in solution or in a homogeneous matrix. Reference material is used to document the bias of the analytical process.

“*Relative percent difference*” or “*RPD*” means a comparative statistic used to calculate precision or random error. RPD is calculated using the following equation:  $RPD = \frac{\text{absolute value (primary sample measurement - duplicate sample measurement)}}{([\text{primary sample measurement} + \text{duplicate sample measurement}] / 2)} \times 100$ .

“*Requester*” means a person who submits a request to a licensed testing laboratory for state-mandated testing of medical cannabis goods. The requester may be a licensed manufacturer or the department.

“*Residual solvents and processing chemicals*” means volatile organic chemicals that are used or produced in the manufacture or production of medical cannabidiol.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*Restricted access area*” means a building, room, or other contiguous area on the premises where plant material is grown, cultivated, harvested, stored, packaged, or processed for sale under control of the manufacturer, and where no person under the age of 18 is permitted.

“*Sample*” means a representative part of or a single item from a larger whole or group.

“*Sanitize*” means to sterilize, disinfect, or make hygienic.

“*Security alarm system*” means the same as defined in rule 661—277.2(100C).

“*Semiquantitative analysis*” means less than quantitative precision and does not involve a full calibration. Analyte identification is based on a single-point reference or high-probability library match. The determination of amount uses the ratio of the unknown chemical analyte to that of a known analyte added to the sample before analysis. Uncertainty for semiquantitative results is higher than for quantitative results.

“*Significant figures*” means the number of digits used to express a measurement.

“*Stability study*” or “*studies*” means the process of determining the shelf-life or expiration date of a medical cannabidiol product. After storage of an unopened package of medical cannabidiol at a licensed manufacturing facility or dispensary facility, the contents shall not vary in concentrations of THC and CBD by more than an amount determined by the department and listed in the laboratory testing requirements and acceptance criteria document described in 641—Chapter 154.

“*Standard operating procedure*” means a written document that provides detailed instructions for the performance of all aspects of an analysis, operation, or action.

“*Synthetic or semisynthetic cannabinoid*” means a cannabinoid extracted from a cannabis plant, a cannabis flower, a hemp plant, or hemp plant parts with a chemical makeup that is changed after extraction to create a different cannabinoid or other chemical compound by applying a catalyst other than heat or light. “Synthetic or semisynthetic derived cannabinoid” includes but is not limited to any tetrahydrocannabinol created from cannabidiol.

“*Tamper-evident*” means that one or more one-time-use seals are affixed to the opening of a package, allowing a person to recognize whether or not the package has been opened.

“*Testing laboratory record*” means information relating to the testing laboratory and the analyses it performs that is prepared, owned, used, or retained by the laboratory and includes electronic files and video footage.

“*THC*” or “*delta-9 THC*” means tetrahydrocannabinol, Chemical Abstracts Service number 1972-08-3.

“*THCA*” means tetrahydrocannabinolic acid, Chemical Abstracts Service number 23978-85-0.

“*Total tetrahydrocannabinol*” means 87.7 percent of the amount of tetrahydrocannabinolic acid plus the amount of tetrahydrocannabinol.

“*Tracking number*” means the sales identification number assigned by a dispensary to a transaction at the time of the sale of a medical cannabidiol product.

“*Trade name*” means the name that manufacturers give to a product or range of products.

“*Validation*” means the confirmation by examination and objective evidence that the particular requirements for a specific intended use are fulfilled.

“*Vaporization*” means the heating of a medical cannabidiol concentrate or extract to a specific temperature using a device. For the purposes of these rules, vaporization does not include raw or dried cannabis flower.

“*Valid photo identification*” means any of the following for a patient or primary caregiver: (1) valid Iowa driver’s license, (2) valid Iowa nonoperator’s identification card, (3) an alternative form of valid photo identification. An individual who possesses or is eligible for a driver’s license or a nonoperator’s identification card shall present such document as valid photo identification. An individual who is ineligible to obtain a driver’s license or a nonoperator’s identification card may apply for an exemption and request submission of an alternative form of valid photo identification. An individual who applies for an exemption is subject to verification of the primary caregiver’s identity through a process established by the department to ensure the genuineness, regularity, and legality of the alternative form of valid photo identification.

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*“Written certification”* means a document signed by a health care practitioner, with whom the patient has established a patient-provider relationship, which states that the patient has a debilitating medical condition and identifies that condition and provides any other relevant information.

## REGISTRATION CARDS

**641—154.2(124E) Health care practitioner certification—duties and prohibitions.**

**154.2(1)** Prior to a patient’s submission of an application for a medical cannabidiol registration card pursuant to this rule, a health care practitioner shall follow all provisions of Iowa Code section 124E.3, this chapter and requests from the department for more information.

*a.* The written documentation required by Iowa Code section 124E.3(1) “*a*” shall be submitted on the application form at the department’s website.

*b.* Explanatory information pursuant to Iowa Code section 124E.3(1) “*b*” is located at the department’s website.

**154.2(2)** A health care practitioner may make a written request to the department to rescind a written certification the practitioner previously provided, based on reasons deemed appropriate by the health care practitioner.

**154.2(3)** Health care practitioner prohibitions. A health care practitioner shall not:

*a.* Accept, solicit, or offer any form of remuneration from or to any individual, including but not limited to a patient, a primary caregiver, or an employee, investor, or owner of a manufacturer or dispensary for the purposes of:

(1) Certifying a patient’s condition, other than accepting a fee for a patient consultation to determine if the patient should be issued a certification under Iowa Code chapter 124E.

(2) Certifying an individual as a primary caregiver, other than accepting a fee for a consultation to determine if the individual is a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabidiol.

*b.* Advertise the certification of patients as one of the health care practitioner’s services.

*c.* Certify a qualifying debilitating medical condition for a patient who is the health care practitioner or a family or household member of the health care practitioner.

*d.* Be designated to act as a primary caregiver for a patient for whom the health care practitioner has certified a qualifying debilitating medical condition.

*e.* Receive or provide medical cannabidiol product samples.

**641—154.3(124E) Medical cannabidiol registration card—application and issuance to patient.**

**154.3(1)** The department may issue a registration card to a patient who meets the criteria listed at Iowa Code section 124E.4(1). The application form is available on the department’s website. The department shall not approve an application that does not include the information requested on the application form.

**154.3(2)** Upon the completion, verification, and approval of the patient’s application and the receipt of the required fee, the department shall issue a registration card to the patient.

**154.3(3)** A registration card issued to a patient shall contain all of the following:

*a.* The patient’s full legal name, Iowa residence address, date of birth, and sex designation, as shown on the patient’s valid photo identification. If the patient’s information has changed since the issuance of the patient’s valid photo identification, the patient shall first update the patient’s valid identification to reflect the patient’s current information.

*b.* The date of issuance and the date of expiration, which shall be one year from the date of issuance.

*c.* A distinguishing registration number that is not the patient’s social security number.

*d.* A statement that the registration card is not valid for identification purposes.

**154.3(4)** Every patient 18 years of age or older must obtain a valid registration card to use medical cannabidiol in Iowa.

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**154.3(5)** An authorization to use medical cannabidiol or cannabis for medicinal purposes issued by another state, territory, or jurisdiction does not satisfy the requirements of Iowa Code chapter 124E and is not a valid registration card for purposes of purchasing medical cannabidiol at dispensaries in Iowa.

**641—154.4(124E) Medical cannabidiol registration card—reciprocity.** A registration card's reciprocity with other states is established in Iowa Code section 124E.18.

**154.4(1)** A patient with a valid registration card from another state or jurisdiction maintains the affirmative defense for possession of medical cannabidiol provided the cannabis product in the patient's possession may be manufactured and sold at a licensed dispensary in Iowa.

**154.4(2)** A patient with a valid registration card under the laws of another state or jurisdiction has no affirmative defense for possession of medical cannabidiol if the cannabis product in their possession may not be manufactured and sold at a licensed dispensary in Iowa. Prohibited forms of medical cannabidiol include:

- a. Raw cannabis flower that may be combusted or smoked;
- b. Edible products with a "total THC" concentration greater than 0.3 percent that is not a consumable hemp product.

**641—154.5(124E) Medical cannabidiol registration card—application and issuance to primary caregiver.**

**154.5(1)** For a patient in a primary caregiver's care, the department may issue a registration card to a primary caregiver who meets the criteria listed at Iowa Code section 124E.4(3). The application form is available on the department's website. The department shall not approve an application that does not include the information requested on the application form.

**154.5(2)** Upon the completion, verification, and approval of the primary caregiver's application, the department shall issue a registration card to the primary caregiver.

**154.5(3)** A registration card issued to a primary caregiver shall contain all of the following:

a. The primary caregiver's full legal name, current residence address, date of birth, and sex designation, as shown on the primary caregiver's valid photo identification. If the primary caregiver's information has changed since issuance of the primary caregiver's valid photo identification, the primary caregiver shall first update the primary caregiver's valid photo identification to reflect the primary caregiver's current information.

b. The date of issuance and the date of expiration, which shall be one year from the date of issuance.

c. A distinguishing registration number that is not the primary caregiver's social security number.

d. The registration number for each patient in the primary caregiver's care. This number shall not be the primary caregiver's or patient's social security number. If the patient in the primary caregiver's care is under the age of 18, the full name of the patient's parent or legal guardian shall be printed on the primary caregiver's registration card in lieu of the patient's registration number.

e. A statement that the registration card is not valid for identification purposes.

f. A statement distinguishing the registration cardholder as a primary caregiver.

**154.5(4)** An authorization to use, or to act as a primary caregiver for a patient authorized to use medical cannabidiol or cannabis for medicinal purposes issued by another state, territory, or jurisdiction does not satisfy the requirements of Iowa Code chapter 124E and is not a valid registration card for purposes of purchasing medical cannabidiol at dispensaries in Iowa.

**641—154.6(124E) Denial and cancellation.** The department may deny an application for a registration card, or may cancel a registration card, for any of the following reasons:

1. Information contained in the application is illegible, incomplete, falsified, misleading, deceptive, or untrue.

2. The department is unable to verify the identity of the applicant from the photo identification or other documentation presented during application.

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3. The department has reasonable belief, or proof, that the patient is engaged in diversion of medical cannabidiol.
4. The applicant violates or fails to satisfy any of the provisions of Iowa Code chapter 124E or these rules.
5. A patient, the patient's legal guardian, or other person with durable power of attorney requests in writing that the department cancel the patient's registration card. The department shall notify a primary caregiver in writing when the registration card of the primary caregiver's patient has been canceled.
6. A primary caregiver requests in writing that the department cancel the primary caregiver's registration card. The department shall notify a patient in writing when the registration card of the patient's primary caregiver has been canceled.
7. The department becomes aware of the death of a patient or primary caregiver.
8. A health care practitioner requests in writing that the department rescind the written certification the practitioner provided to a patient or caregiver.
9. A patient requests in writing that the department cancel the patient's primary caregiver's registration card.

**641—154.7(124E) Appeal.**

**154.7(1)** *Written notice of denial or cancellation.* If the department denies an application for or cancels a registration card, the department shall inform the applicant or cardholder of the denial or cancellation, state the reasons for the denial or cancellation in writing, and state the effective date of the denial or cancellation. If the department cancels a card upon request from a patient or primary caregiver, or the department becomes aware of the death of a patient or primary caregiver, the cancellation is effective immediately upon issuance of the written notice of cancellation. If the department cancels a card upon any other ground listed, the cancellation shall become effective 30 days following issuance of the written notice of cancellation.

**154.7(2)** *Effect of written notice of cancellation on use and possession of medical cannabidiol.* A cardholder is authorized to purchase, possess, and use medical cannabidiol up to and including the effective date of the cancellation. For purposes of the affirmative defenses in Iowa Code section 124E.12, a patient or primary caregiver shall be deemed to be in possession of a valid registration card up to and including the effective date of the cancellation.

**154.7(3)** *Request for appeal.* A request for appeal concerning the denial or cancellation of a registration card shall be submitted pursuant to the provisions of 441—Chapter 7. In the event of a timely appeal, cancellation of the card shall be deemed to be suspended pending the outcome of the contested case proceeding. If the cancellation is affirmed following the contested case proceeding, the card cancellation shall become effective 30 days following issuance of the department's final agency action.

**641—154.8(124E) Duplicate card.**

**154.8(1)** *Lost, stolen, or destroyed card.* To replace a registration card that is lost, stolen, or destroyed, a cardholder shall present to the department the cardholder's valid photo identification that was provided at the time of application.

**154.8(2)** *Change in card information and voluntary replacement.*

*a.* To replace a registration card that is damaged, the cardholder shall surrender the card to be replaced to the department and present the cardholder's valid photo identification that was provided at the time of application.

*b.* A patient or primary caregiver to whom a registration card is issued shall notify the department of a change in information listed on the card, within ten calendar days of the change. To replace a registration card to change the patient or primary caregiver's information, the cardholder shall surrender the card to be replaced to the department and present the patient or primary caregiver's updated valid photo identification.

*c.* To replace a registration card held by a primary caregiver to change, add, or remove a patient's registration number or the name of a patient's parent or legal guardian listed on the primary

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caregiver's card, the primary caregiver shall submit a new application to the department pursuant to rule 641—154.5(124E). A registration card issued pursuant to this paragraph shall not be considered a duplicate card.

**154.8(3) Expiration date.** A duplicate registration card shall have the same expiration date as the registration card being replaced, changed, or amended.

**641—154.9(124E) Renewal.** A registration card shall be valid for one year from the date of issuance, unless canceled. Renewal of a registration card will follow the application and issuance rules of this chapter.

**641—154.10(124E) Confidentiality.** The department will follow the confidentiality provisions in Iowa Code section 124E.11(1).

**154.10(1)** Personally identifiable information of patients and primary caregivers will be maintained as confidential and is not accessible to the public. The department will release aggregate and statistical information regarding the registration card program in a manner that prevents the identification of any patient or primary caregiver.

**154.10(2)** Personally identifiable information of patients and primary caregivers may be disclosed only pursuant to Iowa Code section 124E.11(1)“b” and to a patient, primary caregiver, or health care practitioner, upon written authorization of the patient or primary caregiver.

**641—154.11(124E) Fees.** All fees are nonrefundable. Application fees are established in Iowa Code section 124E.4.

**641—154.12(124E) Consumption of medical cannabidiol.** Medical cannabidiol should be consumed privately, and patients are subject to all applicable laws regarding public impairment and operating a vehicle, including but not limited to Iowa Code section 123.46 and chapter 321J. Medical cannabidiol products shall not be consumed on the property of a medical cannabidiol dispensary or manufacturer.

**641—154.13(124E) Allowable forms of medical cannabidiol.**

**154.13(1) Modification of allowable forms.** Allowable forms of medical cannabidiol may be modified by approval of a recommendation by the medical cannabidiol board, subsequent approval of the board of medicine, and adoption of the recommendations by the department.

**154.13(2) Allowable forms.**

*a.* A manufacturer may only manufacture medical cannabidiol in the following forms:

(1) Oral forms, including but not limited to:

1. Tablet.
2. Capsule.
3. Liquid.
4. Tincture.
5. Sublingual.

(2) Topical forms, including but not limited to:

1. Gel.
2. Ointment, cream or lotion.
3. Transdermal patch.

(3) Inhaled forms, limited to:

1. Nebulizable.
2. Vaporizable.

(4) Rectal/vaginal forms, including but not limited to suppository.

*b.* A manufacturer shall not produce medical cannabidiol in any form that may be smoked.

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- c. A manufacturer shall not produce edible medical cannabidiol products.

## MANUFACTURER AND DISPENSARY LICENSING

**641—154.14(124E) Notice to law enforcement.** The department shall notify local law enforcement agencies and the department of public safety of the locations of manufactures and dispensaries. If the department has sufficient cause to believe that there is a threat to public safety, the department shall notify local law enforcement agencies and the department of public safety.

**641—154.15(124E) Manufacturer and dispensary licensure.**

**154.15(1)** To be eligible for licensure, an applicant manufacturer or dispensary shall complete a background investigation pursuant to Iowa Code section 124E.19. Applicants must provide information on forms and in a manner required by the department of public safety.

**154.15(2)** The license shall be renewed annually unless a manufacturer or dispensary relinquishes the license, there is a change in state law prohibiting the department from renewing the license, or the license is revoked pursuant to Iowa Code chapter 124E or these rules.

**154.15(3)** A license to manufacture or dispense medical cannabidiol issued by the department is not assignable or transferable.

**641—154.16(124E) Collection of fees in competitive licensing.** Except as provided in this rule, all fees are nonrefundable, shall be retained by the department, and shall be considered repayment receipts as defined in Iowa Code section 8.2.

**154.16(1) Fees to the department for manufacturers and dispensaries.**

a. Fees for manufacturing applicants are established by Iowa Code section 124E.6(4). Fees for dispensary applicants are established by Iowa Code section 124E.8(4).

b. Licensed manufacturers and dispensaries shall pay an annual fee to the department to cover costs associated with regulating and inspecting, and for other expenses necessary for the administration of the medical cannabidiol program. The department shall assess the fee with the notice of approval of license, payable to the department no later than December 1. Annual fees assessed by the department shall not exceed \$100,000 for a manufacturing license and shall not exceed \$50,000 for a dispensary license.

**154.16(2) Fees to the department of public safety.**

a. An applicant manufacturer or dispensary shall reimburse the department of public safety the full cost of conducting background investigations related to an application for licensure. The department of public safety retains the right to bill a licensee for additional background investigations, as needed.

b. Each manufacturer or dispensary awarded a license shall, at the time of notice of award to license, submit to the department of public safety a deposit of \$10,000 for each business owner subject to a background investigation and a national criminal history background check. Background investigation costs shall be deducted from the funds deposited. If the background investigation fees exceed the funds deposited, the applicant shall submit additional funds as required by the department of public safety. If the background investigation fees are less than the funds deposited, the department of public safety may refund or retain the fees as mutually agreed with the manufacturer or dispensary.

c. A licensed manufacturer or dispensary shall pay a deposit of \$200 per employee to the department of public safety for a background investigation and a national criminal history background check on any person being considered for hire as an employee of the manufacturer or dispensary. Background investigation costs shall be deducted from the funds deposited. If the background investigation fees exceed the funds deposited, the manufacturer or dispensary shall submit additional funds as required by the department of public safety. If the background investigation fees are less than the funds deposited, the department of public safety may refund or retain the fees as mutually agreed with the manufacturer or dispensary. The department shall retain the right to preclude a potential



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employee from hire based upon the results of the background investigation and national criminal history background check.

**154.16(3) Criminal background checks.**

*a.* A manufacturer or the owner of a dispensary shall not have been convicted of a disqualifying felony offense and shall be subject to a background investigation conducted by the department of public safety, including but not limited to a national criminal history record check.

*b.* An employee of a manufacture or a dispensary shall not have been convicted of a disqualifying felony offense and shall be subject to a background investigation conducted by the department of public safety, including but not limited to a national criminal history background check.

*c.* An applicant or licensed manufacture or dispensary shall respond within 30 days to a request from the department or the department of public safety for more information to complete a background investigation and national criminal history background check on an owner, investor, or employee.

**641—154.17(124E) Licensure renewal.**

**154.17(1)** A licensed manufacturer or dispensary shall apply to renew its license with the department at least six months before the license expires. The application shall be submitted on a form on the department's website.

**154.17(2)** The department shall notify a manufacturer or dispensary of the decision to approve or deny the manufacturer or dispensary's license by August 1 of the year in which the renewal application is submitted.

**641—154.18(124E) Suspension or revocation of a manufacturing or dispensary license.**

**154.18(1)** The department may suspend or revoke a manufacturer or dispensary license upon any of the following grounds:

*a.* Submission of false, inaccurate, misleading, or fraudulent information to the department in the application or inspection processes.

*b.* Failure to submit required reports and documents.

*c.* Violation of Iowa Code chapter 124E or these rules, or violation of state or local law related to operation of the licensee.

*d.* Conduct or practices detrimental to the safety, health, or welfare of a patient, primary caregiver, or the public.

*e.* Criminal, civil, or administration action taken against a license or registration in this or another state or country related to manufacturing or dispensing medical cannabidiol.

*f.* False, misleading, or deceptive representations to the department, another state or federal agency, or a law enforcement agency.

*g.* Discontinuance of operation for more than 30 days, unless the department approves an extension of such period for good cause shown.

*h.* Failure to maintain effective controls against diversion, theft, or loss of medical cannabidiol.

*i.* Failure to correct a deficiency within the time frame required by the department.

*j.* Failure of a manufacturer or dispensary's business owner or investors to have a satisfactory result in a background investigation or national criminal history background check as determined by the department.

**154.18(2)** The department shall notify the manufacturer or dispensary of the proposed action pursuant to Iowa Code sections 17A.12 and 17A.18. Notice of issuance of a suspension or revocation shall be served by restricted certified mail, return receipt requested, or by personal service.

**154.18(3)** A request for appeal concerning the suspension or revocation of a license shall be submitted pursuant to the provisions of 441—Chapter 7.

**641—154.19(124E) Assessment of penalties.** The department shall assess to a manufacturer a civil penalty of up to \$1,000 per violation of Iowa Code chapter 124E or these rules in addition to other applicable penalties.

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**641—154.20(124E) Closure of operations.**

**154.20(1)** A manufacturer or dispensary shall notify the department at least six months before the closure of the manufacturing facility.

**154.20(2)** If a manufacturer or dispensary ceases operation, the manufacturer or dispensary shall work with the department to verify the remaining inventory of the manufacturer or dispensary and ensure that any plant material, plant material waste, and/or medical cannabidiol products are destroyed at a waste facility or returned to a manufacturer.

**641—154.21(124E) Manufacturer and dispensary security requirements.**

**154.21(1) *Restricted access.*** A manufacturer or dispensary shall limit entrance to all restricted areas by completing all of the following:

a. Mark restricted access areas with signs that state: “Do Not Enter – Restricted Access Areas Limited to Authorized Personnel Only”.

b. Use a controlled access system that:

(1) Limits access to authorized individuals;

(2) Maintains a log of individuals with approved access, including dates of approvals and revocations;

(3) Tracks times of personnel entry to and exit from the facility;

(4) Stores data for retrieval for a minimum of one year; and

(5) Limits access to authorized individuals in the event of a power failure.

c. If the controlled access system cannot electronically record visitors, visitors to restricted access areas sign manifests with name, date, and times of entry and exit. These manifests shall be kept and stored for a minimum of one year.

d. Visitors wear badges that are visible at all times and identify them as visitors.

e. If requested by the department, submit stored controlled access system data to the department within five business days.

**154.21(2) *Perimeter intrusion detection system.***

a. *Computer-controlled video surveillance system.* A manufacturer or dispensary shall operate and maintain a computer-controlled, closed-circuit television surveillance system on its premises that operates 24 hours per day, seven days a week, and visually records:

(1) All phases of medical cannabidiol production, if applicable;

(2) All areas that might contain plant material and/or medical cannabidiol;

(3) All points of entry and exit;

(4) The entrance to the video surveillance control room; and

(5) Parking areas, which shall have appropriate lighting for the normal conditions of the area under surveillance.

b. *Camera specifications.* Cameras shall:

(1) Capture clear and certain identification of any person entering or exiting a manufacturer or dispensary or its parking areas;

(2) Produce a clear, color still photograph live or from a recording;

(3) Have an embedded date-and-time stamp that is synchronized to the recording and does not obscure the picture; and

(4) Continue to operate during a power outage.

c. *Video recording specifications.* Video recording equipment shall:

(1) Export still images in an industry standard image format, such as .jpg, .bmp, or .gif;

(2) Archive exported video in a format that ensures authentication and guarantees that the recorded image has not been altered; and

(3) Save exported video shall be saved in an industry standard file format that can be played on a standard computer operating system.

d. *Location.* A dispensary shall maintain all security system equipment and recordings in a secure location to prevent theft, loss, destruction, corruption, and alterations.

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*e. Retention.* A manufacturer or dispensary shall ensure that recordings from all video cameras are:

- (1) Available for viewing by the department upon request;
- (2) Retained for at least 60 days; and
- (3) Maintained free of alteration or corruption.

*f. Required signage.* A manufacturer or dispensary shall post a sign in capital letters in a conspicuous location at every entrance to the manufacturing facility or dispensary that reads, "THESE PREMISES ARE UNDER CONSTANT VIDEO SURVEILLANCE."

**154.21(3) Security alarm system requirements.**

*a.* A manufacturer or dispensary shall use a professionally monitored security alarm system that provides intrusion and fire detection of all the following:

- (1) Dispensary entrances and exits;
- (2) Facility entrances and exits;
- (3) Rooms with exterior windows;
- (4) Rooms with exterior walls;
- (5) Roof hatches;
- (6) Skylights; and
- (7) Storage rooms.

*b.* A manufacturer or dispensary's security alarm system and all devices shall continue to operate during a power outage.

*c.* A manufacturer or dispensary shall provide documentation of the annual inspection and device testing, by a qualified alarm vendor, to the department upon request.

**154.21(4) Personnel identification system.** A manufacturer or dispensary shall use a personnel identification system that controls and monitors individual employee access to restricted access areas.

*a.* An employee identification card shall contain:

- (1) The name of the employee;
- (2) The date of issuance and expiration;
- (3) An alphanumeric identification number that is unique to the employee; and
- (4) A photographic image of the employee.

*b.* A manufacturer or dispensary's employee shall keep the identification card visible at all times when the employee is in a manufacturing facility, a dispensary, or a vehicle transporting medical cannabidiol.

*c.* Upon termination or resignation of an employee, a manufacturer or dispensary shall immediately:

- (1) Revoke the employee's access to the manufacturing facility or dispensary; and
- (2) Destroy the employee's identification card, if possible.

**641—154.22(124E) Advertising and marketing.**

**154.22(1) Permitted marketing and advertising activities.** A manufacturer or dispensary must include medical cannabidiol pricing and hours of operation on its website and may do the following:

*a.* Display the manufacturer or dispensary's business name and logo on medical cannabidiol labels, signs, website, and informational material provided to patients. The name or logo shall not include:

- (1) Images of cannabis or cannabis-use paraphernalia;
- (2) Colloquial references to cannabis;
- (3) Names of cannabis plant strains or varieties;
- (4) Unsubstantiated medical claims; or
- (5) Medical symbols that bear a reasonable resemblance to established medical associations.

*b.* Display signs on the manufacturing facility or dispensary; and

*c.* Maintain a business website that contains the following information:

- (1) The manufacturer or dispensary's name and contact information;
- (2) The medical cannabidiol forms and quantities manufactured or available in Iowa; and
- (3) Other information as approved by the department.

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**154.22(2) Prohibited conduct, statements and illustration.**

a. An advertisement for medical cannabidiol shall not contain:

- (1) Colloquial references to cannabis;
  - (2) Names of cannabis plant strains or varieties;
  - (3) Any statement that is false or misleading;
  - (4) Any statement that disparages a competitor's products;
  - (5) Any statement, design, or representation, picture or illustration that is obscene or indecent;
  - (6) Any statement, design, representation, picture or illustration that reasonably appeals to or targets children. Appealing to children means:
    1. When taken literally or as a plain language reading, there is a resemblance to food or product used by children;
    2. Contains child-appealing visuals/graphics, such as intense colors, bubble letters, or other interesting fonts or lettering;
    3. Unconventional or interesting product names;
    4. Unconventional or unexpected flavor, color, or shape of the product;
    5. Games or activities present on the package; or
    6. Presence of branded characters, spokespersons, licensed characters, cartoons, or celebrities;
    - (7) Any statement, design, representation, picture or illustration that encourages or represents the use of medical cannabidiol for a condition other than a qualifying debilitating medical condition;
    - (8) Any statement, design, representation, picture or illustration that encourages or represents the recreational use of medical cannabidiol or marijuana, tobacco or nicotine products, or alcohol;
    - (9) Any statement, design, representation, picture or illustration related to the safety or efficacy of medical cannabidiol, unless supported by substantial evidence, substantial clinical data, and/or direct patient testimonials;
    - (10) Any statement, design, representation, picture or illustration portraying anyone reasonably appearing to be under the age of 18, objects suggestive of the presence of anyone under the age of 18, or containing the use of a figure, symbol or language that is customarily associated with anyone under the age of 18, except that an advertisement may address medical cannabidiol products as they relate to minor patients;
    - (11) Any offer of a prize, award or inducement to a qualifying patient, primary caregiver, or health care practitioner related to the purchase of medical cannabidiol or a certification for the use of medical cannabidiol, except that non-product specific price discounts are allowed;
    - (12) Any statement or assertion that medical cannabidiol products are safe because they are regulated under this chapter or have been tested by an approved laboratory;
    - (13) Any reference to a prohibited form of medical cannabidiol;
    - (14) Any statement that claims that medical cannabidiol products are endorsed or supported by any government agency; or
    - (15) Any statement that indicates or implies that the product or entity in the advertisement has been approved or endorsed by the department, the state of Iowa or any person or entity associated with the state of Iowa.
- b. A manufacturer or dispensary shall not engage in any of the following activities:
- (1) Host, promote, refer, or otherwise advertise a third-party patient certification service;
  - (2) Engage in any advertising, marketing, or branded educational activities within 1,000 feet of a school;
  - (3) Host, promote, sponsor, or otherwise participate in a cannabis consumption lounge or other such encouragement of public consumption of cannabis or medical cannabidiol; or
  - (4) Advertise, or make reference to, non-approved forms of medical cannabidiol in any of its advertisements, including, but not limited to:
    1. Referring to an approved form of medical cannabidiol as a prohibited form of medical cannabidiol.

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2. Advertising non-approved forms of medical cannabidiol. Consumable hemp products regulated under Iowa Code chapter 204 and 641—Chapter 156 are exempt from this provision.

**154.22(3) Review of advertisements by the department.** Any advertisement for medical cannabidiol shall be submitted to the department, on a form or in a format prescribed by the department, at the same time as, or prior to, the dissemination of the advertisement.

a. The department may:

(1) Require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the department determines that the advertisement would be false or misleading without such a disclosure; or

(2) Require changes that are necessary to protect the public health, safety and welfare; or

(3) Require statements for inclusion in the advertisement to address the specific efficacy of medical cannabidiol as it relates to specific disease states or approved debilitating medical conditions, disease symptoms, and population groups.

b. The department reserves the right to require that a licensee amend or remove a public advertisement.

**641—154.23(124E) Sales and inventory tracking system.** The department shall establish and maintain a secure, electronic system that is available 24 hours a day, seven days a week to track:

1. Inventory of plant material and medical cannabidiol;
2. Transport of plant material, and laboratory samples;
3. Application and use of crop inputs and other solvents and chemicals;
4. Sales of medical cannabidiol to dispensaries;
5. Sales of medical cannabidiol from dispensaries to patients and primary caregivers.

**641—154.24(124E) Financial transactions.**

**154.24(1)** A manufacturer or dispensary shall maintain records that reflect all financial transactions and the financial condition of the business.

**154.24(2)** The following records shall be maintained for at least five years and made available for review, upon request of the department:

a. Purchase invoices, bills of lading, sales records, copies of bills of sale, and any supporting documents, to include the items or services purchased, from whom the items were purchased, and the date of purchase;

b. Bank statements and canceled checks for all business accounts;

c. Accounting and tax records; and

d. Records of all financial transactions, including contracts and agreements for services performed or services received.

**641—154.25(124E) Inspection by department or independent consultant.** A manufacturer or dispensary is subject to reasonable inspection by the department, a department-approved consultant, or other agency pursuant to Iowa Code chapter 124E and these rules and as authorized by laws and regulations.

**154.25(1) Types of inspections.** Inspections may include:

a. Aspects of the business operations;

b. The manufacturing facility or the physical location of a dispensary, including any storage facility;

c. Vehicles used for transport or delivery of medical cannabidiol or plant material;

d. Financial information and inventory documentation;

e. Physical and electronic security alarm systems;

f. Health and sanitary inspection; and

g. Other inspections as determined by the department.

**154.25(2) Compliance required.** A manufacturer or dispensary shall respond to deficiencies found during inspections or inventory reconciliation as follows:

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- a.* Deficiencies not related to inventory reconciliation.
  - (1) Upon written notification by the department of deficiencies that do not involve reconciliation of inventory, a manufacturer or dispensary shall have up to 30 days to submit an action plan to the department with proposed remedies and timelines for completion of the remedies.
  - (2) The department shall have up to two weeks to accept or require revision of the action plan.
- b.* Deficiencies related to inventory reconciliation.
  - (1) Upon notifying the department that the manufacturer or dispensary cannot reconcile the physical inventory with the inventory recorded in the secure sales and inventory tracking system, the manufacturer or dispensary shall have up to two business days to submit an action plan to the department with proposed remedies and timelines for completion of the remedies.
  - (2) The department shall have up to two business days to accept or require revision of the action plan.
  - (3) Failure to complete actions in the action plan within the timelines mutually agreed upon by the manufacturer and the department shall result in assessment of penalties or in suspension or revocation of a manufacturer or dispensary license.
  - (4) At the department's request and in a timely manner, a manufacturer or dispensary shall pay for and undergo an independent health and sanitary inspection in accordance with this rule.

## MANUFACTURING

**641—154.26(124E) Manufacturer operations.****154.26(1) Operating documents.**

- a.* A manufacturer shall maintain operating documents that accurately reflect the manufacturer's standard operating procedures. Unless otherwise noted, a manufacturer shall make the operating documents available to the department upon request, through secure means.
- b.* The operating documents of a manufacturer shall include all of the following:
  - (1) Procedures for the oversight of the manufacturer, including descriptions of operational and management practices regarding:
    - 1. The forms and quantities of medical cannabidiol products that are produced at the manufacturing facility;
    - 2. The methods of planting, harvesting, drying, and storing cannabis. A manufacturer may make operating documents for these procedures available on site only;
    - 3. The estimated types and amounts of all crop inputs used in the production of medical cannabidiol;
    - 4. The disposal methods for all waste materials;
    - 5. Employee training methods for the specific phases of production. A manufacturer may make operating documents for these procedures available on site only;
    - 6. Biosecurity measures and standard operating procedures used in the production and manufacturing of medical cannabidiol. A manufacturer may make operating documents for these procedures available on site only;
    - 7. Strategies for identifying and reconciling discrepancies in inventory of plant material or medical cannabidiol;
    - 8. Sampling strategy and quality testing for labeling purposes. A manufacturer may make operating documents for these procedures available on site only;
    - 9. Medical cannabidiol packaging and labeling procedures;
    - 10. Procedures for recall of medical cannabidiol;
    - 11. Plans for responding to a security breach at a manufacturing facility or while medical cannabidiol is in transit to a dispensary. A manufacturer may make operating documents for these procedures available on site only;
    - 12. A business continuity plan. A manufacturer may make this operating document available on site only;
    - 13. Records relating to all transport activities; and

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14. Other information requested by the department.
- (2) Procedures to ensure accurate recordkeeping.
- (3) Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabidiol and unauthorized entrance into areas containing medical cannabidiol. A manufacturer may make operating documents for these procedures available on site only.

**154.26(2) Prohibited activities.** In addition to following all provisions of Iowa Code section 124E.7, a manufacturer shall not:

- a. Produce or manufacture medical cannabidiol in any location except in those areas approved by the department;
- b. Sell, deliver, transport, or distribute medical cannabidiol from any location except its manufacturing facility or a dispensary facility;
- c. Produce or manufacture medical cannabidiol in Iowa for sales or distribution outside of Iowa;
- d. Sell or distribute medical cannabidiol to any person or business other than a dispensary or manufacturer licensed by the department under Iowa Code chapter 124E;
- e. Refuse to sell, deliver, transport, or distribute medical cannabidiol in any form or quantity produced by the manufacturer to a dispensary, unless deemed appropriate in the manufacturer's reasonable business judgment and approved by the department in writing;
- f. Transport or deliver medical cannabidiol to any location except as allowed in subrule 154.22(1);
- g. Introduce synthetic or semisynthetic cannabinoids derived from hemp into medical cannabidiol products;
- h. Produce synthetic or semisynthetic cannabinoids within the licensed manufacturing facility.

**641—154.27(124E) Recordkeeping requirements.**

**154.27(1) Manufacturer sales and distribution.** A manufacturer shall maintain complete and accurate electronic sales transaction records in the department's secure sales and inventory tracking system, including:

- a. The date of each sale or distribution;
- b. The item number, product name and description, and quantity of medical cannabidiol sold or otherwise distributed; and
- c. The sale price.

**154.27(2) Manufacturer operations and inventory reporting other records.**

a. A manufacturer or dispensary shall maintain the following for at least five years, unless otherwise noted, and provide to the department upon request:

- (1) All personnel records;
- (2) Records of any theft, loss, or other unaccountability of any medical cannabidiol or plant material;
- (3) Transportation manifests and incident reports; and
- (4) Records of all samples sent to a testing laboratory and the quality assurance test results.

b. A manufacturer or dispensary shall maintain for at least one year and provide to the department upon request its controlled access system data and visitor manifests.

**154.27(3) Manufacturer entry into the secure sales and tracking system.**

a. A manufacturer or dispensary shall use the secure sales and inventory tracking system to maintain the following:

- (1) Batch and harvest records;
- (2) Crop input and additive records;
- (3) Extraction and production records;
- (4) Transportation records;
- (5) Inventory records;
- (6) Solvent and processing chemical records; and
- (7) Other records as determined by the department.

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b. Unless otherwise provided in these rules, a manufacturer shall adhere to the following schedule for entering data into the secure sales and inventory tracking system. A manufacturer shall enter data in real time for data related to:

- (1) Transport of medical cannabidiol, plant material, and laboratory samples;
- (2) Sales of medical cannabidiol to dispensaries;
- (3) The creation of process lots containing a unique identifier; and
- (4) The creation of package lots containing a unique identifier.

c. A manufacturer shall enter inventory reports on key inventory events into the secure sales and inventory tracking system within five business days in which the event occurred. These inventory reports include, but are not limited to:

- (1) Batch reports;
- (2) Crop input and additive reports;
- (3) Harvest reports;
- (4) Extraction reports;
- (5) Solvent and processing chemical reports;
- (6) Package lot reports;
- (7) Certificates of Analysis from a laboratory;
- (8) Other records as determined by the department.

d. State of Iowa Manufacturer API guide. The department shall maintain a document describing the IT requirements and acceptance criteria for reporting information to the secure sales and inventory tracking system. The department shall provide manufacturers no less than 14 days in which to comment on proposed revisions to the document, and the department shall provide no less than 30 days' notice before a revision takes effect. The document shall include:

- (1) The schedule and means of data reporting;
- (2) Integration requirements for third party vendors; and
- (3) Be available on the department's website ([hhs.iowa.gov](https://hhs.iowa.gov)).

**641—154.28(124E) Recall of medical cannabidiol products.** Medical cannabidiol products may be recalled in the following ways:

**154.28(1)** Voluntarily by a licensed manufacturer.

**154.28(2)** By the department. If the department determines, based on an evaluation, that there is a reasonable probability that use of, or exposure to, a violative medical cannabidiol product will cause a serious adverse health consequence or death, the department may require a manufacturer to recall such violative medical cannabidiol products from dispensaries. An evaluation of the health hazard presented by medical cannabidiol being considered for recall shall be conducted by an ad hoc committee of scientists appointed by the department and shall consider, but need not be limited to, each of the following factors:

- a. Whether any disease or injuries have already occurred from the product.
- b. Whether any existing conditions could contribute to a clinical situation that could expose humans to a health hazard. Any conclusion shall be supported as completely as possible by scientific documentation and/or statements that the conclusion is the opinion of the individual(s) making the health hazard determination.
- c. A holistic assessment of the hazard and its present and future potential consequences.

**641—154.29(124E) Quality assurance and control.**

**154.29(1)** *Quality control program.* A manufacturer shall develop and implement a written quality assurance program that assesses the chemical and microbiological composition of medical cannabidiol. Assessment includes a profile of the active ingredients, including stability studies, and the presence of inactive ingredients and contaminants. A manufacturer shall use these testing results to determine appropriate storage conditions and product expiration dates.

**154.29(2)** *Sampling protocols.* A manufacturer shall develop and follow written procedures for sampling medical cannabidiol that require the manufacturer to:



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- a.* Conduct sample collection in a manner that provides analytically sound and representative samples;
- b.* Document every sampling event and provide this documentation to the department upon request;
- c.* Describe all sampling and testing plans in written procedures that include the sampling method and the number of units per lot to be tested;
- d.* Ensure that random samples from each lot are:
  - (1) Taken in an amount necessary to conduct the applicable test;
  - (2) Labeled with the lot number; and
  - (3) Submitted for testing;
- e.* Retain the results from the random samples for at least five years; and
- f.* Notify the department at least two business days prior to sample collection and allow the department or its designees to be present to observe the sampling procedures when the samples are to be sent to a laboratory for testing.

**154.29(3) Sampling and testing.** A manufacturer shall:

- a.* Work with the department and laboratory personnel to develop acceptance criteria for contaminants, including, but not limited to, cannabinoid content, metals, microbiological impurities, solvents, or other contaminants that the manufacturer uses in cultivating and producing medical cannabidiol;
- b.* Conduct sampling and testing of plant material and medical cannabidiol lots using acceptance criteria that are protective of patient health. sampling methods results shall be approved by the department and laboratory personnel and shall ensure that lots of medical cannabidiol are homogenous and representative of the process or package lot;
- c.* Reject and destroy medical cannabidiol from a lot that fails to meet established standards, and any other relevant quality control criteria when remixing and retesting are not warranted;
- d.* Develop and follow a written procedure for responding to results failing to meet established standards, and any other relevant quality control criteria, including:
  - (1) Criteria for when remixing and retesting are warranted;
  - (2) Instructions for destroying contaminated or substandard medical cannabidiol when remixing and retesting are not warranted; and
  - (3) Instructions for determining the source of contamination;
- e.* Retain documentation of test results, assessment, and destruction of medical cannabidiol for at least five years.

**154.29(4) Stability testing.**

- a.* The quality assurance program shall include procedures for performing stability testing of each product type produced to determine product expiration dates. The procedures shall describe:
  - (1) Sample size and test intervals based on departmental guidance pursuant to subrule 154.47(1);
  - (2) Storage conditions for samples retained for testing; and
  - (3) Reliable and specific test methods.
- b.* Stability studies shall include:
  - (1) Medical cannabidiol testing at appropriate intervals; and
  - (2) Medical cannabidiol testing in the same container-closure system in which the medical cannabidiol is marketed and dispensed.
- c.* If product-expiration-date studies have not been completed a manufacturer shall assign a tentative product expiration date, not to exceed one year, based on any available stability information.
- d.* If a manufacturer determines a product expiration date beyond one year, a manufacturer shall submit justification to the department, and receive approval, prior to labeling a product with an expiration date beyond one year.

**154.29(5) Reserve samples.**

- a.* A manufacturer shall retain a uniquely labeled reserve sample that represents each lot of medical cannabidiol and store the reserve sample under conditions consistent with product labeling. The reserve sample shall be stored in the same immediate container-closure system in which the medical cannabidiol

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is marketed or in one that has similar characteristics. The reserve sample shall consist of at least twice the quantity necessary to perform all the required tests.

- b. A manufacturer shall retain the reserve for at least one year from the date of manufacture.
- c. After one year from the date of manufacture, reserve samples shall be destroyed.

**154.29(6) Retesting.** If the department deems that public health may be at risk, the department may require the manufacturer to retest any sample of medical cannabidiol.

**154.29(7) Disposal of substandard product.** A manufacturer shall dispose of all medical cannabidiol when samples fail to meet established standards, and other relevant quality control criteria.

**154.29(8) Recall procedures.** Each manufacturer shall establish a procedure for recalling product from the market that has a reasonable probability of causing an unexpected or harmful response in a patient population, despite appropriate use, that outweighs the potential benefit of the medical cannabidiol. This procedure shall include:

- a. Factors that make a recall necessary;
- b. Manufacturer's personnel who are responsible for overseeing the recall; and
- c. How to notify affected parties of a recall.

**641—154.30(124E) Packaging and labeling.**

**154.30(1) Trade names.** A manufacturer's medical cannabidiol trade names shall comply with the following:

- a. Names shall be limited to those that clearly reflect the form's medical cannabidiol nature;
- b. Any name that is identical to, or similar to, the name of an existing nonmedical cannabidiol product is prohibited;
- c. Any name that is identical to, or similar to, the name of an unlawful product or substance is prohibited; and
- d. Any name that contains language that suggests using medical cannabidiol for recreational purposes or for a condition other than a qualifying debilitating medical condition is prohibited.

**154.30(2) Medical cannabidiol packaging.**

a. Requirements of medical cannabidiol package containers. The manufacturer shall use medical containers that are:

- (1) Of sufficient size to accommodate a separate dispensary label containing the information described in paragraph 154.30(2) "c";
- (2) Designed to maximize the shelf life of the contained medical cannabidiol;
- (3) Tamper-evident; and
- (4) Child-resistant.

b. Medical cannabidiol package prohibitions. The packaging for medical cannabidiol shall not:

- (1) Bear a reasonable resemblance to commonly available nonmedical commercial products;
- (2) Depict images other than the manufacturer's business name or logo on the packaging;
- (3) Reasonably appeal to children. More information is provided in rule 641—154.22(2);
- (4) Reasonably appeal to recreational or adult use; or
- (5) Depict images other than the manufacturer's business name or logo on the packaging.

c. Requirements of medical cannabidiol packaging. A manufacturer shall ensure that all medical cannabidiol packaging includes the following information:

- (1) The name of the manufacturer, and trade name if applicable;
- (2) A label claim concentration for cannabinoid content including:
  - 1. Tetrahydrocannabinol,
  - 2. Tetrahydrocannabinolic acid; concentrations of tetrahydrocannabinolic acid may be omitted if the manufacturer uses decarboxylation or other means to substantially remove the acids from the product prior to testing;
  - 3. Cannabidiol; and
  - 4. Cannabidiolic acid; concentrations of cannabidiolic acid may be omitted if the manufacturer uses decarboxylation or other means to substantially remove the acids from the product prior to testing;
- (3) The number of servings per package;

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(4) The directions for use of the product, including recommended and maximum amount by age and weight, if applicable;

(5) All ingredients of the product shown with common or usual names, including but not limited to, any additives, terpenes or artificial flavors, diluents and carriers, and preservatives, listed in descending order by predominance of weight. Any third-party hemp-derived cannabinoids into medical cannabidiol products shall be specifically indicated on the ingredients list, separately from medical cannabidiol produced within the manufacturer's facility;

(6) Instructions for storage, including light and temperature requirements, if any; and

(7) The universal warning symbol provided by the department.

*d.* The following information shall be included with medical cannabidiol packaging, or contained within a package insert:

(1) A notice with the statement, including capitalization: "This product has not been analyzed or approved by the United States Food and Drug Administration. There is limited information on the side effects of using this product, and there may be associated health risks and medication interactions. This product is not recommended for use by pregnant or breastfeeding women. KEEP THIS PRODUCT OUT OF REACH OF CHILDREN.";

(2) A notice with the statement: "This medical cannabidiol is for therapeutic use only. Use of this product by a person other than the patient listed on the label is unlawful and may result in the cancellation of the patient's medical cannabidiol registration card. Return unused medical cannabidiol to a dispensary for disposal.";

(3) A package may contain multiple labels if the information required by this rule is not obstructed.

**154.30(3) Medical cannabidiol labeling.**

*a.* After receiving a passing certification of analysis for a package lot from a laboratory, and prior to distribution to dispensaries, a manufacturer shall affix a label to each individual package of medical cannabidiol containing that contains following information:

(1) A unique lot number;

(2) The date of manufacture;

(3) Product expiration date. This date shall be one year from the date of manufacture unless a manufacturer has conducted stability studies, and received approval from the department for an extended expiration date.

*b.* Cannabinoid content for:

(1) Tetrahydrocannabinol;

(2) Tetrahydrocannabinolic acid, concentrations of tetrahydrocannabinolic acid may be omitted if the manufacturer uses chemical decarboxylation or other means to substantially remove the acids from the product prior to testing;

(3) Cannabidiol; and

(4) Cannabidiolic acid.

**641—154.31(124E) Transportation of medical cannabidiol and plant material.**

**154.31(1) Transport of medical cannabidiol or plant material.** A manufacturer is authorized to transport medical cannabidiol or plant material to and from:

*a.* Dispensaries;

*b.* A laboratory for testing;

*c.* A waste facility for disposal;

*d.* A manufacturer licensed by the department under Iowa Code chapter 124E;

*e.* Other sites only with departmental approval.

**154.31(2) Chain-of-custody tracking system.**

*a.* A manufacturer shall use the secure sales and inventory tracking system, if available, or a department-approved manifest system to track shipping of medical cannabidiol. The system shall include a chain of custody that records:

(1) The name and address of the destination;

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- (2) The unique ID of each individual process lot or package lot that is part of the shipment, and the total number of individual packages;
  - (3) The date and time the medical cannabidiol shipment is placed into the transport vehicle;
  - (4) The date and time the shipment is accepted at the delivery destination;
  - (5) The person's identity; and
  - (6) Any handling or storage instructions.
- b.* Before transporting medical cannabidiol, a manufacturer shall:
- (1) Record in the secure sales and inventory tracking system or on the manifest information about the material to be transported; and
  - (2) Notify the dispensary, laboratory, manufacturer, or waste facility, as applicable, of the expected arrival time and transmit a copy of the manifest to the dispensary, laboratory, manufacturer, or waste facility, if applicable.
- c.* Each transport shall be approved electronically or in writing by:
- (1) An authorized manufacturer employee when the transport vehicle is departing the manufacturing facility; and
  - (2) An authorized employee of the receiving dispensary, laboratory, manufacturer, or waste facility.
- d.* An authorized employee at the dispensary, laboratory, manufacturer, or waste facility receiving medical cannabidiol shall:
- (1) Verify and document the type and quantity of the transported medical cannabidiol against the information in the secure sales and inventory tracking system or written manifest;
  - (2) Approve the transport electronically or return a signed copy of the manifest to the manufacturing facility; and
  - (3) Record the medical cannabidiol that is received as inventory in the secure sales and inventory tracking system, if available. If a manifest system is being used, the dispensary, laboratory, manufacturer, or waste facility shall also maintain a signed copy of manifest, and shall maintain records of the inventory received consistent with these rules.
- e.* A manufacturer shall maintain all manifests for at least five years and make them available upon request of the department.
- 154.31(3) *Vehicle requirements for transport.***
- a.* A manufacturer shall ensure that all medical cannabidiol transported on public roadways is:
- (1) Packaged in tamper-evident, bulk containers;
  - (2) Transported so it is not visible or recognizable from outside the vehicle; and
  - (3) Transported in a vehicle that does not bear any markings to indicate that the vehicle contains medical cannabidiol or bears the name or logo of the manufacturer.
- b.* When the motor vehicle contains medical cannabidiol, manufacturer employees who are transporting the medical cannabidiol on public roadways shall:
- (1) Travel directly to a dispensary or other department-approved locations; and
  - (2) Document refueling and all other stops in transit, including:
    1. The reason for the stop;
    2. The duration of the stop; and
    3. The location of the stop.
- c.* If the vehicle must be stopped due to an emergency situation, the employee shall notify 911 and complete an incident report on a form approved by the department.
- d.* Under no nonemergency circumstance shall any person other than a designated manufacturer employee have actual physical control of the motor vehicle that is transporting the medical cannabidiol.
- e.* An employee in a transport motor vehicle shall have telephone access with the manufacturer's personnel.

**641—154.32(124E) Disposal of medical cannabidiol and plant material.**

**154.32(1) *Return of medical cannabidiol from dispensaries and laboratory.*** A manufacturer may collect at no charge medical cannabidiol waste from dispensaries. A manufacturer who chooses to collect medical cannabidiol waste may use it for research and development or retained samples, but

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the manufacturer shall not introduce medical cannabidiol returned from laboratory into lots of products intended for sale. Notwithstanding this provision, a manufacturer shall:

- a. Dispose of medical cannabidiol waste; and
- b. Maintain a written record of disposal.

**154.32(2) *Medical cannabidiol and plant material waste.*** A manufacturer shall store, secure, manage, and record medical cannabidiol waste and plant material waste in accordance with all applicable federal, state, and local regulations.

- a. The manufacturer shall dispose of medical cannabidiol waste and plant material waste at an approved facility.
- b. Before transport of plant material waste, the manufacturer shall render the plant material waste unusable and unrecognizable.
- c. A manufacturer shall dispose of all liquid and chemical product waste generated in the process of cultivating, manufacturing, and distributing medical cannabidiol in accordance with applicable regulations.

**641—154.33(124E) Production requirements.**

**154.33(1) *Cultivation and processing.***

- a. All phases of production shall take place in designated, restricted access areas in accordance with rule 641—154.21(124E).
- b. The production process shall be designed to limit contamination.
- c. Each production area shall allow for access, observation, and inventory of each plant group.

**154.33(2) *Crop inputs and plant batches.***

- a. The manufacturer shall use the secure sales and inventory tracking system to maintain an electronic record of all crop inputs. The record shall include the following:
  - (1) The date of input application;
  - (2) The name of the employee applying the crop input;
  - (3) The crop input that was applied;
  - (4) The plants that received the application; and
  - (5) A copy of or electronic link to the safety data sheet for the crop input applied.
- b. At the time of harvesting, all plants shall be tracked in a batch process with a unique batch number that shall remain with the batch through final processing into medical cannabidiol.
- c. Each batch or part of a batch of cannabis plants that contributes to a lot of medical cannabidiol shall be recorded in the secure sales and inventory tracking system or other manifest system.

**154.33(3) *Production of medical cannabidiol.***

- a. A manufacturer shall obtain approval from the department for use of any hydrocarbon-based extraction process.
- b. Medical cannabidiol shall be prepared, handled, and stored in compliance with the sanitation requirements in this rule.
- c. A manufacturer shall produce shelf-stable, nonperishable forms of medical cannabidiol.
- d. A manufacturer shall ensure that the cannabinoid content of the medical cannabidiol it produces is homogenous.
- e. Each lot of medical cannabidiol shall be assigned a unique lot number and recorded in the secure sales and inventory tracking system or other manifest system.

**154.33(4) *General sanitation requirements.*** A manufacturer shall take all reasonable measures and precautions to ensure that:

- a. Any employee who has a communicable disease does not perform any tasks that might contaminate plant material or medical cannabidiol;
- b. Hand-washing facilities are:
  - (1) Convenient and furnished with running water at a suitable temperature;
  - (2) Located in all production areas; and
  - (3) Equipped with effective hand-cleaning and -sanitizing preparations and sanitary towel service or electronic drying devices;

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*c.* All employees working in direct contact with plant material and medical cannabidiol use hygienic practices while on duty, including:

- (1) Maintaining personal cleanliness; and
- (2) Washing hands thoroughly in a hand-washing area before starting work and at any other time when the hands may have become soiled or contaminated;

*d.* Litter and waste are routinely removed and the operating systems for waste disposal are routinely inspected;

*e.* Floors, walls, and ceilings are constructed with a surface that can be easily cleaned and maintained in good repair to inhibit microbial growth;

*f.* Lighting is adequate in all areas where plant material and medical cannabidiol are processed, stored, or sold;

*g.* Screening or other protection against the entry of pests is provided, including that rubbish is disposed of to minimize the development of odor and the potential for the waste becoming an attractant, harborage, or breeding place for pests;

*h.* Any buildings, fixtures, and other facilities are maintained in a sanitary condition;

*i.* Toxic cleaning compounds, sanitizing agents, and other potentially harmful chemicals are identified and stored in a separate location away from plant material and medical cannabidiol and in accordance with applicable local, state, or federal law;

*j.* All contact surfaces, utensils, and equipment used in the production of plant material and medical cannabidiol are maintained in a clean and sanitary condition;

*k.* The manufacturing facility water supply is sufficient for necessary operations;

*l.* Employees have accessible toilet facilities that are sanitary and in good repair; and

*m.* Plant material and medical cannabidiol that could support the rapid growth of undesirable microorganisms are isolated to prevent the growth of those microorganisms.

**154.33(5) Storage.**

*a.* A manufacturer shall store plant material and medical cannabidiol during production, transport, and testing, ensuring that:

(1) Plant material and medical cannabidiol are returned to a secure location immediately after completion; and

(2) The tanks, vessels, bins, or bulk containers containing plant material or medical cannabidiol are locked inside a secure area.

*b.* A manufacturer shall store all plant material and medical cannabidiol during production, transport, and testing, and all saleable medical cannabidiol:

(1) In areas that are maintained in a clean, orderly, and well-ventilated condition; and

(2) In storage areas that are free from infestation by insects, rodents, birds, and other pests of any kind.

*c.* To prevent degradation, at all times, a manufacturer shall store all plant material and medical cannabidiol under conditions that will protect the product and its container against physical, chemical, and microbial contamination and deterioration.

*d.* A manufacturer shall maintain a separate secure storage area for medical cannabidiol that is returned from a dispensary.

**154.33(6) Scales.** All scales used to weigh usable plant material for purposes of these rules shall be certified in accordance with ISO/IEC 17025 dated 2017, which is incorporated herein by reference.

**641—154.34(124E) Supply and inventory.**

**154.34(1) Reliable and ongoing supply.** A manufacturer shall provide a reliable and ongoing supply of medical cannabidiol to medical cannabidiol dispensaries.

**154.34(2) Inventory controls and procedures.** A manufacturer shall establish inventory controls and procedures for conducting inventory reviews to prevent and detect any diversion, theft, or loss in a timely manner.

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**154.34(3) *Inventory tracking required.*** A manufacturer shall use the secure sales and inventory tracking system to track medical cannabidiol production from seed or plant cutting through distribution of medical cannabidiol to a dispensary.

**154.34(4) *Reconciliation.*** No less often than every two calendar weeks, a manufacturer shall reconcile its physical inventory with the inventory recorded in the secure sales and inventory tracking system.

*a.* Reconciliation shall include:

- (1) Plant material at the manufacturing facility and in transit; and
- (2) Medical cannabidiol at the manufacturing facility.

*b.* Discrepancies between the physical inventory of the manufacturer and the inventory recorded in the secure sales and inventory system shall be handled as follows:

(1) A manufacturer shall report suspected diversion of medical cannabidiol to the department within 72 hours of discovery.

(2) A manufacturer shall have up to 72 hours to reconcile discrepancies in the manufacturer's physical inventory with the inventory recorded in the secure sales and inventory tracking.

## DISPENSING

**641—154.35(124E) Duties of the department.**

**154.35(1) *Inspection of dispensaries.*** The department or its agents shall conduct regular inspections of dispensaries and their facilities.

**154.35(2) *Establishment and maintenance of a secure sales and inventory tracking system.*** The department shall establish and maintain a secure, electronic system that is available 24 hours a day, seven days a week to track:

*a.* Inventory of medical cannabidiol and waste material;

*b.* Sales of medical cannabidiol from dispensaries to patients and primary caregivers;

*c.* Total tetrahydrocannabinol purchased in the last 90 days by a patient and the patient's primary caregiver.

**154.35(3) *Recall of medical cannabidiol products.*** If the department determines, based on an evaluation of the health hazard presented, that there is a reasonable probability that use of, or exposure to, a violative medical cannabidiol product will cause a serious adverse health consequence or death, the department may require a dispensary to recall such violative medical cannabidiol products from the dispensary facility and from patients. An evaluation of the health hazard presented by medical cannabidiol being considered for recall shall be conducted by an ad hoc committee of scientists appointed by the director of the department and shall consider, but need not be limited to, each of the following factors:

*a.* Whether any disease or injuries have already occurred from the product.

*b.* Whether any existing conditions could contribute to a clinical situation that could expose humans to a health hazard. Any conclusion shall be supported as completely as possible by scientific documentation and/or statements that the conclusion is the opinion of the individual(s) making the health hazard determination.

*c.* A holistic assessment of the hazard and its present and future potential consequences.

**154.35(4) *Permissible disclosure.*** The department may disclose patient-specific dispensing data to the certifying provider upon written request by the patient, caregiver, or certifying provider.

**641—154.36(124E) Dispensary operations.**

**154.36(1) *Operating documents.***

*a.* A dispensary shall maintain operating documents that accurately reflect the dispensary's standard operating procedures. Unless otherwise noted, a dispensary shall make the operating documents available to the department upon request, through secure means.

*b.* The operating documents of a dispensary shall include all of the following:

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- (1) Procedures for the oversight of the dispensary, including descriptions of operational and management practices regarding:
  1. The forms and quantities of medical cannabidiol products that will be stored and dispensed at the dispensary;
  2. The estimated forms and quantities of medical cannabidiol waste to be generated or collected;
  3. The disposal methods for all waste materials;
  4. Employee training methods for the dispensary employees;
  5. Strategies for identifying and reconciling discrepancies in inventory of medical cannabidiol;
  6. Procedures to ensure the dispensary does not dispense more than a patient's certified limit of total tetrahydrocannabinol to a patient and the patient's primary caregiver(s) in a 90-day period;
  7. Medical cannabidiol labeling procedures;
  8. Procedures for recall of medical cannabidiol;
  9. Plans for responding to a security breach at the dispensary facility;
  10. A business continuity plan; and
  11. Other information requested by the department.
- (2) Procedures to ensure accurate recordkeeping.
- (3) Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabidiol and unauthorized entrance into areas of the dispensary facility containing medical cannabidiol.

**154.36(2) Prohibited activities.** In addition to following all provisions of Iowa Code section 124E.7, a dispensary shall not:

- a. Dispense medical cannabidiol in any location except in those areas approved by the department;
- b. Sell, receive, transport, or distribute medical cannabidiol from any location except its dispensary;
- c. Sell, receive, or distribute medical cannabidiol from any entity other than a manufacturer licensed by the department;
- d. Sell or distribute medical cannabidiol to any person other than an approved patient or primary caregiver;
  - (1) Transport or deliver medical cannabidiol to any location, unless approved by the department;
  - (2) Sell medical cannabidiol that is not packaged and labeled in accordance with rules;
  - (3) Repackage medical cannabidiol or remove the manufacturer's label.

**641—154.37(124E) Recordkeeping requirements.**

**154.37(1) Dispensary sales.** Within one business day of sale, a dispensary shall record complete and accurate electronic sales transaction records in the secure sales and inventory tracking system, including:

- a. The name of the patient and, if purchase is made by the primary caregiver, the name of the primary caregiver;
- b. The date and time of each sale;
- c. The item number, product name and description, and quantity of medical cannabidiol sold;
- d. The sale price;
- e. Other information required by the department.

**154.37(2) Reserved.**

**641—154.38(124E) Storage.**

**154.38(1) Storage of saleable medical cannabidiol.**

- a. A dispensary shall store medical cannabidiol to prevent diversion, theft, or loss, including ensuring that:
  - (1) Medical cannabidiol is kept in a secure and monitored location within the dispensary; and
  - (2) Cabinets or storage containers inside the secure and monitored area are locked at the end of a business day.
- b. A dispensary shall store all medical cannabidiol:
  - (1) In areas that are maintained in a clean, orderly, and well-ventilated condition;



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- (2) In areas that are free from infestation by insects, rodents, birds, and other pests of any kind;
- (3) According to the manufacturer's requirements regarding temperature, light exposure, or other environmental conditions;
- (4) Under conditions that will protect the product and its container against physical, chemical, and microbial contamination and deterioration.

**154.38(2) *Storage of returned medical cannabidiol.*** A dispensary shall maintain a separate secure storage area for medical cannabidiol that is to be returned to a manufacturer for disposal, including medical cannabidiol that is outdated, damaged, deteriorated, mislabeled, or contaminated, or whose containers or packaging has been opened or breached, until the medical cannabidiol is collected by a manufacturer.

**641—154.39(124E) Dispensing.**

**154.39(1) *Access to all forms of product.*** A dispensary shall provide access to all medical cannabidiol forms produced by each licensed manufacturer.

**154.39(2) *Dispensing to a patient or primary caregiver.*** Prior to dispensing any medical cannabidiol to a patient, a dispensary shall do all of the following:

*a.* Verify the patient or primary caregiver's identity using acceptable photo identification and is over 18 years of age. Acceptable photo identification includes:

- (1) A valid Iowa driver's license;
- (2) A valid Iowa nonoperator's identification card;
- (3) A U.S. passport;
- (4) A U.S. military ID or veteran ID;
- (5) A tribal ID card/document;

*b.* Verify that the patient and primary caregiver, if applicable, is registered and listed in the secure sales and inventory tracking system and has a valid medical registration card;

*c.* Check the secure sales and inventory tracking system for the patient's total tetrahydrocannabinol 90-day purchase limit and the amount of total tetrahydrocannabinol that the patient and the patient's primary caregiver(s) have purchased on behalf of the patient in the past 90 days to ensure that the amount of total tetrahydrocannabinol sold by the dispensary to the patient does not exceed the patient's purchase limit;

*d.* Assign a tracking number to any medical cannabidiol that is to be dispensed to the patient or primary caregiver;

*e.* Issue a label that contains the following information, which may be printed on a secondary label or package insert:

- (1) The medical cannabidiol tracking number;
- (2) The patient registration number;
- (3) The date and time the medical cannabidiol is dispensed;
- (4) The name and address of the dispensary; and
- (5) Any specific instructions for use based upon manufacturer guidelines or department rules.

Text shall not include any false, misleading, or unsubstantiated statements regarding health or physical benefits to the patient.

**641—154.40(124E) Transportation of medical cannabidiol.** A dispensary is not authorized to transport medical cannabidiol, unless approved by the department. Any approved transport shall be logged in the secure sales and inventory tracking system.

**641—154.41(124E) Disposal of medical cannabidiol.**

**154.41(1) *Identification of excess, expired, or damaged medical cannabidiol.*** Dispensaries shall identify unused, excess, expired, or damaged medical cannabidiol.

**154.41(2) *Return of medical cannabidiol from a patient or primary caregiver to a dispensary.***

*a.* A dispensary shall accept at no charge medical cannabidiol waste from any patient or primary caregiver. A dispensary may provide all medical cannabidiol waste to the manufacturer for disposal.

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b. The dispensary shall enter the following information into the secure sales and inventory tracking system for medical cannabidiol returned from a patient or primary caregiver being returned to the manufacturer:

- (1) The tracking number assigned at the time of the dispensing, if available, or the name of the patient, if the tracking number is unavailable;
- (2) The date the medical cannabidiol was returned;
- (3) The quantity of medical cannabidiol returned; and
- (4) The type and lot number of medical cannabidiol returned.

c. A dispensary shall store medical cannabidiol returned from patients and primary caregivers.

**154.41(3)** *Unused, excess, expired, damaged, or returned medical cannabidiol.* Unused, excess, expired, damaged, or returned medical cannabidiol shall be stored as described in subrule 154.38(2).

**154.41(4)** *Return of medical cannabidiol to a manufacturer.* A dispensary shall record information on all medical cannabidiol collected by the manufacturer in the secure sales and inventory tracking system. Information shall include:

- a. The date the medical cannabidiol was collected by the manufacturer;
- b. The quantity of medical cannabidiol collected; and
- c. The type and lot number of medical cannabidiol collected.

**641—154.42(124E) Inventory.**

**154.42(1)** *Inventory controls and procedures.* A dispensary shall establish inventory controls and procedures for conducting inventory reviews to prevent and detect any diversion, theft, or loss in a timely manner.

**154.42(2)** *Real-time inventory required.* A dispensary shall use the secure sales and inventory tracking system to maintain a real-time record of the dispensary's inventory of medical cannabidiol to include:

- a. The quantity and form of saleable medical cannabidiol maintained at the dispensary on a daily basis;
- b. The amount of damaged, expired, or returned medical cannabidiol being held at the dispensary for return to a manufacturer; and
- c. Other information deemed necessary and requested by the department.

**154.42(3)** *Reconciliation.* At least once a calendar week, a dispensary shall reconcile all medical cannabidiol with the inventory recorded in the secure sales and inventory tracking system. Discrepancies shall be handled as follows:

- a. A dispensary shall report suspected diversion of medical cannabidiol to the department and law enforcement within 24 hours of discovery.
- b. A dispensary shall have up to 24 hours to reconcile the dispensary's physical inventory with the inventory recorded in the secure sales and inventory tracking system. If the dispensary cannot reconcile the dispensary's physical inventory with the secure sales and inventory tracking system's inventory within 24 hours but diversion of product is not suspected, the dispensary shall immediately contact the department to report the discrepancy and to initiate a compliance action.

**641—154.43(124E) Quality assurance and control.** A dispensary shall cooperate with manufacturers and the department on quality assurance and control procedures, including participating in stability-testing studies, developing sampling strategies, and returning medical cannabidiol that has been recalled.

MEDICAL CANNABIDIOL BOARD

**641—154.44(124E) Purpose and duties of board.** The purpose of the board is to administer the provisions of Iowa Code section 124E.5.

**641—154.45(124E) Organization of board and proceedings.**

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**154.45(1) *Membership.*** The board shall be composed of members as set forth in Iowa Code section 124E.5. The appointments, unless provided otherwise by law, shall be for three-year staggered terms that shall expire on June 30. Board members shall be knowledgeable about the use of medical cannabidiol. The medical practitioners appointed to the board shall be licensed in Iowa and be nationally board-certified in their area of specialty.

**154.45(2) *Vacancies.*** Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

**154.45(3) *Absences.*** Three consecutive unexcused absences shall be grounds for the governor to consider dismissal of a board member and to appoint another. Department staff is charged with providing notification of absences to the governor's office.

**154.45(4) *Board meetings.***

*a.* Board meetings shall be conducted in accordance with the open meetings requirements of Iowa Code chapter 21.

*b.* The department's Bureau of Cannabis Regulation shall schedule the time, date and location of meetings.

*c.* A majority of the members shall constitute a quorum for conducting business of the board.

*d.* An affirmative vote of a majority of the board members present at a meeting is required for a motion to pass.

**154.45(5) *Facilities and staffing.*** The department shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter but shall be reimbursed for all costs incurred by fee revenue generated from licensing activities and registration card applications.

**154.45(6) *Subcommittees.*** The board may designate one or more subcommittees to perform such duties as may be deemed necessary.

**641—154.46(124E) *Petitions for the addition or removal of medical conditions, medical treatments or debilitating diseases.*** Pursuant to Iowa Code section 124E.5(3) "a," the board shall accept and review petitions to modify the list of debilitating medical conditions for the medical use of cannabidiol. The petition shall be in accordance with 441—Chapter 4, except that the caption should read "Petition for Addition or Removal."

**154.46(1) *Inquiries.*** Inquiries concerning the status of a petition may be made to the bureau of cannabis regulation at the department's address.

**154.46(2) *Additional information.*** The board may request the petitioner to submit additional information concerning the petition. The board may also solicit comments from any person on the substance of the petition. Comments on the substance of the petition may be submitted to the board by any person.

**154.46(3) *Presentation to the board.*** The board may request or allow the petitioner to make an oral presentation of the contents of a petition at a board meeting following submission of the petition.

**154.46(4) *Board response.*** The board shall notify the petitioner in writing of the decision within six months after the filing, unless the petitioner agrees to a time extension. If the petition is granted, the board will recommend addition or removal of the medical condition, medical treatment or debilitating disease to the board of medicine. If the petition is denied the board will provide the rationale for the denial. Notification occurs when the board mails the writing to the petitioner.

**154.46(5) *Denials.*** Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the agency's rejection of the petition.

## LABORATORY TESTING

**641—154.47(124E) *Requirements of the department.***

**154.47(1) *Laboratory testing requirements and acceptance criteria.*** The department shall work with manufacturers and laboratories to create and maintain a document describing required sampling methodology, acceptance criteria, stability-testing procedures, and other guidance for manufacturers

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and laboratories on testing procedures. The department shall provide manufacturers and laboratories no less than 14 days in which to comment on proposed revisions to the document, and the department shall provide no less than 30 days' notice before a revision takes effect. The document shall:

- a. Describe the minimum number of sample units and reserve samples required for testing by the laboratory;
- b. Describe an option for manufacturers to reduce the amount of testing conducted by allowing compositing of sample units or other techniques that reduce the number of tests required without compromising the safety of the products once a manufacturer has satisfactorily completed a control study for a specific extraction or production process;
- c. Describe the minimum requirements for sample size and testing intervals for stability testing;
- d. Be available on the department's website ([hhs.iowa.gov](https://hhs.iowa.gov)).

**154.47(2) *Review and approval of manufacturer sampling protocols.*** The department shall have two weeks to review and approve or request revisions to a manufacturer's sampling protocols.

**154.47(3) *Review and approval of manufacturer stability-testing procedures.*** The department shall have two weeks to review and approve or request revisions to a manufacturer's stability-testing procedures.

**154.47(4) *Establish a laboratory review committee.*** The department shall establish a laboratory review committee to assist with the review of applications by laboratories and the establishment of accepted laboratory testing standards and practices.

**154.47(5) *Review of laboratory applications.*** The department shall establish a process to review applications from prospective medical cannabidiol testing laboratories. Prospective laboratories shall apply on a form created by the department. The department will determine whether the laboratory meets the criteria for an independent medical cannabidiol testing facility as set forth in the definition of "laboratory" in Iowa Code section 124E.2 in addition to determining whether the laboratory meets laboratory requirements pursuant to these rules.

**154.47(6) *Regulation of independent laboratories.*** The department shall determine on an annual basis whether any approved independent laboratory continues to meet the application criteria of this rule. The department shall establish a process for the annual review of approved independent laboratories. An independent laboratory is subject to reasonable inspection by the department, a department-approved consultant, or other agency pursuant to Iowa Code chapter 124E and these rules and as authorized by laws and regulations.

**641—154.48(124E) Requirements of a laboratory.**

**154.48(1) *Minimum testing requirements.*** A laboratory shall establish and implement test methods, corresponding standard operating procedures for the analyses of cannabinoids, residual solvents and processing chemicals, pesticides, microbiological impurities, and metals and other analyses as requested by the department.

**154.48(2) *Level of quantitation.*** A laboratory shall be able to demonstrate that its level of quantitation (LOQ) is below any action level established by the department.

**154.48(3) *Inventory tracking.*** A laboratory shall record the following:

- a. The receipt of medical cannabidiol from a manufacturer for testing.
- b. The return of medical cannabidiol or waste to a manufacturer.

**154.48(4) *Hazardous waste disposal.*** A laboratory shall do the following when dealing with hazardous waste:

- a. Discard hazardous waste, including hazardous waste containing medical cannabis goods, in accordance with federal and state hazardous waste laws.
- b. Document the waste disposal procedures followed for each sample.

**641—154.49(124E) Requirements of a manufacturer.**

**154.49(1) *Assuming costs.*** A manufacturer shall assume the costs for all laboratory testing pertaining to verification studies on new products, the cost of standard testing protocols as outlined in a Laboratory

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Acceptance and Criteria Document and other tests as requested by the department. A manufacturer shall provide any necessary reference materials to the laboratory at no cost.

**154.49(2) *Obtaining approval for sampling protocols.*** A manufacturer shall obtain approval from the department for the manufacturer's sampling protocols prior to submitting samples for laboratory testing related to content and contamination.

**154.49(3) *Obtaining approval for stability-testing procedures.*** A manufacturer shall obtain approval from the department for the manufacturer's stability-testing procedures prior to submitting samples for laboratory testing related to stability testing and product-expiration-date studies.

**641—154.50(124E) Content testing.****154.50(1) *Cannabinoids.***

*a.* For each unique lot of medical cannabidiol, and if asked to do so by a requester for other medical cannabis goods, a laboratory shall, at minimum, test for and report measurements for the following cannabinoid analytes:

- (1) THC;
- (2) THCA;
- (3) CBD; and
- (4) CBDA.

*b.* A laboratory shall report that the primary sample passed or failed THC and CBD potency testing according to guidance in the laboratory testing requirements and acceptance criteria document described in subrule 154.47(1).

*c.* For each cannabinoid analyte test, a laboratory shall issue a certificate of analysis that contains the following:

(1) Concentrations of cannabinoid analytes in mg/ml for liquids and mg/g for solids, or other measures approved by the department.

(2) Whether the primary sample passed or failed the test in accordance with paragraph 154.50(1)“*b.*”

*d.* The laboratory may test for and provide test results for additional cannabinoid analytes if asked to do so by a requester.

**154.50(2) *Contaminants testing.***

*a.* For each unique lot of medical cannabidiol, unless otherwise referenced in the laboratory testing requirements and acceptance criteria document described in subrule 154.47(1), a laboratory shall conduct contaminants testing for the following analytes:

- (1) Residual solvents and processing chemicals.
- (2) Pesticides.
- (3) Microbiological impurities.
- (4) Heavy metals.

*b.* The laboratory may test and provide test results for additional contaminants if asked to do so by a requestor.

*c.* The department shall provide a list of contaminants for which primary samples are to be tested with corresponding action levels on the department's website ([hhs.iowa.gov](https://hhs.iowa.gov)).

*d.* For each contaminant for which a laboratory tests, the laboratory shall report that the primary sample passed the testing if the concentration of contaminant is at or below the action level approved by the department.

*e.* For each contaminant for which a laboratory tests, the laboratory shall report that the primary sample failed the testing if the concentration of contaminants is above the action level approved by the department.

*f.* If a laboratory is using GC-mass spectrometry instrumentation to analyze primary samples for contaminants and the laboratory determines that a primary sample contains contaminants or chemical analytes that are not included in the department-approved list of required tests, the laboratory shall attempt to achieve tentative identification and semiquantitative results of the contaminants analytes.

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g. The laboratory may test for and provide test results for additional contaminants or processing chemicals if asked to do so by a requester.

h. For each primary sample tested, a laboratory shall issue a certificate of analysis that contains the following:

(1) The name and concentration of each contaminant for which the primary sample was tested.

1. The concentrations shall be listed in parts per million (ppm) or other units as determined by the department.

2. The laboratory shall report a result of “detected but not quantified” for any contaminant that falls below the LOQ, has a signal-to-noise ratio of greater than 3:1, and meets identification criteria.

(2) Whether the primary sample passed or failed the test in accordance with paragraphs 154.50(2) “c” and “d.”

(3) The names and amounts of any additional contaminants identified by the laboratory.

i. If the primary sample fails testing for residual solvents and processing chemicals, the lot fails laboratory testing.

j. When a laboratory identifies additional contaminants in a primary sample, the laboratory shall:

(1) Notify the department of the additional contaminants and the amounts detected, if applicable.

(2) Refrain from issuing a final certificate of analysis until given approval to do so by the department.

**641—154.51(124E) Reporting requirements.**

**154.51(1) Reporting test results.** The laboratory shall generate a certificate of analysis for each primary sample that it tests and make the certificate of analysis available to the manufacturer and the department.

**154.51(2) Tentatively identified analytes.** A laboratory shall report on the certificate of analysis any tentatively identified analytes detected during the analysis of the primary sample. When a laboratory identifies additional analytes in a primary sample, the laboratory shall:

a. Notify the department of the additional analytes detected.

b. Refrain from issuing a final certificate of analysis until given approval to do so by the department.

**154.51(3) Additional reporting requirements.** In addition to the requirements described in rule 641—154.50(124E), the certificate of analysis shall contain, at a minimum, the following information:

a. All requirements of ISO/IEC 17025 dated 2017;

b. Date of primary sample collection;

c. Date the primary sample was received by the laboratory;

d. Date of each analysis;

e. The LOQ and action level for each analyte, as applicable;

f. Whether the primary sample and lot passed or failed laboratory testing; and

g. A signature by the laboratory quality officer or delegate and the date the certificate of analysis was validated as being accurate by the laboratory quality officer or delegate.

**154.51(4) Measurements.**

a. Any test result that is not covered under the laboratory’s ISO/IEC 17025 scope of accreditation shall be clearly identified on the certificate of analysis.

b. Measurements below a method’s limit of detection shall be reported as “<” (less than) or “not detected” and reference the reportable limit. The reporting of zero concentration is not permitted.

c. Measurements greater than or equal to LOD but less than LOQ shall be reported as “detected but not quantified.”

d. The number of significant figures reported shall reflect the precision of the analysis.

**641—154.52(124E) Recordkeeping requirements.**

**154.52(1) Data package.** A laboratory shall create a data package for each analytical batch of primary samples that the laboratory analyzes. The data package shall contain at minimum the following information:

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- a. The name and address of the laboratory that performed the analytical procedures;
- b. The names, functions, and signatures (electronic or handwritten) of the laboratory personnel who performed the primary sample preparation, analyzed the primary samples, and reviewed and approved the data;
- c. All primary sample and analytical batch quality control sample results;
- d. Raw data for each primary sample analyzed;
- e. Instrument raw data, if any was produced;
- f. Instrument test method with parameters;
- g. Instrument tune report, if one was created;
- h. All instrument standard calibration data;
- i. Test-method worksheets or forms used for primary sample identification, characterization, and calculations, including chromatograms, sample-preparation worksheets, and final datasheets;
- j. The quality control report with worksheets, forms, or copies of laboratory notebook pages containing pertinent information related to the identification and traceability of all reagents, reference materials, and standards used for analysis;
- k. The analytical batch sample sequence;
- l. The field sample log; and
- m. The chain-of-custody form.

**154.52(2) Review of data package.** After the laboratory has compiled a data package, an individual at the laboratory who was not previously involved in the creation of the data package shall:

- a. Assess the analytical results for technical correctness and completeness;
- b. Verify that the results of each analysis carried out by the laboratory are reported accurately, clearly, unambiguously, and objectively;
- c. Verify that the measurements can be traced back; and
- d. Approve the measurement results by signing and dating the data package prior to release of the certificate of analysis by the laboratory.

**154.52(3) Data package record retention.** The entire data package shall be stored by a laboratory for a minimum of five years and shall be made available upon request by the department or the requester of the laboratory testing.

**154.52(4) Other records.** A laboratory shall maintain all documents, forms, records, and standard operating procedures associated with the testing of medical cannabidiol.

a. A laboratory shall maintain analytical testing laboratory records in such a manner that the analyst, the date the analysis was performed, the approver of the certificate of analysis, the reviewer and approver of the data package, the test method, and the materials that were used can be determined by the department.

b. Records shall be stored in such a way that the data may be readily retrieved when requested by the department.

c. All testing laboratory records shall be kept for a minimum of five years, unless otherwise noted in these rules.

d. The department shall be allowed access to all electronic data, including standards records, calibration records, extraction logs, and laboratory notebooks.

e. A laboratory shall keep and make available to the department the following records related to the testing of medical cannabidiol:

(1) Personnel qualification, training, and competency documentation, including but not limited to résumés, training records, continuing education records, analytical proficiency testing records, and demonstration of competency records for laboratory work. These records shall be kept current.

(2) Method verification and validation records, including method modification records, method detection limit and quantitation limit determination records, ongoing verification records such as proficiency test records and reference material analysis records.

(3) Quality control and quality assurance records, including the laboratory's quality assurance manual and control charts with control limits.

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(4) Chain-of-custody records, including chain-of-custody forms, field sample logs, sample-receipt records, sample-description records, sample-rejection records, laboratory information management system records, sample-storage records, sample-retention records, and disposal records.

(5) Purchasing and supply records, equipment-services records, and other equipment records, including purchase requisition records, packing slips, supplier records, and certificates of analysis.

(6) Laboratory equipment installation records, maintenance records, and calibration records. These records shall include the date and name of the person performing the installation of, calibration of, or maintenance on the equipment, with a description of the work performed, maintenance logs, pipette calibration records, balance calibration records, working and reference mass calibration records, and daily verification-of-calibration records.

(7) Customer service records, including customer contracts, customer requests, certificates of analysis, customer transactions, customer feedback, records related to the handling of complaints and nonconformities, and corrective action pertaining to complaints.

(8) Nonconforming work and corrective action records, including corrective action, nonconformance, nonconformities resolved by correction, customer notification of nonconformities, internal investigations, implementation of corrective action, and resumption-of-work records.

(9) Internal-audit and external-audit records, including audit checklists, standard operating procedures, and audit observation and findings reports. These records shall include the date and name of the person performing the audit.

(10) Management review records, including technical data review reports and final management-review reports. These records shall include the review date and the name of the reviewer.

(11) Laboratory data reports, data review, and data approval records, including instrument and equipment identification records, records with unique sample identifiers, analysts' laboratory notebooks and logbooks, traceability records, test-method worksheets and forms, instrumentation-calibration data, and test-method raw data. These records shall include the analysis date and the name of the analyst.

(12) Proficiency testing records, including the proficiency test schedule, proficiency tests, data-review records, data-reporting records, nonconforming work and corrective actions, and quality control and quality assurance records related to proficiency testing.

(13) Electronic data, backed-up data, records regarding the protection of data, including unprocessed instrument output data files and processed quantitation output files, electronic data protocols and records, and authorized personnel records.

(14) Security data, including laboratory-security records and laboratory-access records, surveillance-equipment records, and security-equipment records. These records shall be stored for at least one year.

(15) Traceability, raw data, standards records, calibration records, extraction logs, reference materials records, analysts' laboratory notebooks and logbooks, supplier records, and certificates of analysis, and all other data-related records.

(16) Laboratory contamination and cleaning records, including autoclave records, acid-wash logs and records, and general laboratory-safety and chemical-hygiene protocols.

**641—154.53(124E) Quality control.** The laboratory shall have quality control protocols that include the following elements:

**154.53(1) *Quality control samples required.***

*a.* The laboratory shall run quality control samples with every analytical batch of samples for chemical and microbiological analysis.

*b.* For microbiological analysis, the laboratory shall develop procedures for quality control requirements for each analytical batch of samples.

*c.* The laboratory shall analyze the quality control samples in exactly the same manner as the test samples to validate the laboratory testing results.

**154.53(2) *Types of quality control samples.*** At a minimum, a laboratory shall have the following quality control samples as part of every analytical batch tested for chemical analytes:



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*a.* Negative control (method blank). A laboratory shall prepare and run at least one method blank sample with an analytical batch of samples along with and under the same conditions, including all sample preparation steps, as the other samples in the analytical batch, to demonstrate that the analytical process did not introduce contamination.

*b.* Positive control (laboratory control sample). A laboratory shall prepare and run at least one laboratory control sample with an analytical batch of samples along with and under the same conditions, including all sample preparation steps, as the other samples in the analytical batch.

*c.* Matrix spike sample. A laboratory shall prepare and run one or more matrix spike samples for each analytical batch.

(1) A laboratory shall calculate the percent recovery for quantitative chemical analysis by dividing the sample result by the expected result and multiplying that by 100. All quality control measures shall be assessed and evaluated on an ongoing basis, and quality control acceptance criteria shall be used. When necessary, the department may establish acceptance criteria on the department's website ([hhs.iowa.gov](https://hhs.iowa.gov)).

(2) If quality control acceptance criteria are not acceptable, a laboratory shall investigate the cause, correct the problem, and rerun the analytical batch of samples. If the problem persists, the laboratory shall reprepare the samples and run the analysis again, if possible.

*d.* Field duplicate sample. A laboratory shall prepare and run a duplicate sample as described in the laboratory testing requirements and acceptance criteria document in subrule 154.47(1). The acceptance criterion between the primary sample and the duplicate sample is less than or equal to 20 percent relative percent difference.

**154.53(3)** *Certified reference material for chemical analysis.* The laboratory shall use a reference material for each analytical batch in accordance with the following standards:

*a.* The reference material should be certified and obtained from an outside source, if possible. If a reference material is not available from an outside source, the laboratory shall make its own in-house reference material.

*b.* Reference material made in-house should be made from a different source of standards than the source from which the calibration standards are made.

*c.* The test result for the reference material shall fall within the quality control acceptance criteria. If it does not, the laboratory shall document and correct the problem and run the analytical batch again.

**154.53(4)** *Calibration standards.* The laboratory shall prepare calibration standards by serially diluting a standard solution to produce working standards used for calibration of an instrument and quantitation of analyses in samples.

**154.53(5)** *Quality control-sample report.* A laboratory shall generate a quality control-sample report that includes quality control parameters and measurements, analysis date, and type of matrix.

**154.53(6)** *Limit-of-detection and limit-of-quantitation calculations.* For chemical method analysis, a laboratory shall calculate the limit of detection and limit of quantitation using generally accepted methodology.

**641—154.54(124E) Security requirements.**

**154.54(1)** *Security policy requirement.* A laboratory shall maintain a security policy to prevent the loss, theft, or diversion of medical cannabidiol samples. The security policy shall apply to all staff and visitors at a laboratory facility.

**154.54(2)** *Restricted access.* A laboratory shall limit entrance to all restricted areas by completing all of the following:

*a.* The controlled access system shall do all of the following:

(1) Limit access to authorized individuals;

(2) Maintain a log of individuals with approved access, including dates of approvals and revocations;

(3) Track times of personnel to and exit from the laboratory;

(4) Track times of personnel movement between restricted access areas;

(5) Store data for retrieval for a minimum of one year; and

(6) Remain operable in the event of a power failure.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

b. A laboratory shall promptly, but no later than five business days after receipt of request, submit stored controlled access system data to the department.

**154.54(3) Personnel identification system.** A laboratory shall use a personnel identification system that controls and monitors individual employee access to restricted access areas within the laboratory facility.

a. An employee identification card shall contain:

- (1) The name of the employee;
- (2) The date of issuance and expiration;
- (3) An alphanumeric identification number that is unique to the employee; and
- (4) A photographic image of the employee.

b. A laboratory employee shall keep the identification card visible at all times when the employee is in the laboratory.

c. Upon termination or resignation of an employee, a laboratory shall immediately:

- (1) Revoke the employee's access to the laboratory; and
- (2) Obtain and destroy the employee's identification card, if possible.

**154.54(4) Video monitoring and surveillance.** A laboratory shall operate and maintain in good working order a video surveillance system for its premises that operates 24 hours per day, seven days a week, and visually records all areas where medical cannabis goods are stored or tested.

a. *Camera specifications.* Cameras shall:

- (1) Capture clear and certain identification of any person entering or exiting a restricted access area containing medical cannabis goods;
- (2) Produce a clear, color still photograph live or from a recording;
- (3) Have an embedded date-and-time stamp that is synchronized to the recording and does not obscure the picture; and
- (4) Continue to operate during a power outage.

b. *Video recording specifications.* Video recording equipment shall:

- (1) Export still images in an industry standard image format, such as .jpg, .bmp, or .gif.
- (2) Archive in a format that ensures authentication and guarantees that the recorded image has not been altered.
- (3) Save exported video shall also be saved in an industry standard file format that can be played on a standard computer operating system.
- (4) All recordings shall be erased or destroyed at the end of the retention period and prior to disposal of any storage medium.

c. *Additional requirements.* A laboratory shall maintain all security system equipment and recordings in a secure location to prevent theft, loss, destruction, corruption, and alterations.

d. *Retention.* A laboratory shall ensure that 24-hour recordings from all video cameras are:

- (1) Available for viewing by the department upon request;
- (2) Retained for a minimum of 60 days;
- (3) Maintained free of alteration or corruption; and
- (4) Retained longer, as needed, if a laboratory is given actual notice of a pending criminal, civil, or administrative investigation, or other legal proceeding for which the recording may contain relevant information.

**154.54(5) Chain-of-custody policy and procedures.** A laboratory shall maintain a current chain-of-custody policy and procedures. The policy should ensure that:

a. Chain of custody is maintained for samples that may have probable forensic evidentiary value; and

b. Annual training is available for individuals who will be involved with testing medical cannabis goods.

**154.54(6) Information technology systems security.** A laboratory shall maintain information technology systems protection by employing comprehensive security controls that include security

PUBLIC HEALTH DEPARTMENT[641](cont'd)

firewall protection, antivirus protection, network and desktop password protection, and security patch management procedures.

These rules are intended to implement Iowa Code chapter 124E.

**ARC 7370C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to health data  
and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 177, “Health Data,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 135.166 and 1996 Iowa Acts, Chapter 1212.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 135.

*Purpose and Summary*

This proposed rulemaking provides that hospitals must submit data to a selected contractor of HHS. The contractor serves as an intermediary of HHS and completes data collection, maintenance, and dissemination to HHS and on behalf of HHS. It also allows HHS to charge fees for administrative costs related to providing data and requires data be kept confidential in compliance with state and federal law.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 4, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Joe Campos  
 Lucas State Office Building  
 321 East 12th Street  
 Des Moines, Iowa 50319  
 Phone: 515.304.0963  
 Email: [compliance.rules@idph.iowa.gov](mailto:compliance.rules@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 177 and adopt the following **new** chapter in lieu thereof:

CHAPTER 177  
 HEALTH DATA

**641—177.1(76GA,ch1212) Definitions.** For purposes of this chapter, the following definitions shall apply:

“*Confidential record*” means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record. Included in the definition are those data collected by the department, pursuant to 1996 Iowa Acts, chapter 1212, for preparation and dissemination as compilations.

“*Record*” means the whole or a part of a “public record” as defined in Iowa Code section 22.1 that is owned by or in the physical possession of this agency.

**641—177.2(76GA,ch1212) Description of data to be submitted.**

**177.2(1)** The department shall collect information from other state agencies for the purpose of public dissemination of health data.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

**177.2(2)** Hospitals shall submit data to the contractor selected through the request for proposal process, which shall serve as an intermediary for the department. The information shall include inpatient, outpatient and ambulatory information.

**177.2(3)** The contractor selected through the request for proposal process shall collect, maintain, and disseminate hospital inpatient, outpatient, and ambulatory information pursuant to a memorandum of understanding with the department. The contractor selected through the request for proposal process shall submit data to the department pursuant to the memorandum of understanding.

**641—177.3(76GA, ch1212) Fees.** Fees charged for data provided by the department shall not exceed administrative costs. Such charges may include copying, postage, supervisory, computer programming, time, and medium fees. The department will work to provide requestors with an estimate of the charges to be assessed for copies and labor prior to producing copies of records.

**641—177.4(76GA, ch1212) Patient confidentiality.** The department shall protect patient confidentiality. Confidential records or parts of such records collected as a part of this process shall be kept confidential. All health data shall be collected, maintained, and disseminated only in accordance with Iowa and federal law.

These rules are intended to implement 1996 Iowa Acts, chapter 1212, section 5, and Iowa Code section 135.166.

**ARC 7361C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rulemaking related to nonpayment of state debt  
and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 194, “Nonpayment of State Debt,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 272D.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 272D.

*Purpose and Summary*

This proposed rulemaking sets forth HHS procedure in denying the issuance, renewal, suspension or revocation of a professional license for nonpayment of state debt. This process commences upon receipt of a certificate of noncompliance from the centralized collection unit of the Department of Revenue.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. The HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 4, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:

Joe Campos  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Phone: 515.304.0963  
Email: [compliancerules@idph.iowa.gov](mailto:compliancerules@idph.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the HHS and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 194 and adopt the following **new** chapter in lieu thereof:

CHAPTER 194  
NONPAYMENT OF STATE DEBT

**641—194.1(272D) Definitions.** For the purpose of this chapter, the following definitions shall apply.

“*Applicant*” means an individual who is seeking the issuance of a license.

“*Centralized collection unit*” means the centralized collection unit of the Iowa department of revenue.

“*Certificate of noncompliance*” means the same as defined in Iowa Code section 272D.1.

“*Denial notice*” means a licensing authority notification denying an application for the issuance or renewal of a license as required by Iowa Code chapter 272D.

“*License*” means the same as defined in Iowa Code section 272D.1.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

*“Licensing authority”* means a board, commission, or any other entity of the department that has authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

*“Revocation or suspension notice”* means a licensing authority notification suspending a license for an indefinite or specified period of time or a notification revoking a license as required by Iowa Code chapter 272D.

*“Withdrawal certificate”* means the same as defined in Iowa Code section 272D.1.

**641—194.2(272D) Denial of issuance or renewal of a license or suspension or revocation of a license.** The licensing authority shall deny the issuance or renewal of a license or suspend or revoke a license upon the receipt of a certificate of noncompliance from the centralized collection unit per the procedure set forth in Iowa Code chapter 272D. This rule shall apply in addition to the procedures set forth in Iowa Code chapter 272D.

**194.2(1) Service of denial, suspension or revocation notice.** Notice will be served upon the applicant or licensee by certified mail, return receipt requested; by personal service; or through authorized counsel.

**194.2(2) Licensees and applicants responsible to inform licensing authority.** Licensees and applicants shall keep the licensing authority informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D. Licensees and applicants shall also provide the licensing authority copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code chapter 272D, all court orders entered in such actions, and any withdrawals of certificates issued by the centralized collection unit.

**194.2(3) Reinstatement following license denial, suspension or revocation.** All licensing authority fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees before a license will be issued, renewed, or reinstated after the licensing authority has denied the issuance or renewal of a license or suspended or revoked a license pursuant to Iowa Code chapter 272D.

**194.2(4) Effect of filing in district court.** In the event an applicant or a licensee files a timely district court action following service of a denial notice by a licensing authority or service of a revocation or suspension notice, the licensing authority will continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or of the suspension or revocation of a license, the licensing authority will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**194.2(5) Final notification.** The licensing authority will notify the applicant or licensee in writing through regular first-class mail, or by such other means as the licensing authority determines appropriate in the circumstances and will similarly notify the applicant or licensee if the license is issued or renewed following the licensing authority’s receipt of a withdrawal certificate.

**641—194.3(272D) Sharing of information.** The department may share applicant or licensee information with the centralized collection unit pursuant to Iowa Code chapter 272D.

These rules are intended to implement Iowa Code chapter 272D.

**ARC 7337C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rulemaking related to military service, veteran reciprocity, and spouses and providing an opportunity for public comment**

The Department of Health and Human Services (HHS) hereby proposes to rescind Chapter 196, “Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members,” and to adopt a new Chapter 196, “Emergency Medical Services—Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapter 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 147D.1.

*Purpose and Summary*

This proposed rulemaking sets forth HHS procedures to expedite the application for a professional license for those persons married to an active duty member of the military forces of the United States, or for those persons who are veterans, and to provide reciprocity in licensure for such persons who are currently licensed in another state. The chapter also provides for the application of military education, training, and service as credit toward any experience or educational requirement of licensure.

This chapter applies only to HHS’s emergency medical services licensure program; this is the only licensing program covered by the requirements of Iowa Code chapter 272C to remain under the auspices of HHS upon implementation of the government realignment.

A Regulatory Analysis, including the proposed rule text, was published on November 1, 2023. A public hearing was held on November 28, 2023. HHS received no public comments. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 4, 2023.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition HHS for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by HHS no later than 4:30 p.m. on February 26, 2024. Comments should be directed to:



PUBLIC HEALTH DEPARTMENT[641](cont'd)

Joe Campos  
 Lucas State Office Building  
 321 East 12th Street  
 Des Moines, Iowa 50319  
 Email: [joe.campos@idph.iowa.gov](mailto:joe.campos@idph.iowa.gov)

### *Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 14, 2024 11 to 11:30 a.m.	Microsoft Teams meeting ID: 212 588 466 197 Passcode: SThXzX
February 26, 2024 1 to 2 p.m.	Microsoft Teams meeting ID: 249 196 980 071 Passcode: 9dQkSC

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact HHS and advise of specific needs.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 196 and adopt the following **new** chapter in lieu thereof:

#### CHAPTER 196

#### EMERGENCY MEDICAL SERVICES—MILITARY SERVICE, VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE MEMBERS

##### **641—196.1(272C) Definitions.**

“License” means the same as defined in Iowa Code section 272D.1.

“Licensing authority” means the same as defined in Iowa Code section 272D.1.

“Military service” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c)(2021); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101(2006).

“Military service applicant” means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

“Spouse” means a spouse of an active duty member of the military forces of the United States.

“Veteran” means the same as defined in Iowa Code section 35.1.

**641—196.2(272C,147D) Military education, training, and service credit.** A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the licensing authority. No fee is required with submission of an application for military service credit.

**196.2(1)** The licensing authority shall grant credit requested in the application pursuant to the emergency medical services (EMS) personnel licensure interstate compact described in Iowa Code section 147D.1.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**196.2(2)** The licensing authority shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

**196.2(3)** A military service applicant who is aggrieved by the licensing authority's decision may appeal pursuant to the provisions of 441—Chapter 7, except that no fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

**196.2(4)** The licensing authority shall grant or deny the credit requested in the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the licensing authority grants the credit requested in the military service application. If the licensing authority does not grant the credit requested in the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

**641—196.3(272C,147D) Veteran and active duty military spouse privilege to practice.** A veteran or spouse with an unrestricted license in another EMS personnel licensure jurisdiction may practice in Iowa pursuant to the EMS personnel licensure interstate compact described in Iowa Code section 147D.1.

These rules are intended to implement Iowa Code sections 272C.4 and 147D.1.

**ARC 7330C**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to fire safe cigarette certification program and providing an opportunity for public comment**

The State Fire Marshal hereby proposes to rescind Chapter 61, “Fire Safe Cigarette Certification Program,” Iowa Administrative Code, and to adopt a new chapter with the same title.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 101B.3(4).

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 101B.

#### *Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 61 and implements Iowa Code section 101B.3(4) in accordance with the goals and directives of Executive Order 10 (January 10, 2023). The rulemaking establishes an application process and standards for payments, certification, test methods, and package marking for fire safe cigarettes. The rulemaking provides cigarette manufacturers with standards applicable to the certification of fire safe cigarettes. Consumers who purchase cigarettes are ensured that cigarettes certified as fire safe have gone through the testing and certification process outlined in these rules.

The rules also set forth the administrative process for enforcing Iowa Code chapter 101B and 661—Chapter 61, including the process for violations and penalties.

No public comments were received on the published Regulatory Analysis for this chapter. No changes have been made to the proposed chapter from the Regulatory Analysis.

#### *Fiscal Impact*

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

February 14, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 1. Rescind 661—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61  
FIRE SAFE CIGARETTE CERTIFICATION PROGRAM

**661—61.1(101B) Definitions.** For purposes of these rules, the following definitions apply:

*“Certified fire safe cigarette”* means a unique cigarette brand style that meets the following criteria:

1. The unique cigarette brand style has been tested in accordance with the test method prescribed in Iowa Code section 101B.4 or has been approved pursuant to Iowa Code section 101B.4.

2. The unique cigarette brand style meets the performance standard specified in Iowa Code section 101B.4 or has been approved pursuant to Iowa Code section 101B.4.

3. A written certification for the unique cigarette brand style has been filed by the manufacturer with the department and in accordance with rule 661—61.4(101B).

4. Packaging for the unique cigarette brand style has been marked in accordance with rule 661—61.5(101B).

*“Cigarette”* means a cigarette as defined in Iowa Code section 453A.1, but does not mean a tobacco product as defined in Iowa Code section 453A.1.

*“Department”* means the same as defined in Iowa Code section 101B.2(3).

*“Fire safe cigarette”* means a cigarette certified pursuant to this chapter.

*“Manufacturer”* means the same as defined in Iowa Code section 101B.2(4).

*“Sale”* means the same as defined in Iowa Code section 101B.2(8).

*“Unique cigarette brand style”* means a cigarette with a unique combination of the following:

1. Brand or trade name.
2. Style, such as light or ultra light.
3. Length.
4. Circumference.
5. Flavor, such as menthol or chocolate, if applicable.
6. Presence or absence of a filter.
7. Type of package, such as soft pack or box.

*“Wholesaler”* means the same as defined in Iowa Code section 101B.2(10).

**661—61.2(101B) Certification and fee.** A certification application and fee shall be submitted to the department online pursuant to Iowa Code section 101B.5. An application is incomplete unless all required information is submitted, including required attachments and fees. Applications will not be processed until complete.

**661—61.3(101B) Test method, performance standard, test report.** Unless otherwise excepted therein, each unique cigarette brand style submitted for certification under this chapter shall meet all of the criteria in Iowa Code section 101B.4.

**61.3(1) Alternate test method.** A manufacturer proposing an alternate test method and performance standard pursuant to this rule will submit such proposal to the department on a form provided by the department.

*a.* The department will approve or deny the proposed alternate test method and performance standard within 60 days of receipt of such proposal and will send notification of such approval or denial by certified mail, return receipt requested, to the address provided by the manufacturer.

*b.* The department may approve an alternate test method and performance standard if it is determined to be equivalent to the test method and performance standard prescribed in Iowa Code section 101B.4. If an alternate test method and performance standard is approved pursuant to this rule, the manufacturer may employ the alternate test method and performance standard to certify the cigarette in accordance with Iowa Code section 101B.4.

**61.3(2) Acceptance of alternate test method approved by another state.** A manufacturer proposing an alternate test method and performance standard approved by another state will use the procedure

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

specified in subrule 61.3(1) and provide documentation verifying that the alternate test method and performance standard have been approved by another state as provided in Iowa Code section 101B.4(9).

**61.3(3) Retention of reports of testing.** A manufacturer shall maintain copies of all test reports pursuant to Iowa Code section 101B.4(10).

**61.3(4) Testing performed or sponsored by the department.** Testing performed or sponsored by the department will be conducted in accordance with Iowa Code section 101B.4.

**61.3(5) Changes to the manufacture of a certified fire safe cigarette.** If a manufacturer with any cigarette certified under this chapter makes any changes to the cigarette thereafter, retesting of the cigarette may be required in accordance with Iowa Code section 101B.5(6).

**661—61.4(101B) Notification of certification.** A manufacturer or wholesaler shall provide copies of certifications pursuant to Iowa Code section 101B.6.

**661—61.5(101B) Marking fire safe cigarette packaging.** Cigarettes that have been certified in accordance with Iowa Code section 101B.5 shall be marked as provided in Iowa Code section 101B.7. The recommended marking is the letters “FSC” displayed in accordance with any of the methods described in Iowa Code section 101B.7.

**661—61.6(17A) Violations and penalties.** A person who violates any provision of Iowa Code chapter 101B or of this chapter is subject to a civil penalty of an amount no greater than specified by Iowa Code section 101B.8. Notice of a civil penalty will be provided by mail or by personal service. A person subject to a civil penalty may appeal the imposition of the penalty by requesting a contested case hearing, in writing, within 20 days. An appeal of a civil penalty is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

These rules are intended to implement Iowa Code chapter 101B.

**ARC 7332C**

**PUBLIC SAFETY DEPARTMENT[661]**

**Notice of Intended Action**

**Proposing rulemaking related to licensing for commercial explosive contractors and blasters and providing an opportunity for public comment**

The State Fire Marshal hereby proposes to rescind Chapter 235, “Licensing for Commercial Explosive Contractors and Blasters,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 101A.5 and 272C.12.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 101A and 17A and section 272C.12.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 235 and implements Iowa Code sections 101A.5 and 272C.12 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). The rulemaking establishes a commercial explosive licensing program pursuant to Iowa Code chapter 101A. The proposed rules outline the entities and individuals who are required to obtain a license and explain the application process and conditions that must be satisfied to obtain a commercial explosive contractor license or a commercial explosive blaster license. The proposed rules inform licensees and the public of the procedure for submitting complaints; the reasons for which a license may be denied, suspended

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

or revoked; and the process by which the decision may be appealed. Pursuant to Iowa Code section 272C.12, the proposed rules also explain the process and requirements for licensure of persons licensed in other jurisdictions.

No public comments were received on the published Regulatory Analysis for this chapter. No changes have been made to the proposed chapter from the Regulatory Analysis.

*Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:tel.meet/zuu-vunu-dcc?pin=9691567757424)

February 14, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:tel.meet/zuu-vunu-dcc?pin=9691567757424)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 235 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 235

## LICENSING FOR COMMERCIAL EXPLOSIVE CONTRACTORS AND BLASTERS

**661—235.1(101A) Definitions.** Definitions set forth in Iowa Code section 101A.1 are incorporated herein by reference. For purposes of these rules, the following definitions also apply:

*“Actual possession”* means when a person is in immediate possession or control of explosive materials (e.g., an employee who physically handles explosive materials as part of the production process; or an employee, such as a blaster, who actually uses explosive materials).

*“Applicant”* means an individual employed by a commercial explosive contractor or person associated with a commercial explosive contractor who meets the definition of “employee possessor” or “responsible person” as defined in this chapter.

*“Commercial explosive blaster”* or *“blaster”* means any individual who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material.

*“Commercial explosive contractor”* or *“contractor”* means any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment.

*“Constructive possession”* means when an employee lacks direct physical control over explosive materials but exercises dominion and control over the explosive materials, either directly or indirectly through others (e.g., an employee at a construction site who keeps keys for magazines in which explosive materials are stored, or who directs the use of explosive materials by other employees; or an employee transporting explosive materials from a licensee to a purchaser).

*“Employee possessor”* means an individual who has actual or constructive possession of explosive materials during the course of the individual's employment.

*“Offense directly relates”* refers to either of the following:

1. The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession.
2. The circumstances under which an offense was committed are circumstances customary to a licensed profession.

*“Responsible person”* means an individual who has the power to direct the management and policies of the commercial explosive contractor pertaining to explosive materials. For example, responsible persons generally include sole proprietors and explosives facility site managers. In the case of a corporation, association, or similar organization, responsible persons generally include corporate directors and officers, as well as stockholders who have the power to direct management and policies.

**661—235.2(101A) Licenses required.** Except as specifically exempted by another provision of state or federal law, any business whose employees are engaged in the manufacture, importation, distribution, sale, or commercial use of explosives in the course of their employment shall be required to hold a current commercial explosive contractor license issued pursuant to this chapter. Any individual, except as specifically exempted by another provision of law, who conducts blasting or is in charge of or responsible for loading or detonation of any explosive material shall be required to hold a current commercial explosive blaster license issued pursuant to this chapter. A commercial explosive blaster license is not required to authorize a person solely to transport explosives from one location to

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

another, to assist a licensed blaster, to train under a licensed blaster, or to engage in the manufacture of explosives.

NOTE: Iowa Code section 101A.1 excludes “fireworks” from the definition of “explosive.” Consequently, working with fireworks does not necessitate a blaster license, nor does the manufacture, importation, distribution, sale, or commercial use of fireworks necessitate a commercial explosive license.

**661—235.3(101A,272C) License application process.**

**235.3(1) Application for commercial explosive contractor or commercial explosive blaster license.** Applications for a commercial explosive contractor license or a commercial explosive blaster license are available on the department’s website. The application shall be filed no later than 30 days prior to the date of beginning work in this state or on which an existing license expires.

**235.3(2) Submission of application and required information.** A completed application for a license shall be submitted to the department at the address specified on the department’s website. An application will not be considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

**235.3(3) License fee.** Each license application shall be accompanied by a license fee as set forth in Iowa Code section 101A.2(2). The department will waive any fee charged to an applicant for a license if the applicant’s household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

**235.3(4) License duration.** Licensure will normally be for three years and expire on December 31 of the third year after it is issued, except that a license issued in December of any year expires on December 31 after two years have passed from the date on which the license was issued.

**235.3(5) Criminal history.** An applicant is subject to a national criminal history check pursuant to Iowa Code section 101A.2(3).

**235.3(6) Veterans and military service members.** Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a commercial explosive contractor or blaster should apply for licensure in accordance with 481—Chapter 7.

**661—235.4(101A) Issuance of commercial explosive contractor license.** A commercial explosive contractor license will be issued if all of the following conditions have been satisfied:

**235.4(1)** All items required on the application have been completed, and any items the department deems necessary to verify have been appropriately verified.

**235.4(2)** No applicant for whom commercial explosive licensure is sought nor any person who will have, at any time, possession of explosives in the course of employment with the prospective contractor licensee may:

- a. Have been convicted of any offense involving explosives or firearms;
- b. Have been previously disqualified from being licensed to handle explosives in this or any other state. The department may grant a license to a person previously disqualified if the department is satisfied that the condition or conditions that led to the disqualification have been corrected;
- c. Be an unlawful user of or be addicted to controlled substances;
- d. Have been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder that impairs a person’s capacity to function normally and safely, both toward themselves and others.

**235.4(3)** The applicant has at least one responsible person or employee licensed as a commercial explosive blaster.

**661—235.5(101A) Issuance of a commercial explosive blaster license.** A commercial explosive blaster license will be issued if all of the following conditions have been satisfied:

**235.5(1)** The applicant is an employee of a licensed commercial explosive contractor.



## PUBLIC SAFETY DEPARTMENT[661](cont'd)

*a.* If, after a commercial explosive blaster license is issued, such employment ceases, the employing contractor and the commercial explosive blaster shall each notify the department within three business days of the final day of employment that the employment has ceased, and the commercial explosive blaster license shall be suspended until the commercial explosive blaster is again employed with a licensed commercial explosive contractor.

*b.* Upon reemployment, the employer shall notify the department that the commercial explosive blaster is again employed with a licensed commercial explosive contractor, and the department will reinstate the commercial explosive blaster license as soon as practical, provided that the commercial explosive blaster is not disqualified from holding a license pursuant to any provision of this chapter.

*c.* If the department finds that a commercial explosive blaster is disqualified from holding a license, the department shall revoke the license.

**235.5(2)** All items required on the application have been completed and any items the department deems necessary to verify have been verified and found to be true.

**235.5(3)** The applicant is not or has not been:

*a.* Convicted of any offense involving explosives or firearms;

*b.* Previously disqualified from being licensed to handle explosives in this or any other state. The department may grant a license to a person previously disqualified if the department is satisfied that the condition or conditions that led to the disqualification have been corrected;

*c.* An unlawful user of or addicted to controlled substances;

*d.* Adjudged mentally incompetent at any time by any court or committed by any court to any mental institution; or

*e.* A recipient of inpatient treatment for any mental illness in the past three years or a recipient of treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely toward themselves or others.

**235.5(4)** The applicant has satisfactorily completed training approved by the department for the handling and use of explosives as described on the department's website. The training may be provided by the employer or by a reputable third party knowledgeable about the storage, handling, and use of explosives. The department may accept related job experience of 640 hours or more in lieu of training if the experience is documented by a sworn affidavit provided by the employing commercial explosive contractor licensee.

**EXCEPTION:** The department may issue a commercial explosive blaster license to a person licensed or certified as a blaster in another state, provided that the department finds that the requirements for licensing or certification in the other state are comparable to those provided for in this rule.

**235.5(5)** An applicant for a renewal license has completed continuing education from a nationally recognized institution in professional explosives storage, handling, and use.

**235.5(6)** The applicant is 21 years of age or older.

**661—235.6(272C) Licensure of persons licensed in other jurisdictions.**

**235.6(1)** For the purposes of this rule, "issuing jurisdiction" means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

**235.6(2)** Notwithstanding any other provision of law, a commercial explosive contractor license or commercial blaster license will be issued without an examination to a person who establishes residency in this state or to a person who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state if all of the following conditions are met:

*a.* The person is currently licensed by at least one other issuing jurisdiction as a commercial explosive contractor or commercial blaster with a substantially similar scope of practice and the license is in good standing in all issuing jurisdictions in which the person holds a license.

*b.* The person has been licensed by another issuing jurisdiction for at least one year.

*c.* When the person was licensed by the issuing jurisdiction, the issuing jurisdiction imposed minimum educational requirements and, if applicable, work experience, and the issuing jurisdiction verifies that the person met those requirements in order to be licensed in that issuing jurisdiction.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

*d.* The person previously passed an examination required by the other issuing jurisdiction for licensure, if applicable.

*e.* The person has not had a license revoked and has not voluntarily surrendered a license in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

*f.* The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the department shall determine if the cause for the action was corrected and the matter resolved. If the department determines that the matter has not been resolved by the jurisdiction imposing discipline, the department shall not issue or deny a license to the person until the matter is resolved.

*g.* The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the department shall not issue or deny a license to the person until the complaint, allegation, or investigation is resolved.

*h.* The person pays all applicable fees.

*i.* The person does not have a criminal history that would prevent the person from holding the commercial explosive contractor license or commercial blaster license applied for in this state.

**235.6(3)** A person licensed pursuant to this rule is subject to the laws regulating the person's practice in this state and is subject to the jurisdiction of the department marshal.

**235.6(4)** This rule does not apply to any of the following:

*a.* The ability of the department to require the submission of fingerprints or completion of a criminal history check.

*b.* The ability of the department to require a person to take and pass an examination specific to the laws of this state prior to issuing a license. If the department requires an applicant to take and pass an examination specific to the laws of this state, the department will issue an applicant a temporary license that is valid for a period of three months and may be renewed once for an additional period of three months.

**235.6(5)** Except as provided in subrule 235.7(2), a person applying for a license in this state who relocates to this state from another state that did not require a license to practice as a commercial explosive contractor or commercial blaster may be considered to have met any education, training, or work experience requirements imposed by the department in this state if the person has three or more years of related work experience with a substantially similar scope of practice within the four years preceding the date of application as determined by the department.

**235.6(6)** A person applying for a license in this state under the requirements of this subrule shall submit the request in writing to the department providing proof of residency in this state and documentation to verify all conditions are met under this subrule.

**661—235.7(101A) Inventory and records.** Each licensed commercial explosive business shall maintain records as referenced in the National Fire Protection Association (NFA) chapter 495, "Explosive Materials Code," as adopted by reference in rule 661—231.1(101A).

**661—235.8(101A) Complaints.** Complaints regarding the performance of any licensed contractor or blaster, failure of a licensed contractor or blaster to meet any of the requirements established in Iowa Code chapter 101A or this chapter or any other provision of law, or operation as a commercial explosive contractor or commercial blaster without licensure may be filed with the department. Complaints should be as specific as possible and clearly identify the contractor or blaster against whom the complaint is filed. Complaints should be submitted in writing to the department as indicated on the department's website. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant may be notified of the disposition of the complaint.

**661—235.9(101A,252J) Grounds for suspension, revocation, or denial of commercial explosive licenses; appeals.**

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**235.9(1)** The department may refuse to issue a contractor or blaster license sought pursuant to Iowa Code section 101A.2 or may suspend or revoke such a license for any of the following reasons:

*a.* Finding that the applicant or licensee is disqualified by any provision of federal or Iowa law from possessing explosives, firearms, or offensive weapons.

*b.* Finding that the applicant or licensee lacks sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety.

*c.* Finding that the applicant or licensee falsified information in the current or any previous license application.

*d.* Finding that the applicant or licensee has been adjudged mentally incompetent at any time by any court, been committed by any court to any mental institution, received inpatient treatment for any mental illness in the past three years, or received treatment by a health care professional for a serious mental illness or disorder that impairs a person's capacity to function normally and safely, both toward themselves and others.

*e.* Proof that the licensee or applicant has violated any provision of Iowa Code chapter 101A, this chapter, or 661—Chapter 231.

*f.* Receipt of a certificate of noncompliance from the child support recovery unit of the Iowa department of health and human services, pursuant to the procedures set forth in Iowa Code chapter 252J.

*g.* Receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue, pursuant to Iowa Code chapter 272D.

*h.* Conviction of a felony offense, if the offense directly relates to the profession or occupation of the applicant, in the courts of this state or another state, territory or country. Conviction as used in this subrule includes a conviction of an offense that if committed in this state would be a felony without regard to its designation elsewhere and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

*i.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the applicant's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

*j.* Willful or repeated violations of the provisions of this chapter.

*k.* Disqualifications pursuant to Iowa Code section 272C.15.

**235.9(2)** An applicant or licensee whose application is denied or a licensee whose license is suspended or revoked for a reason other than receipt of a certificate of noncompliance from the child support recovery unit or a certificate of noncompliance from the department of revenue may appeal that action by requesting a contested case hearing, in writing, within 20 days of the department's determination. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases. Applicants or licensees whose licenses are denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit or the department of revenue are subject to the procedures set forth in 481—Chapter 8.

**235.9(3)** The department will notify the employing commercial explosive contractor licensee of the denial, suspension, or revocation of a commercial explosive blaster license.

These rules are intended to implement Iowa Code chapters 101A and 272C.

**ARC 7331C****PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action****Proposing rulemaking related to consumer fireworks sales licensing and safety standards and providing an opportunity for public comment**

The State Fire Marshal hereby proposes to rescind Chapter 265, “Consumer Fireworks Sales Licensing and Safety Standards,” and adopt a new Chapter 265, “Consumer Fireworks Retail Seller Licensing and Wholesaler Registration,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 10A.519 and 10A.520 as transferred by 2023 Iowa Acts, Senate File 514 (formerly Iowa Code sections 100.19(2), 100.19(4), 100.19(6), 100.19(8) and 100.19A(2)).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 10A.519 and 10A.520 as implemented by 2023 Iowa Acts, Senate File 514, and chapter 17A.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 265. The proposed rules implement Iowa Code sections 10A.519 and 10A.520 as implemented by 2023 Iowa Acts, Senate File 514 (formerly Iowa Code sections 100.19 and 100.19A), in accordance with the goals and directives of Executive Order 10 (January 10, 2023). The rules explain the safety standards that govern the sale of consumer fireworks, the circumstances under which consumer fireworks may be sold in the state, the application process and associated fees for a consumer fireworks retail sales license, and the requirements for wholesaler registration. The rules explain the Consumer Fireworks Fee Fund and the uses of the funds collected. The rules establish and explain the Local Fire Protection and Emergency Medical Service Providers Grant Program.

Public comment was received requesting retention of language from former subrule 265.25(2). That language had been removed by the Department of Inspections, Appeals, and Licensing as a nonsubstantive deletion. As stakeholders have identified that they find the language particularly useful, the Department has added it back into the proposed rulemaking at subrule 265.6(2).

*Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

Ashleigh Hackel  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 10 to 10:20 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
 Or dial: +1 774.338.0928  
 PIN: 195 434 437#  
 More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](https://tel.meet/zuu-vunu-dcc?pin=9691567757424)

February 14, 2024  
 10 to 10:20 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
 Or dial: +1 774.338.0928  
 PIN: 195 434 437#  
 More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](https://tel.meet/zuu-vunu-dcc?pin=9691567757424)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 265 and adopt the following **new** chapter in lieu thereof:

## CHAPTER 265

## CONSUMER FIREWORKS RETAIL SELLER LICENSING AND WHOLESALER REGISTRATION

**661—265.1(10A) Definitions.** The following definitions apply:

“*APA 87-1*” means the same as defined in Iowa Code section 10A.519(1) “*a.*”

“*Commercial fireworks*” means large firework devices that are explosive materials intended for use in firework displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as set forth in 27 CFR 555 and 49 CFR 172 in effect on January 1, 2001, and APA Standard 87-1, Standard for the Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics.

“*Community group*” means the same as defined in Iowa Code section 10A.519(1) “*b.*”

“*Consumer fireworks*” means the same as defined in Iowa Code section 10A.520(1) “*a.*”

“*Display fireworks*” means the same as defined in Iowa Code section 727.2(1) “*b.*”

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

*“First-class consumer fireworks”* means the same as defined in Iowa Code section 10A.519(1)“c.”

*“NFPA 1124”* means the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

*“Retailer”* means the same as defined in Iowa Code section 10A.519(1)“d.”

*“Second-class consumer fireworks”* means the same as defined in Iowa Code section 10A.519(1)“e.”

*“Serious violation”* means any of the following activities occurring at a licensed retail location selling consumer fireworks:

1. Commission of a criminal offense, punishable by one year or more incarceration.
2. Selling consumer fireworks to a minor.
3. Selling commercial fireworks.

*“Wholesaler”* means the same as defined in Iowa Code section 10A.520(1)“b.”

**661—265.2(10A) Sale of consumer fireworks—safety standards.** Any retailer or community group offering for sale at retail any first-class or second-class consumer fireworks, as described in American Pyrotechnics Association (APA) Standard 87-1, as published in December 2001, shall do so in accordance with the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition (hereinafter referred to as “APA 87-1” and “NFPA 1124,” respectively).

**661—265.3(10A) Sales allowed.** A retailer or community group that is issued a license pursuant to this chapter is authorized to sell consumer fireworks as defined in this chapter. However, sales are permitted only as follows.

**265.3(1) Prohibited sale or transfer to persons under 18 years of age.**

a. A retailer or community group shall not transfer consumer fireworks, as described in APA 87-1, chapter 3, to a person who is under 18 years of age.

b. A person, firm, partnership or corporation shall not sell consumer fireworks to a person who is less than 18 years of age.

**265.3(2) Exceptions for persons under 18 years of age.**

a. A retailer selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall supervise any employees who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks in the course of their employment for the retailer.

b. A community group selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall ensure that any persons who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks by the community group, whether the persons less than 18 years of age are paid or unpaid, shall do so under the direct supervision of an adult member of the community group.

**265.3(3) Dates of sale.** A retailer or community group may sell consumer fireworks in accordance with Iowa Code section 10A.519(4)“c.”

**661—265.4(10A) License fees—consumer fireworks seller licenses.**

**265.4(1) Fee schedule.** The fee schedule for consumer fireworks seller licenses is as provided in Iowa Code section 10A.519(3). License fees shall be paid before issuance of a license.

**265.4(2) Administrative license fee.** A nonrefundable administrative fee of \$100 is required with every application for a consumer fireworks retail sales license. The \$100 fee will be applied to the license fee if the license is issued.

**265.4(3) Changing license class or amount.** If a retailer or consumer group is issued a license for the retail sale of one class or amount of consumer fireworks, and changes to a class or amount that requires a higher license fee, the retailer or consumer group shall pay only the difference in the two fees. The license for the lower class will be invalid after the issuance of the new license.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**265.4(4)** *No refund after issuance.* Payment is final when the license is issued, and the fee will not be refunded.

**661—265.5(10A) Application and issuance of license.**

**265.5(1)** *Application form and instructions.* The application for a license for retail sales of consumer fireworks shall be made to the department as described on the department's website. A license is required for each location where the retail sales of consumer fireworks are conducted.

**265.5(2)** *Application requirements.* Applications and the accompanying plans must include all required information and must be prepared in accordance with the application instructions. An application will not be processed until all required information is received in the form required by the instructions.

**265.5(3)** *Proof of insurance.* Applicants must provide proof of and maintain commercial general liability insurance with minimum per occurrence coverage of at least one million dollars and aggregate coverage of at least two million dollars.

**265.5(4)** *Issuance and display of license.* If all of the requirements are met and the correct license fee is paid, the department will issue the license. The license must be clearly displayed at the location where the retail sales of consumer fireworks for which the license was issued are conducted.

**661—265.6(10A) Fireworks site plan review, approval, and inspection.**

**265.6(1)** *Plan approval.* The retailer or community group shall submit to the department the proposed plan(s), including any required site plan(s) for the location(s) and for any building(s) or structure(s), whether permanent or temporary, that will be used for the sale and storage of fireworks. Requirements and exceptions for site plan submittal and approval are outlined on the department's website.

NOTE: Regarding the incorporation of the reference to NFPA 102, 1995 edition, Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures into NFPA 1124 concerning tents and membrane structures, Sections 7.3.5 and 7.4.8.1.2 of NFPA 1124 should be read together with Section A.7.4.8.1.2 in the Explanatory Material in Annex A to NFPA 1124 and used for the purposes of (1) determining the requirements for the means of egress in tents and membrane structures except as modified by Section 7.3.14 of NFPA 1124 for special requirements for the retail sales of consumer fireworks, and (2) to prohibit the use, discharge, or ignition of fireworks within the tent or membrane structure. The other provisions of NFPA 1124, including the sections relating to the retail sales of consumer fireworks in tents or membrane structures, remain applicable.

**265.6(2)** *Plans not required.* In the discretion of the department, plans may not be required in the following circumstances:

*a.* For permanent buildings or temporary structures in which only exempt amounts of first-class or second-class consumer fireworks are offered for sale, pursuant to section 7.3.1, NFPA 1124. The licensee shall make current product inventory information available to the department upon request.

*b.* For permanent buildings that were licensed in the previous year and for which there have been no changes to the site, building or floor plan. If any changes have been made, a new or updated plan shall be submitted.

*c.* For permanent buildings that are currently classified as a retail occupancy and in which second-class consumer fireworks are the only fireworks that are offered for sale.

**265.6(3) Inspections.**

*a.* Every location and any building or structure where the retail sales of consumer fireworks are conducted or where consumer fireworks are stored is subject to an inspection at any time while engaged in the retail sale of consumer fireworks.

*b.* Prior to the sale of consumer fireworks, each retail location shall satisfy one of the following requirements:

(1) A site inspection of the retail location by the department or the department's designee.

(2) Attestation at the time of the application by the person submitting the application that the retail location will comply with NFPA 1124 and these rules.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

c. If a retail location license is revoked, the location shall be inspected in accordance with subparagraph 265.6(3)“b”(1) prior to engaging in the sale of consumer fireworks the following year.

**661—265.7(10A) Unauthorized use of license.** Only the retailer or the community group that is issued the license may use that license for the retail sales of consumer fireworks. Each license will be issued for a specific location. The license may not be transferred to or used at any other location.

**265.7(1)** If the retailer or community group to which the license is issued changes the location where the retail sale of consumer fireworks will be sold, the retailer or community group shall submit a new application and all required information for the new site and pay the applicable license fee. The application must be reviewed and approved in order for a new license to be issued.

**265.7(2)** The licensed retailer or community group or the authorized representative of the licensed retailer or community group must be personally present at all times when consumer fireworks are being sold.

**265.7(3)** No unlicensed retailer, community group, person, group of people, business, or other for-profit or nonprofit entity may use the license issued to another retailer or community group for the retail sales of consumer fireworks, unless the licensed retailer or community group or the authorized representative of the licensed retailer or community group is personally present at all times when consumer fireworks are being sold.

**661—265.8(10A) Revocation of license.** If the department or department’s designee determines during a physical site inspection that a serious violation has occurred, the license for that retail location may be immediately revoked. Vendors will be given the opportunity to remedy violations that are not deemed serious violations.

**661—265.9(10A) Consumer fireworks wholesalers—registration—safety—insurance.**

**265.9(1)** *Annual registration.* Each wholesaler shall register with the department annually by completing and submitting the annual registration form and paying the fee as required by Iowa Code section 10A.520(3).

**265.9(2)** *Safety regulations—storage and transfer.* Each wholesaler shall comply with all of the requirements of NFPA 1124 for the storage and transfer of consumer fireworks.

**265.9(3)** *Insurance required.* While operating as a wholesaler, each wholesaler shall maintain commercial general liability insurance with minimum per-occurrence coverage of at least \$1 million and aggregate coverage of at least \$2 million.

**661—265.10(10A) Consumer fireworks fee fund.** All fees received from the licenses issued for the retail sale of consumer fireworks and the annual registration fees received from wholesalers of consumer fireworks will be deposited into the consumer fireworks fee fund pursuant to Iowa Code section 10A.519. The department will use the fees deposited into this fund to fulfill the responsibilities of the department for the administration and enforcement of Iowa Code sections 10A.519 and 10A.520.

**661—265.11(10A) Local fire protection and emergency medical service providers grant program.** The local fire protection and emergency medical service providers grant program is established by Iowa Code section 10A.519(7). The grant program is funded with only those moneys from the consumer fireworks fee fund that are not needed by the department to fulfill the responsibilities of the department for the administration and enforcement of Iowa Code sections 10A.519 and 10A.520.

**265.11(1)** *Definitions.* The following definitions apply.

“*Emergency medical services*” means the same as defined in Iowa Code section 147A.1(5).

“*Fire protection service*” means volunteer or paid fire departments.

**265.11(2)** *Authorized applicants.* Any local fire protection service provider or local emergency medical service provider in the state of Iowa may apply for grant funds from the local fire protection and emergency medical service providers grant program.

**265.11(3)** *Authorized purposes of grant funds.* The grant funds in the local fire protection and emergency medical service providers grant program may be used for the following in order of priority:



## PUBLIC SAFETY DEPARTMENT[661](cont'd)

- a. To establish or provide fireworks safety education programming to members of the public.
- b. To purchase necessary enforcement, protection, or emergency response equipment related to the sale and use of consumer fireworks in this state.
- c. To purchase necessary enforcement, protection, or emergency response equipment.

**265.11(4) Application.** An application for grant funds should be made to the department. The application form may be found on the department's website. Applications must be received on or before June 30 of each year. The application will include all of the following:

- a. The application shall be signed by a person who is an official, owner, or another person who has authorization to sign on behalf of the fire protection service or the emergency medical service provider entity.
- b. The specifics of the proposed use of the grant funds.
  - (1) If the application is for equipment, the applicant should include a detailed description of the equipment, the company or entity from which the purchase will be made, the cost, and a justification as to how this equipment purchase fits the purposes of the grant program.
  - (2) If the application is for safety education programming, the application should include a detailed description of the programming, the specific people who will be providing the programming, and a description of the materials to be purchased and used.
- c. The amount of grant funds requested.

**265.11(5) Approval of application.** The director of the department will review the application and determine whether to make the award of grant funds. The director of the department has the sole discretion in determining whether or not to award funds from the grant program to the applicant and the amount of funds awarded to each applicant. Factors to be considered in making an award of grant funds include, but are not limited to:

- a. The amount of grant funds available.
- b. The number of applicants for grant funds.
- c. The proposed use of the grant funds and whether the use is consistent with the approved program purposes.
- d. Whether the applicant has previously been approved for grant funds from this program.
- e. The applicant's use of any previous grant funds received from the program.

**265.11(6) Award of tangible property.** Should the department determine that the purpose of the grant program is better served by awarding tangible property, such as equipment, rather than funds, the department has the authority to award tangible property purchased with grant funds rather than disperse grant funds to the applicants.

**265.11(7) Report required.** All grant recipients shall file a report with the department that lists the amount of grant funds received and the purpose(s) for which the grant funds were spent. The department may conduct an inspection or audit to determine compliance with the rules and purposes of the grant program, in addition to any other authorized audits.

These rules are intended to implement Iowa Code sections 10A.519 and 10A.520.

**ARC 7334C**

**PUBLIC SAFETY DEPARTMENT[661]**

**Notice of Intended Action**

**Proposing rulemaking related to licensing of fire protection system contractors and providing an opportunity for public comment**

The State Fire Marshal hereby proposes to rescind Chapter 275, "Licensing of Fire Protection System Contractors," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 100C.7.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 100C and 17A and section 272C.12.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 275 and implements Iowa Code section 100C.7 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). These proposed rules establish a fire protection system contractor license program pursuant to Iowa Code chapter 100C. The rules explain the requirements for an individual to qualify and be designated as a responsible managing employee by a contractor seeking to obtain a license. The rules explain the requirements and process for licensure as a fire protection system contractor. The rules inform licensees and the public of the procedure for submitting complaints; the reasons for which a license may be denied, suspended or revoked; and the process by which the decision may be appealed. Pursuant to Iowa Code section 272C.12, the rules explain the process and requirements for licensure of persons licensed in other jurisdictions.

No public comments were received on the published Regulatory Analysis for this chapter. No changes have been made to the proposed chapter from the Regulatory Analysis.

*Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

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February 13, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](https://tel.meet/zuu-vunu-dcc?pin=9691567757424)

February 14, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](https://tel.meet/zuu-vunu-dcc?pin=9691567757424)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 275 and adopt the following **new** chapter in lieu thereof:

CHAPTER 275  
LICENSING OF FIRE PROTECTION SYSTEM CONTRACTORS

**661—275.1(100C) Establishment of program.** The fire protection system contractor license is established pursuant to Iowa Code chapter 100C.

**275.1(1) Licensure required.** No person shall act as a fire extinguishing system contractor without being currently licensed as a fire protection system contractor by the department.

**275.1(2) Endorsement.** The licensure of each contractor will carry an endorsement for one or more of the following:

- a. Automatic sprinkler system installation.
- b. Special hazards systems installation.
- c. Preengineered dry chemical or wet agent fire suppression systems installation.
- d. Preengineered water-based fire suppression systems in one- and two-family dwellings installation.
- e. Automatic sprinkler system maintenance inspection.
- f. Special hazards system maintenance inspection.
- g. Preengineered dry chemical or wet agent fire suppression systems maintenance inspection.
- h. Preengineered water-based fire suppression systems in one- and two-family dwellings maintenance inspection.

Any person acting as a fire extinguishing system contractor shall do so only in relation to systems covered by the endorsements on the contractor's license.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**275.1(3) Length of licensure.** A license is normally for one year and expires on March 31 each year. A license which is effective on a date other than April 1 is effective on the date on which the license is issued and expires on March 31 of the following year.

**661—275.2(100C) Definitions.** The following definitions apply:

*“Aerosol fire extinguishing system”* means a system that uses a combination of microparticles and gaseous matter to flood the protected area. The particles are in a vapor state until discharged from the device. On release, a chain reaction produces solid particles and gaseous matter to suppress the fire.

*“Automatic dry-chemical extinguishing system”* means the same as defined in Iowa Code section 100C.1(4).

*“Automatic fire extinguishing system”* means the same as defined in Iowa Code section 100C.1(5).

*“Automatic sprinkler system”* means the same as defined in Iowa Code section 100C.1(6).

*“Carbon dioxide extinguishing system”* means the same as defined in Iowa Code section 100C.1(7).

*“Clean agent”* means an electrically nonconducting, volatile, or gaseous fire extinguishant that does not leave a residue upon evaporation.

*“Deluge system”* means the same as defined in Iowa Code section 100C.1(8).

*“Dry chemical”* means a powder composed of very small particles, usually sodium bicarbonate-, potassium bicarbonate-, or ammonium phosphate-based, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption (caking), and the proper flow capabilities.

*“Dry pipe sprinkler system”* means an extinguishing system employing automatic sprinklers that are attached to a piping system containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) permits the water pressure to open a valve known as a dry pipe valve, which allows the water to flow into the piping system and out the opened sprinklers.

*“Fire extinguishing system contractor,” “fire protection system contractor,”* or *“contractor”* means the same as defined in Iowa Code section 100C.1(10).

*“Foam extinguishing system”* means the same as defined in Iowa Code section 100C.1(11).

*“Halogenated extinguishing system”* means the same as defined in Iowa Code section 100C.1(12).

*“Hybrid-inert water mist system”* means a system that combines the benefits of inert gas systems and water mist systems to extinguish fires. These systems provide both extinguishment and cooling to prevent reignition utilizing nontoxic, non-ozone-depleting hybrid media.

*“Layout”* means drawings, calculations and component specifications to achieve the specified system design installation. *“Layout”* does not include design.

*“Listed”* means equipment, materials, or services included in a list published by a nationally recognized independent testing organization concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

*“Maintenance inspection”* means the same as defined in Iowa Code section 100C.1(13).

*“Preengineered dry chemical or wet agent fire suppression system”* means any system having predetermined flow rates, nozzle pressures and limited quantities of either agent. These systems have specific pipe sizes, maximum and minimum pipe lengths, flexible hose specifications, number of fittings and number and types of nozzles prescribed by a nationally recognized testing laboratory. The hazards against which these systems protect are specifically limited by the testing laboratory as to the type and size based upon actual fire tests. Limitations on hazards that can be protected against by these systems are contained in the manufacturer’s installation manual, which is referenced as part of the listing.

*“Preengineered water-based system”* means a packaged, water-based sprinkler system including all components connected to a water supply and designed to be installed according to pretested limitations.

*“Responsible managing employee”* means the same as defined in Iowa Code section 100C.1(14).

*“Special hazards system”* means a fire extinguishing system utilizing fire detection and control methods to release an extinguishing agent, other than water connected to a dedicated fire protection water supply.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

“*Wet agent*” or “*wet chemical*” means an aqueous solution of organic or inorganic salts or a combination thereof that forms an extinguishing agent.

**661—275.3(100C) Responsible managing employee.** Each fire extinguishing system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 275.1(2). If more than one responsible managing employee is designated, the contractor will indicate for which responsible managing employee each designated alternate managing employee serves as an alternate.

**275.3(1)** The responsible managing employee or employees shall be designated in the application for licensure, and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the department, in writing, within 30 calendar days.

**275.3(2)** If a responsible managing employee is no longer acting in that role and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee will become the responsible managing employee and the contractor shall so notify the department, in writing, within 30 calendar days of the date on which the preceding responsible managing employee ceased to act in that role. If the contractor has designated more than one alternate responsible managing employee, the notice to the department will indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

**275.3(3)** If a responsible managing employee designated by a fire extinguishing system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor shall designate a new responsible managing employee and shall notify the department, in writing, of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity. If the department has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the department shall suspend the license of the fire protection system contractor.

**275.3(4) Training requirements.** A responsible managing employee or an alternate responsible managing employee shall meet one of the requirements for the following endorsements:

- a. Automatic sprinkler system installation:
  - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in fire extinguishing system design, or
  - (2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level III or above in water-based systems layout.
- b. Special hazards system installation:
  - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in fire extinguishing system design, or
  - (2) Current certification by the NICET at level III or above in special hazard systems.
- c. Preengineered dry chemical or wet agent fire suppression system installation:
  - (1) Current certification by the NICET at level II or above in special hazard systems, or
  - (2) Current certification by the National Association of Fire Equipment Distributors (NAFED) in preengineered kitchen fire suppression systems, preengineered industrial fire suppression systems, or both, or
  - (3) Satisfactory completion of any training required by the manufacturer for the installation of any system the contractor installs.
- d. Preengineered water-based fire suppression system in one- and two-family dwellings installation:
  - (1) Current certification by the NICET at level II or above in special hazard systems, or
  - (2) Satisfactory completion of any training required by the manufacturer for the installation of any system the contractor installs.
- e. Automatic sprinkler system maintenance inspection:
  - (1) Current certification from the NICET at level II in water-based system layout, or

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

(2) Current certification by the NICET at level II or above in inspection and testing of water-based systems.

*f.* Special hazards system maintenance inspection:

(1) Current certification by the NICET at level II or above in special hazard systems.

(2) Reserved.

*g.* Preengineered dry chemical or wet agent fire suppression system maintenance inspection:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Current certification by the NAFED in preengineered kitchen fire suppression systems, preengineered industrial fire suppression systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for the maintenance and inspection of any system the contractor inspects.

*h.* Preengineered water-based fire suppression system maintenance inspection:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for the maintenance and inspection of any system the contractor inspects.

**275.3(5)** Training or testing approval. Satisfactory completion of an applicable training or testing program that has been approved by the department may replace any of the endorsement requirements of subrule 275.3(4). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensure requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm or organization seeking to obtain such approval will apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department is listed on the department's licensing website.

**275.3(6)** License applicability. Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification or other training requirements met by the responsible managing employee. Work performed in the state shall not begin prior to:

*a.* Receipt of new or renewed license issued by the department to the applicant, or

*b.* Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

**275.3(7)** Portable fire extinguisher requirements. Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing a fire extinguishing system or portable fire extinguisher set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

**275.3(8)** Licensure of persons licensed in other jurisdictions. A fire protection system contractor license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

**661—275.4(100C) License requirements.** A fire extinguishing system contractor shall meet all of the following requirements in order to receive licensure from the department and continue to meet all requirements throughout the period of licensure. The contractor shall notify the department, in writing, within 30 calendar days if the contractor fails to meet any requirement for licensure.

**275.4(1)** The contractor shall designate one or more responsible managing employees as provided in rule 661—275.3(100C).

**275.4(2)** The contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic fire extinguishing systems in the following amounts: \$500,000 per person, \$1,000,000 per occurrence, and \$1,000,000 property damage.

*a.* The carrier of any insurance coverage maintained to meet this requirement shall notify the department 30 days prior to the effective date of cancellation or reduction of the coverage.

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b. The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of a fire extinguishing system that cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

**275.4(3)** The contractor shall maintain current registration as a contractor with the labor services division of the Iowa workforce development department in compliance with Iowa Code chapter 91C and 875—Chapter 150. The contractor shall provide a copy of the contractor's current registration from the Iowa workforce development department with the contractor's application for licensure.

EXCEPTION: A contractor will not be required to maintain registration with the labor services division of the Iowa workforce development department if the contractor does not meet the definition of "contractor" for purposes of Iowa Code chapter 91C and 875—Chapter 150. Written documentation of such exemption must be provided to the department at the time of application for licensure as a fire protection system contractor.

**275.4(4)** The contractor shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the contractor is performing work.

**275.4(5)** A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsements for which the licensee is renewing.

**275.4(6)** Any individual while serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, applying for licensure as a fire protection system contractor shall apply for licensure following 481—Chapter 7.

**661—275.5(100C) Application and fees.**

**275.5(1) Application.** Any contractor seeking licensure as a fire protection system contractor shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date of beginning work in this state or the date on which an existing license expires. An application form may be obtained from the department or the department's website. The application form shall be submitted with all required attachments and the required application fee. An application will not be considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

**275.5(2) License fee.**

a. The license fee is \$500 for one year.

b. If an application for licensure provides for more than one responsible managing employee pursuant to rule 661—275.3(100C), there will be an additional fee of \$50 for each responsible managing employee beyond the first. If an application for licensure provides for more than one endorsement as provided in subrule 275.1(2), there will be an additional fee of \$50 for each endorsement beyond the first.

c. The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

**275.5(3) Payment.** The license fee may be submitted electronically or delivered by draft, check, or money order in the applicable amount payable to the department. Cash payments are not accepted.

**275.5(4) Amended license.**

a. The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s) or responsible managing employee(s), if applicable. The fee shall be submitted with the request for an amended license.

b. A contractor will request and the department will issue an amended license for any of the following reasons, and a fee does not apply:

(1) A change in the designation of a responsible managing employee;

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

- (2) A change in insurance coverage; or
- (3) A change in any other material information included in or with the initial or renewal application.

A change in the address of the business is a material change.

c. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

**275.5(5) Attachments.** Required attachments to the application for licensure are outlined on the department's website.

**661—275.6(100C) Complaints.** Complaints regarding the performance of any licensed contractor, failure of a licensed contractor to meet any of the requirements established in Iowa Code chapter 100C or this chapter or any other provision of law, or operation as a fire extinguishing system contractor without licensure may be filed with the department. Complaints should be as specific as possible and clearly identify the contractor against whom the complaint is filed. Complaints should be submitted in writing to the department as indicated on the department's website. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

**661—275.7(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals.** The department may deny, suspend, or revoke the license of a contractor, or assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as a fire extinguishing system contractor is violated.

**275.7(1) Denial.** The department may deny an application for licensure for reasons including, but not limited to:

a. If the applicant makes a false statement on the application form or in any other submission of information required for license. "False statement" means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for licensure established in this chapter.

c. If the applicant is currently barred for cause from acting as a fire extinguishing system contractor in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as a fire extinguishing system contractor and if the basis of that action reflects upon the integrity of the applicant in operating as a fire extinguishing system contractor. If an applicant is found to have been previously barred for cause from operating as a fire extinguishing system contractor in another jurisdiction and is no longer barred from doing so, the department will evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a licensed contractor. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

e. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. "Conviction" as used in this subrule includes a conviction of an offense that if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Willful or repeated violations of the provisions of this chapter.



## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**275.7(2) Suspension.** A suspension of a license may be imposed by the department for any violation of these rules or Iowa Code chapter 100C or for a failure to meet any legal requirement to operate as a fire extinguishing system contractor in this state. Failure to provide any notice to the department as provided in these rules will be grounds for suspension. An order of suspension will specify the length of the suspension and will specify that correction of all conditions that were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

**275.7(3) Revocation.**

*a.* A revocation is a termination of a license. A license may be revoked by the department for repeated violations or for a violation that creates an imminent danger to the safety or health of individuals protected by a fire extinguishing system incorrectly installed by a licensed contractor or when information comes to the attention of the department which, if known to the department when the application was being considered, would have resulted in denial of the license.

*b.* A new application for licensure from a contractor whose license had previously been revoked will not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition that was a basis for the revocation has been corrected. The department may specify in the revocation order a longer period than one year before a new application for licensure may be considered. When a new application for licensure from a contractor whose license was previously revoked is being considered, the applicant may be denied licensure based upon the same information that was the basis for revocation even after any such period established by the department has expired.

**275.7(4) Disqualifications for criminal convictions limited.** A person's conviction of a crime may be grounds for the denial, revocation, or suspension of a license in circumstances authorized by Iowa Code section 272C.15.

**275.7(5) Civil penalties.** The department may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty will not be imposed in lieu of a revocation.

**275.7(6) Appeals.** Any denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensed contractor under this rule may be appealed by the contractor within 14 days of receipt of the notice by submitting a written request for a contested case appeal to the department. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

These rules are intended to implement Iowa Code chapter 100C.

**ARC 7335C**

**PUBLIC SAFETY DEPARTMENT[661]**

**Notice of Intended Action**

**Proposing rulemaking related to licensing of fire protection system technicians and providing an opportunity for public comment**

The State Fire Marshal hereby proposes to rescind Chapter 276, "Licensing of Fire Protection System Technicians," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 100D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 100D and 17A and section 272C.12.

*Purpose and Summary*

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

This rulemaking proposes repromulgation of Chapter 276 and implements Iowa Code section 100D.5 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). The proposed rules establish a fire protection system installer and maintenance worker licensing program pursuant to Iowa Code chapter 100D. The rules explain the requirements and process for obtaining a license from the Department of Inspections, Appeals, and Licensing. The rules inform licensees and the public of the procedure for submitting complaints; the reasons for which a license may be denied, suspended or revoked; and the process by which the decision may be appealed. The rules explain the process and requirements for licensure of persons licensed in other jurisdictions pursuant to Iowa Code section 272C.12.

No public comments were received on the published Regulatory Analysis for this chapter. No changes have been made to the proposed chapter from the Regulatory Analysis.

*Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](https://tel.meet/zuu-vunu-dcc?pin=9691567757424)

February 14, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#

PUBLIC SAFETY DEPARTMENT[661](cont'd)

More phone numbers:

[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 276 and adopt the following **new** chapter in lieu thereof:

CHAPTER 276

LICENSING OF FIRE PROTECTION SYSTEM TECHNICIANS

**661—276.1(100D) Establishment of program.** The fire protection system technician license is established pursuant to Iowa Code chapter 100D.

**276.1(1) Licensing required.** A person shall not act as a fire protection system installer and maintenance worker without being currently licensed as a fire protection system technician by the department, except as provided in Iowa Code sections 100D.2(1) and 100D.11.

*a.* For purposes of Iowa Code section 100D.2(1)“*a*,” “direct supervision” means that the person supervising the person performing the work shall be on the job site while the work being supervised is performed.

*b.* For purposes of Iowa Code section 100D.2(1)“*d*,” the work performed that is subject to the provisions of this chapter must be within the scope of the endorsement(s) of the licensed contractor employing the responsible managing employee.

**276.1(2) Endorsement.** Any person acting as a fire protection system installer and maintenance worker shall do so only in relation to systems and work covered by the endorsements on the person's license. The license of each technician shall carry an endorsement for one or more of the following:

- a.* Automatic sprinkler system installation.
- b.* Special hazards system installation.
- c.* Preengineered dry chemical or wet agent fire protection systems installation.
- d.* Preengineered water-based fire protection systems in one- and two-family dwellings installation.
- e.* Automatic sprinkler system maintenance inspection.
- f.* Special hazards system maintenance inspection.
- g.* Preengineered dry chemical or wet agent fire protection systems maintenance inspection.
- h.* Preengineered water-based fire protection systems in one- and two-family dwellings maintenance inspection, or
- i.* Fire protection technician trainee.

**276.1(3) Length of licensure.** Licensure shall normally be for two years and will expire on March 31 of the second year after the license has been issued. A license that is effective on a date other than April 1 will be effective on the date on which the license is issued and will expire the next March, after one year has passed from the date on which the license was issued. A technician trainee license may be renewed once and a person may work as a technician trainee for a maximum of four years.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**661—276.2(100D) Definitions.** The following definitions apply:

*“Aerosol fire extinguishing system”* means a system that uses a combination of microparticles and gaseous matter to flood the protected area. The particles are in a vapor state until discharged from the device. On release, a chain reaction produces solid particles and gaseous matter to suppress the fire.

*“Apprentice fire protection system installer and maintenance worker”* means the same as defined in Iowa Code section 100D.1(1).

*“Automatic fire extinguishing system”* means the same as defined in Iowa Code section 100C.1(5).

*“Automatic sprinkler system”* means the same as defined in Iowa Code section 100C.1(6).

*“Carbon dioxide extinguishing system”* means the same as defined in Iowa Code section 100C.1(7).

*“Clean agent”* means an electrically nonconducting, volatile, or gaseous fire extinguishant that does not leave a residue upon evaporation.

*“Deluge system”* means the same as defined in Iowa Code section 100C.1(8).

*“Department”* means the same as defined in Iowa Code section 100D.1(2).

*“Dry chemical”* means a powder composed of very small particles, usually sodium bicarbonate-, potassium bicarbonate-, or ammonium phosphate-based, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption (caking), and the proper flow capabilities.

*“Dry pipe sprinkler system”* means an extinguishing system employing automatic sprinklers that are attached to a piping system containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) permits the water pressure to open a valve known as a dry pipe valve, which allows the water to flow into the piping system and out the opened sprinklers.

*“Fire extinguishing system contractor,” “fire protection system contractor,”* or *“contractor”* means the same as defined in Iowa Code section 100D.1(4).

*“Fire protection system”* means the same as defined in Iowa Code section 100D.1(5).

*“Fire protection system installation”* means the same as defined in Iowa Code section 100D.1(6).

*“Fire protection system installer and maintenance worker”* or *“fire protection system technician”* means the same as defined in Iowa Code section 100D.1(8). A fire protection system technician shall be an employee of a fire protection system contractor or, if employed by anyone other than a fire protection system contractor, shall perform work requiring licensing as a fire protection system technician only on property owned or occupied by such employer and may obtain a license if the employer is not a licensed contractor.

*“Fire protection system maintenance”* means the same as defined in Iowa Code section 100D.1(7).

*“Foam extinguishing system”* means the same as defined in Iowa Code section 100C.1(11).

*“Halogenated extinguishing system”* means the same as defined in Iowa Code section 100C.1(12).

*“Hybrid-inert water mist system”* means a system that combines the benefits of inert gas systems and water mist systems to extinguish fires. These systems provide both extinguishment and cooling to prevent reignition utilizing nontoxic, non-ozone-depleting hybrid media.

*“Layout”* means drawings, calculations and component specifications to achieve the specified system design installation. *“Layout”* does not include design.

*“Listed”* means equipment, materials, or services included in a list published by a nationally recognized independent testing organization concerned with evaluation of products or services that maintains periodic inspection of the production of listed equipment or materials or periodic evaluation of services and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

*“Preengineered dry chemical or wet agent fire suppression system”* means any system having predetermined flow rates, nozzle pressures and limited quantities of either agent. These systems have specific pipe sizes, maximum and minimum pipe lengths, flexible hose specifications, number of fittings and number and types of nozzles prescribed by a nationally recognized testing laboratory. The hazards against which these systems protect are specifically limited by the testing laboratory as to the type and size based upon actual fire tests. Limitations on hazards that can be protected against by these systems are contained in the manufacturer’s installation manual, which is referenced as part of the listing.

*“Preengineered fire protection system”* means the same as defined in Iowa Code section 100D.1(9).

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

“*Preengineered water-based fire protection system*” means a packaged, water-based sprinkler system including all components connected to a water supply and designed to be installed according to pretested limitations.

“*Responsible managing employee*” means the same as defined in Iowa Code section 100D.1(10).

“*Routine maintenance*” means the same as defined in Iowa Code section 100D.1(11).

“*Special hazards system*” means a fire extinguishing system utilizing fire detection and control methods to release an extinguishing agent, other than water connected to a dedicated fire protection water supply.

“*Wet agent*” or “*wet chemical*” means an aqueous solution of organic or inorganic salts or a combination thereof that forms an extinguishing agent.

**661—276.3(100D) Licensing requirements.** A fire protection system installer and maintenance worker shall meet all of the following requirements in order to receive a license from the department and shall continue to meet all requirements throughout the period of licensure. A licensee shall notify the department, in writing, within 30 calendar days if the licensee fails to meet any requirement for licensure.

**276.3(1) Compliance.** Each licensee shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and in any political subdivision in which the licensee is performing work.

**276.3(2) Training requirements.** An applicant for a license shall meet one of the requirements for the following endorsements:

*a.* Automatic sprinkler system installation:

(1) Current certification by the National Inspection Testing and Certification Corporation (NITC) in the STAR Fire Sprinkler Fitting Mastery Examination, or

(2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level I or above in water-based system layout, or

(3) Current certification by the NICET at level I or above in inspection and testing of water-based systems.

*b.* Special hazards system installation:

(1) Current certification by the NICET at level I or above in special hazards systems.

(2) Reserved.

*c.* Preengineered dry chemical or wet agent fire protection system installation:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Current certification by the National Association of Fire Equipment Distributors (NAFED) in preengineered kitchen fire extinguishing systems, preengineered industrial fire extinguishing systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for the installation of any system the technician installs, or

(4) Current certification by the Fire Protection Certification LTD (FPC) in commercial kitchen fire suppression system service, preengineered fire suppression maintenance, or both.

*d.* Preengineered water-based fire protection systems in one- and two-family dwellings installation:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for the installation of any system the technician installs.

*e.* Automatic sprinkler system maintenance inspection:

(1) Current certification by the NITC in the STAR Fire Sprinkler Fitting Mastery Examination, or

(2) Current certification by the NICET at level I or above in water-based systems layout, or

(3) Current certification by the NICET at level I or above in inspection and testing of water-based systems.

*f.* Special hazards system maintenance inspection:

(1) Current certification by the NICET at level I or above in special hazard systems.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

(2) Reserved.

g. Preengineered dry chemical or wet agent fire protection system maintenance inspection:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Current certification by the NAFED in preengineered kitchen fire extinguishing systems, preengineered industrial fire extinguishing systems, or both, or

(3) Satisfactory completion of any training required by the manufacturer for maintenance and inspection of any system the technician inspects, or

(4) Current certification by the FPC in commercial kitchen fire suppression system service, preengineered fire suppression maintenance, or both.

h. Preengineered water-based fire protection systems in one- and two-family dwellings installation:

(1) Current certification by the NICET at level I or above in special hazard systems, or

(2) Satisfactory completion of any training required by the manufacturer for maintenance and inspection of any system the technician inspects.

i. Fire protection system technician trainee: Submission of a completed application no later than the first day of employment. A fire protection system technician trainee may perform work that requires licensure under this chapter only under the direct supervision of a licensed fire protection system technician or responsible managing employee whose license contains one or more endorsements as provided in subrule 275.1(2) or 276.1(2), and that work must be within the scope of work authorized by the endorsements held by the supervising fire protection system technician or responsible managing employee. At least one licensed fire protection system technician or responsible managing employee must be present for every three apprentice fire protection system installers and maintenance workers or fire protection system technician trainees performing work related to fire protection systems.

**276.3(3) Continuing education.** A license may be renewed only if the licensee has completed recertification of the applicable certification requirements relative to the endorsement(s) for which the license is being renewed.

**276.3(4) Training or testing approval.** Satisfactory completion of an applicable training or testing program approved by the department may replace any of the endorsement requirements of subrule 276.3(2). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensure requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm, or organization seeking to obtain such approval may apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department will be listed on the department's licensing website.

**276.3(5) License applicability.** Work performed by a technician or trainee subject to these rules shall be limited to areas of competence indicated by the specific endorsement(s) identified on the license. Work performed in the state shall not begin prior to:

a. Receipt of a new or renewed license issued by the department to the applicant, or

b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

**276.3(6) Portable fire extinguisher requirements.** Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing a fire extinguishing system or portable fire extinguisher set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

**276.3(7) Licensure of persons licensed in other jurisdictions.** A fire protection system technician license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**276.3(8) *Veterans and active duty military.*** Any individual serving honorably on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, should apply for licensure following 481—Chapter 7.

**661—276.4(100D) Application and fees.**

**276.4(1) *Application.*** Any person seeking licensure as a fire protection system technician shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date of beginning work in this state or the date on which an existing license expires. An application form may be obtained from the department or from the department's website. The application form shall be submitted with all required attachments and license fee. An application is not complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

**276.4(2) *License fee.***

*a.* The fee for a permanent or provisional license, except for a trainee license, is \$200. If an application for a license provides for more than one endorsement as provided in subrule 276.1(2), there will be an additional fee of \$25 for each endorsement beyond the first.

*b.* The fee for a fire protection system technician trainee license is \$100.

*c.* The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

**276.4(3) *Payment.*** The license fee shall be submitted electronically, or mailed or hand-delivered by draft, check, or money order in the applicable amount payable to the Iowa Department of Inspections, Appeals, and Licensing. Cash payments are not accepted.

**276.4(4) *Amended license.***

*a.* The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s), if applicable. The fee shall be submitted with a request for an amended license.

*b.* A licensee will request and the department will issue an amended license for any of the following reasons, and a fee does not apply:

(1) A change in employer. A licensee may only transfer the licensee's technician license to another employer if the licensee paid the license fee at the time of original application. If the licensee's previous employer paid the license fee, the licensee must reapply for a new license under the licensee's new employer and pay the license fee.

(2) A change in any other material information included in or with the initial or renewal application. A change of address is a material change.

*c.* Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

**276.4(5) *Attachments.*** Required attachments to the application for a license are outlined on the department's website.

**661—276.5(100D) Complaints.** Complaints regarding the performance of any licensed fire protection system technician, failure of a licensee to meet any of the requirements established in Iowa Code chapter 100D or this chapter or any other provision of law, or persons operating as fire protection system installers and maintenance workers without licensure may be submitted to the department. Complaints should be as specific as possible and clearly identify the licensee or other person against whom the complaint is filed. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

**661—276.6(100D) Denial, suspension, or revocation of licensure; civil penalties; appeals.** If a licensee or person who performs work requiring a license violates any provision of these rules or any other provision of law related to work requiring licensure pursuant to this chapter, the department may

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

deny, suspend or revoke a license or assess a civil penalty to a licensee or to a person who performs work requiring licensure pursuant to this chapter and who is not licensed.

**276.6(1) Denial.** The department may deny an application for licensure:

*a.* If the applicant makes a false statement on the application form or in any other submission of information required for licensure. “False statement” means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

*b.* If the applicant fails to meet all of the requirements for licensure established in this chapter.

*c.* If the applicant is currently barred for cause from licensure equivalent to that provided for in this chapter in another jurisdiction.

*d.* If an applicant has previously been barred for cause from operating in another jurisdiction as a fire protection system installer and maintenance worker and if the basis of that action reflects upon the integrity of the applicant in operating as a fire protection system installer and maintenance worker. If an applicant is found to have been previously barred for cause from operating as a fire protection system installer and maintenance worker in another jurisdiction and is no longer barred from doing so, the department will evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a licensee. If an applicant is denied licensure under this paragraph, the applicant will be notified of the specific reasons for the denial.

*e.* Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. “Conviction” as used in this subrule includes a conviction of an offense that if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied licensure under this paragraph, the applicant will be notified of the specific reasons for the denial.

*f.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee’s profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

*g.* Willful or repeated violations of the provisions of this chapter.

**276.6(2) Suspension.** A suspension of a license may be imposed by the department for any violation of these rules or Iowa Code chapter 100D or for a failure to meet any legal requirement to operate as a fire protection system installer and maintenance worker in this state. Failure to provide any notice to the department as required by these rules may be grounds for suspension. An order of suspension will specify the length of the suspension and will specify that correction of all conditions that were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

**276.6(3) Revocation.**

*a.* A revocation is a termination of a license. A license may be revoked by the department for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by a fire protection system incorrectly installed by a licensee or when information comes to the attention of the department which, if known to the department when the application was being considered, would have resulted in denial of the license.

*b.* A new application for a license from an applicant whose license has previously been revoked will not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition that was a basis for the revocation has been corrected. The department may specify in the revocation order a period longer than one year before a new application for a license may be considered. When a new application for a license from a person whose license was previously revoked is being considered, the applicant may be denied a license based upon the same information that was the basis for revocation even after any such period established by the department has expired.

**276.6(4) Disqualifications for criminal convictions limited.** A person’s conviction of a crime may be grounds for the denial, revocation, or suspension of a license in circumstances authorized by Iowa Code section 272C.15.



PUBLIC SAFETY DEPARTMENT[661](cont'd)

**276.6(5) Civil penalties.** The department may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty will not be imposed in lieu of a revocation.

**276.6(6) Appeals.** Any denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensee or other person under this rule may be appealed within 14 days of receipt of the notice by submitting a written request for a contested case appeal to the department. An appeal is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

These rules are intended to implement Iowa Code chapter 100D.

**ARC 7333C**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to licensing of alarm system contractors and technicians and providing an opportunity for public comment**

The State Fire Marshal hereby proposes to rescind Chapter 277, “Licensing of Alarm System Contractors and Tehcnicians,” and to adopt a new Chapter 277, “Licensing of Alarm System Contractors and Technicians,” Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 100C.7.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 100C and 17A and section 272C.12.

#### *Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 277 and implements Iowa Code section 100C.7 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). The proposed rules establish alarm system contractor and alarm system installer licenses pursuant to Iowa Code chapter 100C. The rules explain the requirements for an individual to qualify and be designated as a responsible managing employee by a contractor seeking to obtain a license. The rules explain the requirements and process for licensure as an alarm system contractor or an alarm system technician. The rules inform licensees and the public of the procedure for submitting complaints; the reasons for which a license may be denied, suspended or revoked; and the process by which the decision may be appealed.

No public comments were received on the published Regulatory Analysis for this chapter. No changes have been made to the proposed chapter from the Regulatory Analysis.

#### *Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

#### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

#### *Waivers*

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

February 14, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 277 and adopt the following **new** chapter in lieu thereof:

CHAPTER 277  
LICENSING OF ALARM SYSTEM CONTRACTORS AND TECHNICIANS

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**661—277.1(100C) Establishment of program.** The alarm system contractor and alarm system technician license are established pursuant to Iowa Code chapter 100C.

**277.1(1) Licensure required.** No person shall act as an alarm system contractor without being currently licensed as an alarm system contractor by the department. No person shall act as an alarm system technician without being currently licensed by the department as an alarm system contractor or alarm system technician unless the person is engaged in the installation of alarm system components, is currently licensed pursuant to Iowa Code chapter 103, and is exempt from requirements for licensure by the department as an alarm system technician pursuant to Iowa Code chapter 103.

EXCEPTION: A person may pull cable for an alarm system under the direct supervision of a licensed contractor, licensed technician, or person licensed pursuant to Iowa Code chapter 103 who is working as a technician without licensing pursuant to Iowa Code chapter 103.

**277.1(2) Endorsement.**

a. The licensure of each contractor, technician, or technician trainee shall carry an endorsement for one or more of the following:

- (1) Alarm system contractor.
  1. Fire alarm system installation.
  2. Nurse call system installation.
  3. Security alarm system installation.
  4. Alarm system maintenance inspection.
  5. Dwelling unit alarm system installation.
- (2) Alarm system technician.
  1. Fire alarm system installation.
  2. Nurse call system installation.
  3. Security alarm system installation.
  4. Alarm system component installation.
  5. Alarm system maintenance inspection.
  6. Dwelling unit alarm system installation.
- (3) Alarm system technician trainee.

b. Any person acting as an alarm system contractor or technician, other than a person who is not required to be licensed for such work by the department, shall do so only in relation to systems covered by the endorsements on the contractor's or technician's license.

**277.1(3) Length of licensure.** Licensure is normally for three years and will expire on September 30 of the third year after the license has been issued. A license that is effective on a date other than October 1 will be effective on the date on which the license is issued and will expire on the next September 30, after two years have passed from the date on which the license was issued.

**661—277.2(100C) Definitions.** The following definitions apply:

*"Alarm system"* means the same as defined in Iowa Code section 100C.1(1).

*"Alarm system components"* means the portion of an alarm system installation limited to mounting alarm system raceways, boxes or system devices, and pulling of system cable, not including final termination at an alarm panel or final connection of the alarm system or alarm system testing.

*"Alarm system contractor"* or *"contractor"* means the same as defined in Iowa Code section 100C.1(2).

*"Alarm system technician"* or *"technician"* means a person who is engaged in the layout, installation, repair, alteration, addition, testing, or maintenance of alarm systems and who is licensed under the provisions of this chapter to perform work authorized by that license and any endorsement pertaining thereto. An alarm system technician shall be an employee of an alarm system contractor or, if employed by anyone other than an alarm system contractor, shall perform work requiring licensing as an alarm system technician only on property owned or occupied by such employer and may obtain a license if the employer is not a licensed contractor.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

*“Alarm system technician trainee”* means a person who is engaged in the layout, installation, repair, alteration, addition, or maintenance of alarm systems under the direct supervision of a responsible managing employee or licensed alarm system technician.

*“Alarm system maintenance inspection technician”* means an employee of an alarm system contractor who is engaged in maintenance inspection of fire alarm, nurse call, or security alarm systems.

*“Dwelling alarm system”* means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a fire alarm, nurse call or security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a single-family dwelling or a single dwelling unit of a multifamily residential building and not interconnected with another dwelling alarm system. A dwelling alarm system does not mean single-station or multiple-station alarms installed in dwelling units.

*“Fire alarm system”* means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals that serves the general fire alarm needs of a building or buildings and that provides fire department or occupant notification or both. A fire alarm system does not mean single-station or multiple-station alarms installed in dwelling units.

*“Installation”* means hanging electrical conduits, raceways or boxes; mounting system devices; pulling system cable; activating system-initiating devices and system control units or verifying system operations to meet specifications; and performing system acceptance testing.

*“Layout”* means drawings, calculations and component specifications to achieve the specified system design installation. “Layout” does not include design.

*“Maintenance inspection”* means the same as defined in Iowa Code section 100C.1(13).

*“Nurse call system”* means a nurse call system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a nurse call system or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a facility required to be licensed or certified by the state pursuant to Iowa Code chapter 125, 135B, 135C, 135G, 135H, 135J, 231C, or 231D, or installed in a facility operating pursuant to Iowa Code chapter 218, 219, 223, 225, 233A, or 233B, to initiate response of on-site medical care providers.

*“Responsible managing employee”* means the same as defined in Iowa Code section 100C.1(14).

*“Security alarm system”* means a system or portion of a combination system that consists of components and circuits hardwired or wireless arranged to monitor and annunciate the status of a security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a building or facility to detect unauthorized entry into a building or portion of a building and to notify security personnel or building occupants or both.

**661—277.3(100C) Responsible managing employee.** Each alarm system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 277.1(2). If more than one responsible managing employee is designated, the contractor will indicate for which responsible managing employee each designated alternate managing employee serves as an alternate.

**277.3(1)** The responsible managing employee or employees shall be designated in the application for licensure; and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the department, in writing, within 30 calendar days.

**277.3(2)** If a responsible managing employee is no longer acting in the role of responsible managing employee and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee will become the responsible managing employee and the contractor shall so notify the department, in writing, within 30 calendar days of the date on which the preceding responsible managing employee ceased to act in that role. If the contractor has designated more than

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one alternate responsible managing employee, the notice to the department will indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

**277.3(3)** If a responsible managing employee designated by an alarm system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor will designate a new responsible managing employee and shall notify the department, in writing, of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity. If the department has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the department shall suspend the license of the alarm system contractor.

**277.3(4)** A responsible managing employee or an alternate responsible managing employee shall meet one of the requirements for the following endorsements:

- a. Fire alarm system installation:
  - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
  - (2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level III or above in fire alarm systems, or
  - (3) Current certification by the Electronic Security Association (ESA) at level III in certified fire alarm designer (CFAD).
- b. Nurse call system installation:
  - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
  - (2) Current certification by a nurse call system manufacturer, or
  - (3) Current certification by the NICET at level II or above in fire alarm systems, or
  - (4) Current certification by the ESA at level II in certified alarm technician (CAT).
- c. Security alarm system installation:
  - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
  - (2) Current certification by the NICET at level II or above in fire alarm systems, or
  - (3) Current certification by the ESA at level II in CAT.
- d. Alarm system maintenance inspection:
  - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
  - (2) Current certification by the NICET at level II or above in fire alarm systems, or
  - (3) Current certification by the ESA at level II in CAT, or
  - (4) Current certification by the NICET level II or above in inspection and testing of fire alarm systems.
- e. Dwelling unit alarm system installation:
  - (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
  - (2) Current certification by the NICET at level I or above in fire alarm systems, or
  - (3) Current certification by the ESA at level I in CAT.

**277.3(5)** Training or testing approval. Satisfactory completion of an applicable training or testing program that has been approved by the department may replace any of the endorsement requirements of subrule 277.3(4). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the department, such approval is required prior to acceptance of the training or testing to meet licensing requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm, or organization seeking to obtain such approval may apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall

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be submitted to the department. Training and testing approved by the department will be listed on the department's licensing website.

**277.3(6)** License applicability. Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee. Work performed in the state shall not begin prior to:

- a. Receipt of a new or renewed license issued by the department to the applicant, or
- b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

**277.3(7)** Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

**661—277.4(100C) Contractor licensing.**

**277.4(1)** An alarm system contractor shall meet all of the following requirements in order to receive licensure from the department and will continue to meet all requirements throughout the period of licensure. The contractor shall notify the department, in writing, within 30 calendar days if the contractor fails to meet any requirement for licensure.

a. The contractor designates one or more responsible managing employees as provided in rule 661—277.3(100C).

b. The contractor maintains general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic alarm systems in the following amounts: \$500,000 per person, \$1,000,000 per occurrence, and \$1,000,000 property damage.

(1) The carrier of any insurance coverage maintained to meet this requirement shall notify the department 30 days prior to the effective date of cancellation or reduction of the coverage.

(2) The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of an alarm system that cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

c. The contractor maintains its current registration as a contractor in accordance with Iowa Code chapter 91C and any rules promulgated thereunder, and provides a copy of the current registration certificate issued pursuant to Iowa Code chapter 91C to the department with the application.

EXCEPTION: If the contractor does not meet the definition of "contractor" for purposes of Iowa Code chapter 91C, such registration is not required. Written documentation of such exemption must be provided to the department upon application for licensure as an alarm system contractor.

d. The contractor maintains compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the contractor is performing work.

**277.4(2)** A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsement for which the licensee is renewing.

**277.4(3)** An alarm system contractor license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

**661—277.5(100C) Contractor application and fees.**

**277.5(1)** *Application.* Any contractor seeking licensure as an alarm system contractor shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date of beginning work in this state or the date on which an existing license expires. An application form may be obtained from the department or the department's website. The application form shall be submitted with all required attachments and the required application fee. An application will not be

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

considered complete unless all required information is submitted, including required attachments and fees, and will not be processed until it is complete.

**277.5(2) Licensure fee.** The license fee for alarm system contractors will be \$300 for two years. If an application for licensure provides for more than one responsible managing employee pursuant to rule 661—277.3(100C), there will be an additional fee of \$50 for each responsible managing employee beyond the first. If an application for licensure provides for more than one endorsement as provided in subrule 277.1(2), there will be an additional fee of \$50 for each endorsement beyond the first. The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

**277.5(3) Payment.** The license fee may be submitted electronically or delivered by draft, check, or money order in the applicable amount payable to the department. Cash payments are not accepted.

**277.5(4) Amended license.**

*a.* The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s) or responsible managing employee(s), if applicable. The fee shall be submitted with the request for an amended licensure.

*b.* A contractor will request and the department will issue an amended license for any of the following reasons, and a fee does not apply:

- (1) A change in the designation of a responsible managing employee;
- (2) A change in insurance coverage; or
- (3) A change in any other material information included in or with the initial or renewal application.

A change in the location of a business is a material change; however, no fee will be charged for the issuance of an amended license if the sole reason for amending the license is to reflect a change in location that was necessitated by disaster emergency conditions and the business was located in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.

*c.* Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

**277.5(5) Attachments.** Required attachments to the application for licensure are outlined on the department's website.

**277.5(6) National criminal history check.** Each applicant for licensure as a contractor shall submit fingerprints and the applicable fee for a national criminal history check conducted by the Federal Bureau of Investigation at the time of application for a new or renewal license.

**661—277.6(100C) Technician licensure requirements.** An applicant for alarm system technician licensure shall meet all of the following requirements that are applicable to the endorsements for which the applicant is applying in order to receive licensure from the department, and continue to meet all such requirements throughout the period of licensure. The technician will notify the department, in writing, within 30 calendar days if the technician fails to meet any applicable requirement for licensure.

**277.6(1)** The alarm system technician shall meet one of the following criteria for the following endorsements:

*a.* Fire alarm system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the National Institute for Certification in Engineering Technologies (NICET) at level II or above in fire alarm systems, or
- (3) Current certification by the Electronic Security Association (ESA) at level II in certified alarm technician (CAT), or
- (4) Current certification by the Elite Continuing Education University (CEU) in fire alarm installation techniques (FAIT).

*b.* Nurse call system installation:

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- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by a nurse call system manufacturer, or
- (3) Current certification by the NICET at level I or above in fire alarm systems, or
- (4) Current certification by the ESA at level I in CAT, or
- (5) Current licensure as a master electrician or journeyman electrician by the electrical examining board pursuant to Iowa Code chapter 103.

*c.* Security alarm system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level I or above in fire alarm systems, or
- (3) Current certification by the ESA at level I in CAT, or
- (4) Current certification by the CEU in advanced electronic intrusion technician (AEIT), or
- (5) Current certification by the Complete Electrical Academy at level I in Electronic Security Technician.

*d.* Alarm system component installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level I or above in fire alarm systems, or
- (3) Current certification by the ESA at level I in CAT, or
- (4) Current licensure as a master electrician or journeyman electrician by the electrical examining board pursuant to Iowa Code chapter 103.

*e.* Alarm system maintenance inspection:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level I or above in fire alarm systems, or
- (3) Current certification by the ESA at level I in CAT, or
- (4) Current certification by the NICET at level I or above in inspection and testing of fire alarm systems, or
- (5) Current certification by the Complete Electrical Academy at level I in electronic security technician.

*f.* Dwelling unit alarm system installation:

- (1) Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design, or
- (2) Current certification by the NICET at level I or above in fire alarm systems, or
- (3) Current certification by the ESA at level I in CAT, or
- (4) Current certification by the CEU in alarm level I, or
- (5) Current certification by the Complete Electrical Academy at level I in electronic security technician.

*g.* Alarm system technician trainee: Submission of a completed application no later than the first day of employment. An alarm system technician trainee may perform work that requires licensure under this chapter only under the direct supervision of a licensed alarm system technician or responsible managing employee whose license contains one or more endorsements as provided in rules 661—277.3(100C) and 661—277.6(100C), respectively, and that work must be within the scope of work authorized by the endorsements held by the supervising alarm system technician or responsible managing employee.

**277.6(2)** The technician shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the technician is performing work.

**277.6(3)** Satisfactory completion of an applicable training or testing program that has been approved by the department may replace any of the endorsement requirements of subrule 277.6(1). In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be



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approved by the department, such approval is required prior to acceptance of the training or testing to meet licensure requirements. Approval by the department of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the department. Any individual, firm, or organization seeking to obtain such approval may apply to the department no later than July 1 every odd-numbered year. Program information and any other documentation requested by the department for consideration shall be submitted to the department. Training and testing approved by the department will be listed on the department's licensing website.

**277.6(4)** Work performed by a technician or trainee subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the technician and will be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee of the technician's employer, unless the employer is not a licensed contractor as allowed by Iowa Code chapter 100C. Work performed in the state shall not begin prior to one of the following:

- a. Receipt of a new or renewed license issued by the department to the applicant, or
- b. Receipt of written approval to perform work prior to issuance of a new or renewed license from the department to the applicant.

**277.6(5)** Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the department or local fire ordinance or standard adopted by reference therein.

**277.6(6)** A license may be renewed only if the licensee has completed recertification of the applicable requirements relative to the endorsements for which the licensee is renewing.

**277.6(7)** An alarm system technician license may be issued without examination to a person licensed in other jurisdictions if the conditions of Iowa Code section 272C.12 are met.

**661—277.7(100C) Technician application and fees.**

**277.7(1)** *Application.* Any technician seeking licensure as an alarm system technician shall submit a completed application form to the department. The application shall be filed no later than 30 days prior to the date on which work begins in the state or on which an existing license expires, except that an application for endorsement as an alarm system technician trainee may be submitted no later than the first day of employment as an alarm system technician trainee. An application form may be obtained from the department or from the department's website. The application form shall be submitted with all required attachments and the application fee established in this rule. An application will not be considered complete unless all necessary information is submitted, including attachments and fees, and will not be processed until it is complete.

**277.7(2)** *Licensure fee.*

a. The license fee for an alarm system technician will be \$150 for two years, except that the license fee for endorsement as an alarm system technician trainee will be \$50 for one year. There will be an additional fee of \$25 for each endorsement beyond the first.

b. The department will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

**277.7(3)** *Payment.* The certification fee may be submitted electronically or delivered by draft, check, or money order in the applicable amount payable to the department. Cash payments are not accepted.

**277.7(4)** *Amended license.*

a. The fee for issuance of an amended license is the difference between the original license fee paid and changes in endorsement(s), if applicable. The fee shall be submitted with the request for an amended license.

b. A technician will request and the department will issue an amended license for a change in any material information included in or with the initial or renewal application. A licensee will request and the department will issue an amended license for any of the following reasons and a fee does not apply:

(1) A change in employer. A licensee may only transfer the licensee's technician license to another employer if the licensee paid the license fee at the time of original application. If the licensee's previous

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employer paid the license fee, the licensee must reapply for a new license under the new employer and pay the license fee.

(2) A change in any other material information included in or with the initial or renewal application. A change of address is a material change.

c. Other changes in the information required in the application form shall be reported to the department but will not require issuance of an amended license or payment of the amended license fee.

**277.7(5) Attachments.** Required attachments to the application for license are outlined on the department's website.

**277.7(6) National criminal history check.** Each applicant for licensure as a technician shall submit fingerprints and the applicable fee for a national criminal history check conducted by the Federal Bureau of Investigation at the time of application for a new or renewal license.

**661—277.8(100C) Complaints.** Complaints regarding the performance of any licensed contractor or technician, failure of a licensed contractor or technician to meet any of the requirements established in Iowa Code chapter 100C or this chapter or any other provision of law, or operation as an alarm system contractor or technician without licensure may be filed with the department. Complaints should be as specific as possible and clearly identify the contractor or technician against whom the complaint is filed. Complaints should be submitted in writing to the department. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant may be notified of the disposition of the complaint.

**661—277.9(100C) Denial, suspension, or revocation of licensure; civil penalties; and appeals.** The department may deny, suspend, or revoke the license of a contractor or technician or may assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as an alarm system contractor or technician is violated.

**277.9(1) Denial.** The department may deny an application for licensure:

a. If the applicant makes a false statement on the application form or in any other submission of information required for licensure. "False statement" means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for licensure established in this chapter.

c. If the applicant is currently barred for cause from acting as an alarm system contractor or technician in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as an alarm system contractor or technician and if the basis of that action reflects upon the integrity of the applicant in operating as an alarm system contractor or technician. If an applicant is found to have been previously barred for cause from operating as an alarm system contractor or technician in another jurisdiction and is no longer barred from doing so, the department will evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a licensed contractor or technician. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

e. Conviction of a felony offense, if the offense directly relates to the profession or occupation of the licensee, in the courts of this state or another state, territory or country. "Conviction" as used in this subrule includes a conviction of an offense that if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction. If an applicant is denied under this provision, the applicant will be notified of the specific reasons for the denial.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

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g. Willful or repeated violations of the provisions of this chapter.

**277.9(2) Suspension.** A suspension of a license may be imposed by the department for any violation of these rules or Iowa Code chapter 100C or for a failure to meet any legal requirement to operate as an alarm system contractor or technician in this state. Failure to provide any notice to the department as provided in these rules will be grounds for suspension. An order of suspension will specify the length of the suspension and will specify that correction of all conditions that were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

**277.9(3) Revocation.** A revocation is a termination of a license. A license may be revoked by the department for repeated violations or for a violation that creates an imminent danger to the safety or health of individuals protected by an alarm system incorrectly installed by a certified contractor or technician or when information comes to the attention of the department which, if known to the department when the application was being considered, would have resulted in denial of the license. A new application for licensure from a contractor or technician whose license had previously been revoked will not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition that was a basis for the revocation has been corrected. The department may specify in the revocation order a longer period than one year before a new application for licensure may be considered. When a new application for licensure from a contractor or technician whose license was previously revoked is being considered, the applicant may be denied licensure based upon the same information that was the basis for revocation even after any such period established by the department has expired.

**277.9(4) Disqualifications for criminal convictions limited.** A person's conviction of a crime may be grounds for the denial, revocation, or suspension of a license in circumstances authorized by Iowa Code section 272C.15.

**277.9(5) Civil penalties.** The department may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty will not be imposed in lieu of a revocation.

**277.9(6) Appeals.** Any person subject to denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensed contractor or technician under this rule, may appeal by requesting a contested case hearing, in writing, within 14 days. An appeal of a civil penalty is subject to the provisions of 481—Chapters 9 and 10 governing contested cases.

These rules are intended to implement Iowa Code chapter 100C.

**ARC 7336C**

**PUBLIC SAFETY DEPARTMENT[661]**

**Notice of Intended Action**

**Proposing rulemaking related to military service, veteran reciprocity, and spouses of active duty service members for fire extinguishing and alarm systems contractors and installers and providing an opportunity for public comment**

The State Fire Marshal hereby proposes to rescind Chapter 278, "Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members for Fire Extinguishing and Alarm Systems Contractors and Installers," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 272C.12A.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 272C.12A.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

### *Purpose and Summary*

This rulemaking proposes to rescind Chapter 278 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). With the realignment of state agencies pursuant to 2023 Iowa Acts, Senate File 514, the substance of this chapter will be included in one chapter for all of the licensing programs of the Department of Inspections, Appeals, and Licensing.

### *Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

### *Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
10 to 10:20 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: +1 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
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February 14, 2024  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **661—Chapter 278**.

**ARC 7281C**

**PUBLIC SAFETY DEPARTMENT[661]**

**Notice of Intended Action**

**Proposing rulemaking related to organization and administration of the electrician and electrical contractor licensing program and providing an opportunity for public comment**

The Electrical Examining Board hereby proposes to rescind Chapter 500, "Electrician and Electrical Contractor Licensing Program—Organization and Administration," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 103.6, 103.10 and 103.12.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 103 and 2023 Iowa Acts, Senate File 514.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 500. This rulemaking implements Iowa Code chapter 103 and 2023 Iowa Acts, Senate File 514, in accordance with the goals and directives of Executive Order 10 (January 10, 2023). This rulemaking proposes a succinct description of the Electrician and Electrical Contractor Licensing Program and Board and sets forth definitions pertinent to the administration of the program.

*Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:20 to 10:40 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a> Or dial: 774.338.0928 PIN: 195 434 437# More phone numbers: <a href="tel:meet/zuu-vunu-dcc?pin=9691567757424">tel.meet/zuu-vunu-dcc?pin=9691567757424</a>
February 14, 2024 10:20 to 10:40 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a> Or dial: 774.338.0928 PIN: 195 434 437# More phone numbers: <a href="tel:meet/zuu-vunu-dcc?pin=9691567757424">tel.meet/zuu-vunu-dcc?pin=9691567757424</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 500 and adopt the following **new** chapter in lieu thereof:

CHAPTER 500  
ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—  
ORGANIZATION AND ADMINISTRATION

**661—500.1(103) Establishment of program.** The electrician and electrical contractor licensing program is established in the department of inspections, appeals, and licensing. The program is under the direction of the electrical examining board. Contact information of the board office can be found on the department's website.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**661—500.2(103) Definitions.** The following definitions apply to all rules adopted by the electrical examining board.

*“Approved by the board”* means the approval of any item, test or procedure by the electrical examining board by adoption of a resolution at a meeting of the board, provided that the approval has not been withdrawn by a later resolution of the board. A list of any such items, tests, or procedures that have been approved by the board is available from the board office or from the board website.

*“Complete criminal record”* means the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor, and regardless of the jurisdiction in which the offense occurred.

*“Conviction”* means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. “Conviction” includes Alford pleas and pleas of nolo contendere.

*“Department”* means the department of inspections, appeals, and licensing.

*“Directly relates”* or *“directly related”* means either that the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession; or that the circumstances under which an offense was committed are customary to the profession.

*“Disqualifying conviction”* or *“disqualifying offense”* means a conviction directly related to the practice of the profession.

*“Division”* means the building and construction bureau of the department of inspections, appeals, and licensing.

*“Documented experience”* means experience which an applicant for licensing has completed and which has been documented by the applicant’s completion and submission of a sworn affidavit or other evidence requested by the board.

*“Eligibility determination”* means the process by which a person who has not yet submitted a completed license application may request that the board determine whether one or more of the person’s convictions are disqualifying offenses that would prevent the individual from receiving a license or certification.

*“Emergency installation”* means an electrical installation necessary to restore power to a building or facility when existing equipment has been damaged due to a natural or man-made disaster or other weather-related cause. Emergency installations may be performed by persons properly licensed to perform the work, and may be performed prior to submission of a request for permit or request for inspection. A request for permit and request for inspection, if required by rule 661—552.1(103), should be made as soon as practicable and, in any event, no more than 72 hours after the installation is completed.

*“Final agency action”* means the issuance, denial, suspension, or revocation of a license. If an action is subject to appeal, “final agency action” has occurred when the administrative appeal process provided for in 661—Chapter 503 has been exhausted or when the deadline for filing an appeal has expired.

*“Full-time”* means a minimum of 1,700 hours of work in a one-year period.

*“Issuing jurisdiction”* means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

*“Registered apprenticeship program”* means an electrical apprenticeship program registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or an electrical apprenticeship program registered with a state agency whose registration program is accepted by the Bureau of Apprenticeship and Training in lieu of direct registration with the Bureau of Apprenticeship and Training.

*“Residential electrical work”* means electrical work in a residence in which there are no more than four living units within the same building and includes work to connect and work within accessory structures, which are structures no greater than 3,000 square feet in floor area, not more than two stories in height, the use of which is incidental to the use of the dwelling unit or units, and located on the same lot as the dwelling unit or units.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

“*Transferring jurisdiction*” means the specific issuing jurisdiction on which an applicant relies to seek licensure in Iowa by verification under this chapter.

These rules are intended to implement Iowa Code chapters 17A, 103 and 272C.

**ARC 7279C**

**PUBLIC SAFETY DEPARTMENT[661]**

**Notice of Intended Action**

**Proposing rulemaking related to administrative procedures of the electrician and electrical contractor licensing program and providing an opportunity for public comment**

The Electrical Examining Board hereby proposes to rescind Chapter 501, “Electrician and Electrical Contractor Licensing Program—Administrative Procedures,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 103.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 103 and 2023 Iowa Acts, Senate File 514.

*Purpose and Summary*

This rulemaking proposes to rescind Chapter 501, in accordance with the goals and directives of Executive Order 10 (January 10, 2023). The substance of current rule 661—501.1(103) can be found in the Iowa Code and on the Department of Inspections, Appeals, and Licensing website. With the realignment of state agencies pursuant to 2023 Iowa Acts, Senate File 514, the substance of current rule 661—501.5(17A) will be included in one chapter for all of the licensing programs of the Department. The remaining rules in the current chapter are reserved and therefore unnecessary.

*Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:



## PUBLIC SAFETY DEPARTMENT[661](cont'd)

Ashleigh Hackel  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 10:20 to 10:40 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
 Or dial: 774.338.0928  
 PIN: 195 434 437#  
 More phone numbers:  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **661—Chapter 501**.

**ARC 7276C**

**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action****Proposing rulemaking related to licensing requirements, procedures, and fees of the electrical contractor licensing program and providing an opportunity for public comment**

The Electrical Examining Board hereby proposes to rescind Chapter 502, "Electrician and Electrical Contractor Licensing Program—Licensing Requirements, Procedures, and Fees," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

This rulemaking is proposed under the authority provided in Iowa Code sections 103.6, 103.10 and 103.12.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 103 and 272C and 2023 Iowa Acts, Senate File 514.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 502. It implements Iowa Code chapters 103 and 272C and 2023 Iowa Acts, Senate File 514, in accordance with the goals and directives of Executive Order 10 (January 10, 2023). This rulemaking sets minimum standards for entry into the electrical profession and articulates the processes by which individuals apply for licensure as an electrician in the state of Iowa, as directed in Iowa Code chapter 103. In particular, the proposed rules provide for the categories of licenses and requirements for each license type; set forth the terms and fees for the license types; and set forth procedures for applying for a license, standards for obtaining a license, and potential bases for the denial of a license. These requirements ensure public safety by ensuring that any individual or business entering the profession has minimum competency.

*Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

February 13, 2024  
10:20 to 10:40 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: 774.338.0928  
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More phone numbers:  
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February 14, 2024  
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6200 Park Avenue  
Des Moines, Iowa  
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Or dial: 774.338.0928  
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[tel.meet/zuu-vunu-dcc?pin=9691567757424](https://tel.meet/zuu-vunu-dcc?pin=9691567757424)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 502 and adopt the following **new** chapter in lieu thereof:

CHAPTER 502

ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—LICENSING REQUIREMENTS, PROCEDURES, AND FEES

**661—502.1(103) License categories and authority.**

**502.1(1)** The following license categories are established:

- a. Electrical contractor.
- b. Residential electrical contractor.
- c. Master electrician, class A.
- d. Master electrician, class B.
- e. Residential master electrician.
- f. Journeyman electrician, class A.
- g. Journeyman electrician, class B.
- h. Residential electrician.
- i. Apprentice electrician.
- j. Special electrician.
- k. Unclassified person.
- l. Inactive master electrician.

**502.1(2)** A person who holds any class of license issued by the board, other than a class B license, a residential electrical contractor license, a residential master electrician license, or a residential electrician license, may perform the work authorized by that license anywhere within the state of Iowa. A class B license can be subject to limitations imposed by a political subdivision through a local ordinance

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

pursuant to Iowa Code section 103.29(4). A person who holds a residential electrical contractor license, a residential master electrician license, or a residential electrician license may perform the work authorized by that license anywhere within the state of Iowa except within a political subdivision which has, by local ordinance, limited the use of such a license.

**502.1(3)** Except as otherwise provided by Iowa Code chapter 103, a person who does not have a current valid license cannot perform work as an electrician or as an unclassified person. A person cannot perform work which requires licensing and which is not specifically authorized under the license issued.

**502.1(4)** An apprentice electrician or an unclassified person, while performing electrical work, shall be directly supervised at all times by a master electrician or a journeyman electrician or, while performing residential electrical work only, by a residential master electrician, a residential electrician, or a special residential electrician. A master electrician, a journeyman electrician, a residential master electrician, or a residential electrician is not permitted to directly supervise more than three apprentice electricians or unclassified persons, or both, at once.

**502.1(5)** A journeyman electrician or a residential electrician may only work under the general direction of a master electrician or, while performing residential electrical work only, under the general direction of a residential master electrician.

**661—502.2(103) License requirements.**

**502.2(1)** An electrical contractor license may be issued to a person who submits an application with the applicable fee, who holds or employs a person who holds an active master electrician license, who is registered as a contractor with the labor services division of Iowa workforce development. An electrical contractor license issued to a person who holds a class B master electrician license is subject to the same restriction of use as is the class B master electrician license.

**502.2(2)** A residential electrical contractor license may be issued to a person who is licensed as a class A master electrician, a class B master electrician, or a residential master electrician and who is registered with the state of Iowa as a contractor pursuant to Iowa Code chapter 91C.

**502.2(3)** A class A master electrician license may be issued to a person who submits to the board a completed application with the applicable fee and who meets one of the following:

*a.* Has completed one year of experience as a licensed journeyman electrician, and has passed a supervised written examination for master electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application; or

*b.* As of December 31, 2007, held a current valid license as a master electrician issued by a political subdivision in Iowa, the issuance of which required passing a supervised written examination approved by the board, and one year of experience as a journeyman electrician; or

*c.* Holds a current class B master electrician license and has passed a supervised written examination for master electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application.

**502.2(4)** A class B master electrician license may be issued to a person who submits to the board a completed application with the applicable fee; who presents credible evidence of having worked for a total of 16,000 hours of cumulative experience as a master electrician, of which at least 8,000 hours were worked since January 1, 1998; and whose experience as a master electrician began on or before January 1, 1998.

**502.2(5)** A residential master electrician license may be issued to a person who submits to the board a completed application with the applicable fee, holds a current residential electrician or journeyman electrician license, has 2,000 hours of verified experience as a residential electrician or a journeyman electrician, and has passed a residential master electrician examination approved by the board with a score of 70 or higher within 24 months of submission of a new application.

**502.2(6)** A class A journeyman electrician license may be issued to a person who submits to the board a completed application with the applicable fee and who meets one of the following:

*a.* Has successfully completed a registered apprenticeship program, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

within 24 months of submission of a new application, and has completed four years of experience as an apprentice electrician.

*b.* Holds a current class B journeyman electrician license and has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application.

*c.* Holds a current electrician license in another state, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and has satisfied the sponsorship requirements for testing for a journeyman class A license by providing evidence of all of the following:

(1) Current licensure as a journeyman or master electrician from another state which required passing a test sponsored by that state.

(2) Completion of 18 hours of continuing education units approved by the board.

(3) Completion of 1,000 hours of work in Iowa as an unclassified person.

*d.* Holds a current license issued by the board; has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application; has completed 54 hours of continuing education approved by the board; and has completed 16,000 hours of electrical work while licensed by the board, except as a special electrician, as verified by a master electrician licensed by the board. The 16,000 hours is to include at least the following minimum number of hours of work on commercial or industrial installations in the categories indicated: 500 hours of preliminary work, 2,000 hours of rough-in work, 2,000 hours of finish work, 2,000 hours of lighting and service work, 500 hours of troubleshooting, and 500 hours of motor control work. At least 4,000 hours of the 16,000 hours is to be completed by the applicant within the five years immediately preceding the submission date of the application.

*e.* Holds a current license issued by the board as a residential electrician or residential master electrician, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and has completed 4,000 hours of work on commercial or industrial electrical installations while licensed by the board, as verified by a master electrician licensed by the board. The 4,000 hours is to include at least the following minimum numbers of hours in the categories indicated: 100 hours of preliminary work, 500 hours of rough-in work, 500 hours of finish work, 500 hours of lighting and service work, 100 hours of troubleshooting, and 100 hours of motor control work.

*f.* Holds a current license issued by the board, has satisfactorily completed an approved postsecondary electrical education program, has passed a supervised written examination for journeyman electrician approved by the board with a score of 70 or higher within 24 months of submission of a new application, and, subsequent to beginning the postsecondary electrical education program, has completed at least 6,000 hours of electrical work while licensed by the board, as verified by a master electrician licensed by the board.

**502.2(7)** A class B journeyman electrician license may be issued to a person who submits to the board a completed application with the applicable fee; who presents credible evidence of having worked for a total of 16,000 hours of cumulative experience as a journeyman electrician or master electrician, of which at least 8,000 hours were worked since January 1, 1998; and whose experience as a journeyman electrician or master electrician began on or before January 1, 1998.

**502.2(8)** A residential electrician license may be issued to a person who submits to the board a completed application with the applicable fee and who meets one of the following:

*a.* Has completed 6,000 hours of experience as an apprentice electrician and has passed a residential electrician examination approved by the board. An applicant may take the examination after completing 5,000 hours of experience as an apprentice electrician, although the license will not be issued until the applicant has completed 6,000 hours of such experience; or

*b.* Has completed 4,000 hours of experience working under the direct supervision of a residential master electrician, a residential electrician, a master electrician, or a journeyman electrician; has successfully completed a minimum of one academic year of an electrical trade school approved by the board; and has passed a residential electrician examination approved by the board; or

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

*c.* Has completed 8,000 hours of verified experience as a licensed unclassified person including at least 2,000 hours of verified work experience in residential wiring and has passed a residential electrician examination approved by the board; or

*d.* Has successfully completed a registered residential electrician apprenticeship program and passed a supervised written residential electrician examination approved by the board with a score of 70 or higher within 24 months of submission of a new application.

**502.2(9)** A special electrician license may be issued to a person who submits to the board a completed application with the applicable fee and who meets the qualifications for any endorsement entered on the license. Each special electrician license is eligible to carry one or more of the following endorsements:

*a.* Endorsement 1, "Irrigation System Wiring," may be included if requested and the applicant has passed a supervised examination approved by the board or has completed two years, or 4,000 hours, of documented experience in the wiring of irrigation systems.

*b.* Endorsement 2, "Disconnecting and Reconnecting Existing Air Conditioning and Refrigeration Systems," may be included if requested and the applicant has passed a supervised examination approved by the board or has completed two years of documented experience in the disconnecting and reconnecting of existing air conditioning and refrigeration systems.

*c.* Endorsement 3, "Sign Installation," may be included if requested. This endorsement does not authorize the holder to connect power to a sign that has a voltage greater than 220V and an ampere rating greater than 20 amps. Initial installation or upgrading of the branch circuits supplying power to the sign may only be completed by a licensed master electrician or by a licensed journeyman electrician under the supervision of a master electrician.

**502.2(10)** An apprentice electrician license may be issued to a person who submits a completed application to the board with the applicable fee and who is participating in a registered apprenticeship program. A person may hold an apprentice electrician license for no more than six years from the original date of licensing unless an extension is granted by the board based upon a documented hardship.

**502.2(11)** A license as an unclassified person may be issued to a person who submits a completed application to the board with the applicable fee and who is employed by a licensed electrical contractor. Any person who holds a current license issued by the board, excluding special electrician licenses, may work as an unclassified person without holding an unclassified person license.

**502.2(12)** In lieu of renewal of the active master electrician license, an inactive master electrician license may be issued to a holder of a master electrician license whose license is due for renewal and who requests placement in inactive status. It is the responsibility of the holder of an inactive license to maintain all requirements which would apply for an active master electrician license, except for payment of the fee for an active license, during the term of the inactive license. If the license holder fails to meet any such requirement during the term of the inactive license, the license holder will not be entitled to reinstatement of an active license. If the license holder continues to meet all such requirements while holding an inactive license, the license holder may obtain an active master electrician license by surrendering the inactive master electrician license, filing an application for reinstatement, and paying the applicable license fee. The holder of an inactive license who seeks reinstatement of an active license will not receive any refund of the fee paid for the inactive license. A person who holds an inactive license cannot perform work which requires the person to be a holder of that license but may perform work authorized by any active license issued by the board which the person holds.

**502.2(13)** Retaking an examination. If passage of an examination is a requirement for issuance of a license:

*a.* An applicant who has taken the examination for a license twice and has failed the examination twice cannot retake the examination until after waiting six months and completing 12 hours of continuing education approved by the board on subjects related to the standards specified in 661—Chapter 504. After satisfying the requirements of this paragraph, the applicant may take the examination two additional times, or a maximum of four times.

*b.* An applicant who has satisfied the conditions of paragraph "a" and who has taken the examination two additional times, or a total of four times, and has failed the examination four times cannot retake the examination until after waiting an additional six months and completing an additional

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

12 hours of continuing education approved by the board on subjects related to the standards specified in 661—Chapter 504. After satisfying the requirements of this paragraph, the applicant may take the examination two additional times, or a maximum of six times.

*c.* An applicant who has satisfied the conditions of paragraph “*b*” and who has taken the examination two additional times, or a total of six times, and has failed the examination six times cannot retake the examination any additional times unless approved to do so by the board. An applicant who wishes to take an examination after failing it six times may petition the board to allow the applicant to take the examination again after waiting an additional six months. The board may request that an applicant appear personally before the board when considering the petition.

**502.2(14)** Reciprocal journeyman licensing. A journeyman class A license may be issued, without examination, to a person who holds a license from another state provided that:

*a.* The board has entered into an agreement with the other state providing for reciprocal issuance of licenses and the agreement recognizes the equivalency of the examination required for the license issued by the other state and the examination required for the Iowa license to be issued; and

*b.* The applicant has successfully completed a supervised written examination approved by the other state with a score of 70 or higher in order to obtain the license from the other state; and

*c.* The applicant holds an applicable license from the other state at the time the application for an Iowa license is filed and has held the applicable license from the other state continuously for one year at the time the application for an Iowa license is filed; and

*d.* The applicant has submitted:

(1) A completed application for the Iowa license;

(2) A copy of the applicable license from the other state, clearly showing the license number and any other identifying information;

(3) The applicable fee;

(4) The sworn affidavit required under subparagraph 502.2(14)“*e*”(2), if applicable; and

(5) Any other information requested by the board; and

*e.* The applicant has either:

(1) Completed an approved apprenticeship program; or

(2) Completed 16,000 hours of electrical work as an electrician licensed by the other state, as documented by submission of a sworn affidavit signed by the applicant.

**502.2(15)** Reciprocal master licensing. A master class A license may be issued, without examination, to a person who holds an equivalent license from another state provided that:

*a.* The board has entered into an agreement with the other state providing for reciprocal issuance of licenses and that the agreement recognizes the equivalency of the examination required for the license issued by the other state and the examination required for the Iowa license to be issued; and

*b.* The applicant has successfully completed a supervised written examination approved by the other state, with a score of 70 or higher, in order to obtain the license from the other state; and

*c.* The applicant holds an applicable license from the other state at the time the application for an Iowa license is filed and has held the applicable license from the other state continuously for one year at the time the application for an Iowa license is filed; and

*d.* The applicant has submitted:

(1) A completed application for the Iowa license;

(2) A copy of the applicable license from the other state, clearly showing the license number and any other identifying information;

(3) The applicable fee;

(4) Any other information requested by the board, which may include, but is not limited to, additional evidence that the person’s license from the other state is currently valid; and

*e.* The applicant has either:

(1) Completed an approved apprenticeship program; or

(2) Completed 16,000 hours of electrical work as an electrician licensed by the other state, documented by a sworn affidavit signed by the applicant.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**661—502.3(103) License terms and fees.** The following table sets out the length of term of each license and the fee for the license.

License Type	Term	Fee
Electrical Contractor	3 years	\$375
Residential Electrical Contractor	3 years	\$375
Master Electrician, Class A	3 years	\$375
Master Electrician, Class B	3 years	\$375
Residential Master Electrician	3 years	\$375
Journeyman Electrician, Class A	3 years	\$75
Journeyman Electrician, Class B	3 years	\$75
Residential Electrician	3 years	\$75
Special Electrician	3 years	\$75
Apprentice Electrician	1 year	\$20
Unclassified Person	1 year	\$20
Inactive Master Electrician	3 years	\$75

**502.3(1)** If a license is issued for less than the period of time specified in the table above, the fee will be prorated according to the number of months for which the license is issued.

**502.3(2)** A licensee who is on active military deployment for 91 or more consecutive calendar days during the term of a license may have the license period tolled as follows. “Tolled” means that the expiration date of the license will be delayed for that period of time.

*a.* A licensee who is on active military deployment for 91 or more consecutive calendar days during a licensing period may have the license terms tolled for one year.

*b.* A licensee who is on active military deployment for 366 or more consecutive calendar days during a licensing period may have the license terms tolled for two years.

*c.* A licensee who is on active military deployment for 91 or more consecutive calendar days but fewer than 366 consecutive calendar days may petition the board to have the license tolled for two years upon a showing of a special hardship which would not be alleviated by tolling the license term for only one year.

*d.* A licensee who requests that the term of a license be tolled pursuant to this subrule will provide a copy of military orders showing the beginning and ending dates of the deployment or deployments which are the basis for the request.

**502.3(3)** A licensee may obtain a replacement license for a license that has been lost. To order a replacement license, the licensee will notify the board office in writing that the license has been lost and will provide any information needed by the board office, which may include, but is not limited to, the license number, the name of the licensee, and a description of the circumstances of the loss, if known. The fee for issuance of a replacement license is \$15.

EXCEPTION: If a licensee who is located in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 which is currently in force or has been in force within the previous 90 days certifies to the board that the license was lost as a direct result of conditions which relate to the issuance of the disaster emergency proclamation, the fee for replacement of the license can be waived.

**502.3(4)** Refunds of license fees can be made under the following circumstances:

*a.* If an error on the part of the staff or the applicant or licensee has resulted in an overpayment of fees, the refund can be in the amount of overpayment and can be made if the overpayment is discovered by staff of the board or if the overpayment is discovered by the applicant or licensee and the applicant or licensee requests a refund.

*b.* If an applicant for an initial license or a renewal license dies prior to the effective date of a license for which the applicant has applied and paid the applicable fee, the license fee can be refunded



## PUBLIC SAFETY DEPARTMENT[661](cont'd)

to the estate of the applicant upon receipt of a request from the estate of the applicant, accompanied by a certified copy of the death certificate.

**502.3(5)** The fee for submitting a petition for eligibility determination as defined in subrule 502.8(2) is \$25.

**502.3(6)** The board will waive any fee charged to an applicant for a license if the applicant's household income does not exceed 200 percent of the federal poverty income guidelines and the applicant is applying for the license for the first time in this state.

**661—502.4(103) Disqualifications for licensure.** An application for a license can be denied if any of the following apply:

**502.4(1)** The applicant fails to meet the requirements for the license for which the applicant has applied or the applicant fails to provide adequate documentation of any requirement.

**502.4(2)** The applicant has previously had a license revoked or suspended by the board, and the circumstances which formed the basis of the revocation or suspension have not been corrected. If a license was revoked or suspended and conditions were imposed for the restoration of the license, licensure will be denied unless those conditions have been met.

**502.4(3)** The applicant has been denied, for cause, a license to work, or a license as an electrician has been revoked, for cause, in any other state or political subdivision and the applicant has not subsequently received a license from the state or political subdivision which denied or revoked the license. An applicant who has been denied a license pursuant to this provision may apply to the board for a license and, upon a showing of evidence satisfactory to the board that the condition or conditions which led to the denial or revocation no longer apply, the board may grant the license to the applicant.

**502.4(4)** The applicant falsifies or fails to provide any information requested in connection with the application or falsifies any other information provided to the board in support of the application.

**502.4(5)** The applicant has been convicted of a disqualifying offense in the courts of this state or another state, territory, or country. A file-stamped copy of the final order or judgment of conviction or plea of guilty in this state or another state constitutes conclusive evidence of the conviction.

**502.4(6)** The applicant has unpaid fees due to the board which are 120 days or more past due. The license for which the applicant applied may be issued after the fees are paid if the applicant is not otherwise disqualified from obtaining the license.

**661—502.5(103) License application.**

**502.5(1)** Any person seeking a license from the board is to submit a completed application to the board accompanied by the applicable fee payable by check, money order, or warrant to the Iowa Department of Inspections, Appeals, and Licensing. The memo area of the check should read "Electrician Licensing Fees." The application is to be submitted on the form prescribed by the board, which may be obtained from the board office.

**502.5(2)** Upon receipt of a completed application, the board executive secretary or designee has discretion to:

*a.* Authorize the issuance of a license, certification, or examination application.

*b.* Refer the application to a committee of the board for review and consideration when the board executive secretary determines that matters raised in or revealed by the application, including but not limited to prior criminal history, chemical dependence, competency, physical or psychological illness, professional liability claims or settlements, professional disciplinary history, education or experience, are relevant in determining the applicant's qualifications for a license, certification, or examination. Matters that may justify referral to a committee of the board include, but are not limited to:

(1) Prior criminal history, which is reviewed and considered in accordance with Iowa Code chapter 272C and rule 661—502.8(272C).

(2) Chemical dependence.

(3) Competency.

(4) Physical or psychological illness or disability.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

(5) Judgments entered on, or settlements of, claims, lawsuits, or other legal actions related to the profession.

(6) Professional disciplinary history.

(7) Education or experience.

**502.5(3)** Following review and consideration of an application referred by the board executive secretary, the committee may at its discretion:

*a.* Authorize the issuance of the license, certification, or examination application.

*b.* Recommend to the board denial of the license, certification, or examination application.

*c.* Recommend to the board issuance of the license or certification under certain terms and conditions or with certain limitations.

*d.* Refer the license, certification, or examination application to the board for review and consideration without recommendation.

**502.5(4)** Following review and consideration of a license, certification, or examination application referred by the committee, the board can:

*a.* Authorize the issuance of the license, certification, or examination application;

*b.* Deny the issuance of the license, certification, or examination application; or

*c.* Authorize the issuance of the license or certification under certain terms and conditions or with certain limitations.

**502.5(5)** The committee or board can request an applicant to appear for an interview before the committee or the full board as part of the application process.

**661—502.6(103) Restriction of use of class B licenses by political subdivisions.** A political subdivision may disallow or limit the use of a class B license to perform electrical work within the geographic limits of that subdivision through adoption of a local ordinance. A copy of any such ordinance is to be filed with the board office prior to the effective date of the ordinance. If a class B license holder held a license issued or recognized by a political subdivision on December 31, 2007, that political subdivision cannot restrict the license holder from performing work which would have been permitted under the terms of the license issued or recognized by the political subdivision.

EXCEPTION: An ordinance restricting or disallowing electrical work by holders of class B licenses will not apply to work which is not subject to the issuance of permits by the political subdivision.

**661—502.7(103) Financial responsibility.** Any holder of an electrical contractor license or any holder of an electrician license who is not employed by a licensed electrical contractor and who contracts to provide electrical work which requires a license issued pursuant to 661—Chapters 500 through 503 is to, at all times, maintain insurance coverage as provided in this rule.

**502.7(1)** The licensee is to maintain general and complete operations liability insurance in the amount of at least \$1 million for all work performed which requires licensing pursuant to 661—Chapters 500 through 503.

*a.* The carrier of any insurance coverage maintained by the licensee to meet this requirement will notify the board 30 days prior to the effective date of cancellation or reduction of the coverage.

*b.* The licensee will cease operation immediately if the insurance coverage required by this rule is no longer in force and other insurance coverage meeting the requirements of this rule is not in force. A licensee will not initiate any electrical work which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this rule and of which the licensee has received notice, unless new insurance coverage meeting the requirements of this rule has been obtained and will be in force upon cancellation of the prior coverage.

**502.7(2)** Reserved.

**661—502.8(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions.**

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**502.8(1) License application.** Unless an applicant for licensure petitions the board for an eligibility determination, the applicant's convictions will be reviewed when the board receives a completed license application.

*a. Full disclosure.* An applicant is to disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

*b. Documentation and personal statement.* An applicant with one or more convictions is to submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the practice of the profession in order for the license application to be considered complete.

*c. Rehabilitation.* An applicant will, as part of the license application, submit all evidence of rehabilitation that the applicant wishes to be considered by the board. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15. An applicant with one or more disqualifying offenses who has been found rehabilitated still needs to satisfy all other requirements for licensure.

*d. Nonrefundable fees.* Any application fees will not be refunded if the license is denied.

**502.8(2) Eligibility determination.** An individual who has not yet submitted a completed license application may petition the board for an eligibility determination. An individual with criminal convictions is not required to petition the board for an eligibility determination before applying for a license. To petition the board for an eligibility determination, a petitioner is to submit all of the following:

- a.* A completed eligibility determination form, which is available on the board's website;
- b.* The complete criminal record for each of the petitioner's convictions;
- c.* A personal statement regarding whether each conviction directly relates to the practice of the profession and why the board should find the petitioner rehabilitated;
- d.* All evidence of rehabilitation that the petitioner wants the board to consider; and
- e.* Payment of a nonrefundable fee in the amount of \$25.

**502.8(3) Appeal.** A petitioner found ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The department's rules governing contested case proceedings apply unless otherwise specified in this rule. If the petitioner or applicant fails to file a timely appeal, the board's written decision will become a final order.

*a. Presiding officer.* The presiding officer will be the board. However, any party to an appeal of a license denial or ineligibility determination may file a written request, in accordance with rule 661—10.306(17A), requesting that the presiding officer be an administrative law judge. Additionally, the board may, on its own motion, request that an administrative law judge be assigned to act as presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered will be a proposed decision.

*b. Burden.* The office of the attorney general represents the board's initial ineligibility determination or license denial and has the burden of proof to establish that the petitioner's or applicant's convictions include at least one disqualifying offense. If the office of the attorney general satisfies this burden by a preponderance of the evidence, the burden of proof shifts to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

*c. Judicial review.* A petitioner or applicant must appeal an ineligibility determination or a license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding is to be made in accordance with Iowa Code chapter 17A.

**502.8(4) Future petitions or applications.** If a final order determines a petitioner is ineligible, the petitioner cannot submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

cannot submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

**661—502.9(272C) Licensure by verification.** Licensure by verification is available under the following circumstances.

**502.9(1) Eligibility.** A person may seek licensure by verification if all of the following criteria are satisfied:

- a. The person is licensed, certified, or registered in at least one other issuing jurisdiction;
- b. The person has been licensed, certified, or registered by another issuing jurisdiction for at least one year;
- c. The scope of practice in the transferring jurisdiction is substantially similar to the scope of practice in Iowa;
- d. The person's license, certification, or registration is in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration; and
- e. The person either:
  - (1) Establishes residency in the state of Iowa pursuant to rule 701—38.17(422); or
  - (2) Is married to an active duty member of the military forces of the United States and is accompanying the member on an official permanent change of station.

**502.9(2) Board application.** The applicant is to submit all of the following:

- a. A completed application for licensure by verification.
- b. Payment of the appropriate fee or fees.
- c. A verification form completed by the transferring jurisdiction, verifying that the applicant's license, certificate, or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form will be sent directly from the transferring jurisdiction to the board.
- d. Proof of current Iowa residency, or proof of the military member's official permanent change of station. To demonstrate Iowa residency, the applicant will submit proof that:
  - (1) The applicant currently maintains a residence or place of abode in Iowa, whether owned, rented, or occupied, even if the individual is in Iowa less than 183 days of the calendar year; and
  - (2) One or more of the following:
    1. The applicant claims a homestead credit or military tax exemption on a home in Iowa, or
    2. The applicant is registered to vote in Iowa, or
    3. The applicant maintains an Iowa driver's license, or
    4. The applicant does not reside in an abode in any other state for more days of the calendar year than the individual resides in Iowa.
- e. Documentation of the applicant's complete criminal record, including the applicant's personal statement regarding whether each offense directly relates to the practice of the profession.
- f. A copy of any relevant disciplinary documents, if another issuing jurisdiction has taken disciplinary action against the applicant.

**502.9(3) Applicants with prior discipline.** If another issuing jurisdiction has taken disciplinary action against an applicant, the board will determine whether the cause for the disciplinary action has been corrected and the matter has been resolved. If the board determines the disciplinary matter has not been resolved, the board will neither issue a license nor deny the application for licensure until the matter is resolved. A person whose license was revoked, or a person who voluntarily surrendered a license, in another issuing jurisdiction is ineligible for licensure by verification.

**502.9(4) Applicants with pending licensing complaints or investigations.** If an Iowa applicant is concurrently subject to a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another issuing jurisdiction, the board will neither issue a license nor deny the application for licensure until the complaint, allegation, or investigation is resolved.

**661—502.10(272C) Licensure by work experience in jurisdictions without licensure requirements.**

**502.10(1) Work experience.**

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

*a.* An applicant for initial licensure who has relocated to Iowa from another jurisdiction that did not require a license to practice the profession may be considered to have met the applicable educational and training requirements if the person has at least three years of full-time work experience within the four years preceding the date of application for initial licensure. For each application submitted under this rule, the board will determine whether the applicant's prior work experience was substantially similar in nature and scope to a training or education program typically applicable for the license sought.

*b.* The applicant will need to satisfy all other license requirements, including passing any required examinations, to receive a license.

**502.10(2) Documentation.** An applicant seeking to substitute work experience in lieu of satisfying applicable education or training requirements bears the burden of providing all of the following by submitting relevant documents as part of a completed license application:

*a.* Proof of current residency in the state of Iowa pursuant to rule 701—38.17(17A), or proof of the military member's official permanent change of station. To demonstrate Iowa residency, the applicant is to submit proof that:

(1) The applicant currently maintains a residence or place of abode in Iowa, whether owned, rented, or occupied, even if the individual is in Iowa less than 183 days of the calendar year; and

(2) One or more of the following:

1. The applicant claims a homestead credit or military tax exemption on a home in Iowa, or

2. The applicant is registered to vote in Iowa, or

3. The applicant maintains an Iowa driver's license, or

4. The applicant does not reside in an abode in any other state for more days of the calendar year than the individual resides in Iowa.

*b.* Proof of three or more years of full-time work experience within the four years preceding the application for Iowa licensure, which demonstrates that the work experience was substantially similar in nature and scope to a training or education program typically applicable for the license sought. Proof of work experience may include, but is not limited to:

(1) A letter from the applicant's prior employer or employers documenting the applicant's dates of employment and scope of practice;

(2) Paychecks or pay stubs; or

(3) If the applicant was self-employed, business documents filed with the secretary of state or other applicable business registry or regulatory agency in the other jurisdiction.

*c.* Proof that the applicant's work experience involved a substantially similar scope of practice to the practice in Iowa, which is to include:

(1) A written statement by the applicant detailing the scope of practice and stating how the work experience correlates to an applicable apprenticeship program approved by the United States Department of Labor; and

(2) Business or marketing materials detailing the services provided.

*d.* Proof that the other jurisdiction did not require a license to practice the profession, which may include:

(1) Copies of applicable laws;

(2) Materials from a website operated by a governmental entity in that jurisdiction; or

(3) Materials from a nationally recognized professional association applicable to the profession.

These rules are intended to implement Iowa Code chapters 103 and 272C.

**ARC 7277C****PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action****Proposing rulemaking related to complaints and discipline  
and providing an opportunity for public comment**

The Electrical Examining Board hereby proposes to rescind Chapter 503, “Electrician and Electrical Contractor Licensing Program—Complaints and Discipline,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 103.6.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 103.33 through 103.39 and 2023 Iowa Acts, Senate File 514.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 503. The rulemaking implements Iowa Code sections 103.33 through 103.39 and 2023 Iowa Acts, Senate File 514, in accordance with the goals and directives of Executive Order 10 (January 10, 2023). The rulemaking provides protection to Iowans because it defines disciplinary procedures when unlicensed individuals, electricians, and electrical contracting firms fail to comply with state law. The rulemaking provides information for the submission of complaints to the Board, which is then able to investigate the allegation. The rulemaking also sets forth the licensing procedures upon a finding of noncompliance with professional standards set forth in applicable law, including describing the right to appeal. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa.

*Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

Ashleigh Hackel  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue  
 Des Moines, Iowa 50321  
 Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
 10:20 to 10:40 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
 Or dial: 774.338.0928  
 PIN: 195 434 437#  
 More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

February 14, 2024  
 10:20 to 10:40 a.m.

6200 Park Avenue  
 Des Moines, Iowa  
 Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
 Or dial: 774.338.0928  
 PIN: 195 434 437#  
 More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 503 and adopt the following **new** chapter in lieu thereof:

CHAPTER 503  
 ELECTRICIAN AND ELECTRICAL CONTRACTOR LICENSING PROGRAM—  
 COMPLAINTS AND DISCIPLINE

**661—503.1(103) Complaints.** Any person may file a complaint regarding work performed by any licensee or licensee applicant, or by an unlicensed person who should possess a license issued by the board. Complaints can be filed either in writing or electronically.

**661—503.2(103) Discipline.** If a complaint alleging an act or acts in violation of Iowa Code chapter 103, rules adopted by the board, or any other provision of law deemed relevant by the board to the use of a license issued by the board is substantiated, the board may suspend the license for a specific period of time, or indefinitely, may revoke the license, or may reprimand the licensee. The holder of a license which is suspended or revoked will be notified of the suspension or revocation in writing by registered

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

mail, return receipt requested, or by personal service. The notice will include a statement that the licensee has the right to appeal the reprimand, suspension or revocation to the board within 30 days of receiving the notice, and that the reprimand, revocation or suspension will not take effect until the time to file an appeal has expired. If an appeal is filed, the reprimand, suspension or revocation is stayed until the appeal has been acted upon. The suspension of revocation becomes final 30 days after delivery of the notice if a timely request for an appeal is not received by the board.

EXCEPTION: If the board finds that a violation which is the basis of the suspension or revocation is such that allowing the licensee to continue to engage in work covered by the license would present an imminent threat to the safety of the public, the board may provide that the suspension or revocation take effect immediately upon notice being delivered to the licensee.

**661—503.3(103) Action against an unlicensed person.** If a person who is not licensed by the board has engaged in or is engaging in work requiring licensure by the board, the board may assess a civil penalty against the person, may seek an injunction to prevent the person from continuing to engage in such work, or both. A person who is accused of engaging in work where licensure is needed by law without having such a license will be notified of the specific allegations and intended remedial action by registered mail, return receipt requested, or by personal service. A person who is notified by the board of an intended remedial action under this rule may appeal the action as provided in rule 661—503.4(103). The intended remedial action becomes final 30 days after delivery of the notice if a timely request for an appeal is not received by the board.

**661—503.4(103) Appeals.** A licensee whose license is disciplined, an applicant whose application for a license is denied, or a person who is not licensed by the board and who is assessed a civil penalty for engaging in an activity requiring a license may appeal the suspension, revocation, denial, or civil penalty to the board by notifying the board office of the appeal in writing within 30 calendar days after receiving notice of the suspension, revocation, denial, or civil penalty. Upon receipt of a timely appeal, the board will conduct a contested case hearing under 481—Chapter 10.

These rules are intended to implement Iowa Code chapter 103.

**ARC 7280C**

**PUBLIC SAFETY DEPARTMENT[661]**

**Notice of Intended Action**

**Proposing rulemaking related to electrical education  
and providing an opportunity for public comment**

The Electrical Examining Board hereby proposes to rescind Chapter 505, “Electrician and Electrical Contractor Licensing Program—Education,” Iowa Administrative Code, and to adopt a new chapter with the same name.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 103.6, 103.10, 103.12, 103.12A and 103.18.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 103.

*Purpose and Summary*

This rulemaking proposes repromulgation of Chapter 505. It implements Iowa Code chapter 103 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). This rulemaking sets forth continuing education and program approval requirements for electricians and educational



## PUBLIC SAFETY DEPARTMENT[661](cont'd)

institutions. It includes an approval process for postsecondary electrical education programs; minimum requirements for contact hours, including lecture and laboratory hours; and minimum qualifications for instructors. The rulemaking also includes the required number of hours of continuing education that licensees are required to obtain, a process for continuing education course approval, and requirements for continuing education course approvals. The intended benefit of continuing education is to ensure that electricians and educational institutions maintain up-to-date practice standards and, as a result, provide high-quality services to Iowa licensees.

*Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
10:20 to 10:40 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

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PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 661—Chapter 505 and adopt the following **new** chapter in lieu thereof:

CHAPTER 505  
ELECTRICIAN AND ELECTRICAL CONTRACTOR  
LICENSING PROGRAM—EDUCATION

DIVISION I  
POSTSECONDARY ELECTRICAL EDUCATION PROGRAMS

**661—505.1 to 505.100** Reserved.

**661—505.101(103) Program approval.**

**505.101(1)** Pursuant to Iowa Code sections 103.12 and 103.12A, an educational institution that plans to offer a postsecondary electrical education program to prepare students to be licensed by the board needs to first obtain approval from the board for the program before students participate in the program. Separate approval is needed for a journeyman electrician program and for a residential electrician program.

**505.101(2)** The educational institution seeking approval is to apply to the board office on a form specified by the board. The application is to include a certification that the educational institution is currently accredited by a recognized regional or national educational accrediting organization.

**505.101(3)** Applications seeking initial approval of a journeyman electrician program or a residential electrician program are to be submitted to the board at least 60 days prior to student participation in the program.

**505.101(4)** The board may set times for periodic review of approved programs and can develop policies that address the following:

- a. Requirements for the submission of applications.
- b. Standards required for program approval.
- c. Standards for withdrawal of approval or discontinuation of an approved program.
- d. Standards for educational content and class attendance, qualifications for instructors, documentation and reporting needed to establish compliance with program requirements, and specification of degrees or diplomas awarded.

**505.101(5)** Information regarding approved postsecondary electrical education programs may be obtained by contacting the board office. A list of approved postsecondary electrical education programs and other information about postsecondary electrical education programs will be posted on the board's website.

**661—505.102(103) Standards for postsecondary electrical education programs.** The board will develop policies establishing the following minimum standards for an approved postsecondary electrical education program:

**505.102(1)** All necessary subject matter areas as published by the board and available on request from the board office and from the board website. Instruction is to include at least four hours of

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

instruction on the Iowa electrical statute, Iowa Code chapter 103, with a minimum of one hour on Iowa electrical licensing requirements.

**505.102(2)** Minimum number of contact hours and necessary program attendance policies. Each approved program is to include 30 to 40 percent of contact hours that involve lecture, with all remaining hours consisting of laboratory or shop hours. A student cannot take the licensing examination until all contact hours and the specified number of hours of on-the-job training are completed.

*a.* A postsecondary electrical education program for a journeyman electrician license is to include at least 2,000 hours of instruction, with the student completing at least 6,000 hours of on-the-job training before the student will be eligible to take the journeyman electrician examination.

*b.* A postsecondary electrical education program for a residential electrician license is to include at least 1,000 hours of instruction, with the student completing at least 4,000 hours of on-the-job training before the student will be eligible to take the residential electrician examination.

**505.102(3)** Minimum qualifications for instructors which include:

*a.* Current licensing as an electrician, as set out in the board's policy; and

*b.* Compliance with standards set by the Iowa department of education for an instructor at a community college.

DIVISION II  
CONTINUING EDUCATION

**661—505.103 to 505.200** Reserved.

**661—505.201(103) Continuing education requirements.** Each holder of a three-year license is to complete 18 hours of continuing education approved by the board between the time of issuance of the license and prior to issuance of a renewal license.

EXCEPTION: A holder of a license in a category which may be issued for a three-year period whose license is issued for less than a three-year period only needs to complete six hours of continuing education prior to renewal of the license for each year or portion of a year for which the license has been issued.

**661—505.202(103) Course approval.**

**505.202(1)** Any person or institution that plans to offer continuing education courses to meet the requirements of rule 661—505.201(103) is to apply for approval to the board office on a form specified by the board.

**505.202(2)** Approval by the board should be obtained prior to a course's being offered to a licensee in order to meet the requirements of rule 661—505.201(103).

**505.202(3)** Applications for initial approval of a continuing education course are to be submitted to the board not less than 45 days prior to student participation in the course.

**505.202(4)** Approval of a continuing education course is normally for the duration of the three-year licensing period during which approval is received, although approval may be withdrawn for cause prior to the expiration of the licensing period.

**505.202(5)** Applications for renewal of approval of continuing education courses are to be submitted to the board at least 45 days prior to the expiration of the three-year licensing period. For purposes of this subrule, "renewal" may include the updating of course material in a course previously approved for delivery by the same instructor.

**505.202(6)** Information regarding approved continuing education courses may be obtained by contacting the board office. A list of approved continuing education courses will be posted on the board website.

**661—505.203(103) Requirements for continuing education programs.** A continuing education program can be approved by the board only if the following requirements are met:

**505.203(1)** The instructor or institution applying for approval of a continuing education course provides at least three letters from educational institutions or government agencies attesting to the

PUBLIC SAFETY DEPARTMENT[661](cont'd)

instructor's knowledge of and qualifications to teach the subject matter of the course for which approval is sought.

**505.203(2)** Each instructor is responsible for:

- a. Obtaining and verifying course approval prior to delivery of the course.
- b. Facilitating auditing of the course by any board member or member of the staff of the board.

No board or staff member may receive continuing education credit for an audited course.

- c. Issuing a certificate of completion to each student who completes the course.
- d. Submitting a class roster, indicating which students completed the course, to the board office within 30 days of completion of the course.

These rules are intended to implement Iowa Code chapter 103.

**ARC 7278C**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Notice of Intended Action**

#### **Proposing rulemaking related to military service and veteran reciprocity for electricians and electrical contractors and providing an opportunity for public comment**

The Electrical Examining Board hereby proposes to rescind Chapter 506, "Military Service and Veteran Reciprocity for Electricians and Electrical Contractors," Iowa Administrative Code.

#### *Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 272C.12A.

#### *State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 272C.12A and 2023 Iowa Acts, Senate File 514.

#### *Purpose and Summary*

This rulemaking proposes to rescind Chapter 506, in accordance with the goals and directives of Executive Order 10 (January 10, 2023). With the realignment of state agencies pursuant to 2023 Iowa Acts, Senate File 514, the substance of this chapter will be included in one chapter for all of the licensing programs of the Department of Inspections, Appeals, and Licensing.

#### *Fiscal Impact*

This rulemaking does not have a fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

#### *Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Ashleigh Hackel  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
10:20 to 10:40 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)  
Or dial: 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

February 14, 2024  
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Or dial: 774.338.0928  
PIN: 195 434 437#  
More phone numbers:  
[tel.meet/zuu-vunu-dcc?pin=9691567757424](tel:meet/zuu-vunu-dcc?pin=9691567757424)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **661—Chapter 506**.

**ARC 7257C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to organization and administration  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 1, "Organization and Administration," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 1 provides clarity to the organization and administration of the Board. The chapter also establishes Iowa's compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the requirements of the Appraiser Qualifications Board (AQB), and the Appraisal Foundation's (TAF) Criteria. This chapter also includes pertinent information related to the types of appraiser licenses issued in the state of Iowa and the process to obtain licensure.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193F—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1  
ORGANIZATION AND ADMINISTRATION

**193F—1.1(543D) Description.**

**1.1(1)** The purpose of the real estate appraiser examining board is to administer and enforce the provisions of Iowa Code chapter 543D with regard to the appraisal of real property in the state of Iowa, examination of candidates, issuance of licenses, investigation of alleged violations by licensees, and discipline of those regulated by the board. Through its actions, the board seeks to promote and maintain a high level of public trust in professional appraisal practice.

**1.1(2)** The board maintains an office at 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

**1.1(3)** All board action under Iowa Code chapter 543D will be taken under the supervision of the director, as provided in Iowa Code section 543D.23 and these implementing rules.

**193F—1.2(543D) Administrative authority.**

**1.2(1)** The director is vested with authority to review, approve, modify, or reject all board action pursuant to Iowa Code chapter 543D. The director may exercise all authority conferred upon the board and has to have access to all records and information to which the board has access. In supervising the board, the director will independently evaluate the substantive merits of recommended or proposed board actions which may be anticompetitive.

**1.2(2)** In performing its duties and in exercising its authority under Iowa Code chapter 543D, the board may take action without preclearance by the director if the action is ministerial or nondiscretionary. As used in this chapter, the words “ministerial or nondiscretionary” include any action expressly mandated by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. The board may, for example, grant or deny an application for initial or reciprocal certification as a real estate appraiser, an application for registration as an associate real estate appraiser, or an application for a temporary practice permit by an out-of-state appraiser, on any ground expressly mandated by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee.

**1.2(3)** Prior to taking discretionary action under Iowa Code chapter 543D, the board will secure approval of the director if the proposed action is or may be anticompetitive. As used in this chapter, the word “discretionary” includes any action that is authorized but not expressly imposed by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. Examples of discretionary action include orders in response to petitions for rulemaking, declaratory orders, or waivers from rules, rulemaking, disciplinary proceedings against licensees, administrative proceedings against unlicensed persons, or any action commenced in the district court.

**1.2(4)** Determining whether any particular action is or may be anticompetitive is necessarily a fact-based inquiry dependent on a number of factors, including potential impact on the market or restraint of trade. With respect to disciplinary actions, for instance, a proceeding against a single licensee for violating appraisal standards would not have an impact on the broader market and would accordingly not be an anticompetitive action. Commencement of disciplinary proceedings which affect all or a substantial subset of appraisers may have a significant market impact. When in doubt as to whether a proposed discretionary action is or may be anticompetitive, the board may submit the proposed action to the director for preclearance.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**1.2(5)** A person aggrieved by any final action of the board taken under Iowa Code chapter 543D may appeal that action to the director within 20 days of the date the board issues the action.

*a.* The appeal process applies whether the board action at issue was ministerial or nondiscretionary, or discretionary, and whether the proposed action was or was not submitted through a preclearance process before the director.

*b.* No person aggrieved by a final action of the board may seek judicial review of that action without first appealing the action to the director.

*c.* Records, filings, and requests for public information. Final board action, regardless of whether such board action is ministerial, nondiscretionary, or discretionary, will be immediately effective when issued by the board but is subject to review or appeal to the director. If a timely review is initiated or a timely appeal is taken, the effectiveness of such final board action will be delayed during the pendency of such review or appeal.

**193F—1.3(543D) Annual meeting.** The annual meeting of the board will be the first meeting scheduled after April 30. At this time, the chairperson and vice chairperson are elected to serve until their successors are elected.

**193F—1.4(543D) Other meetings.** In addition to the annual meeting, and in addition to other meetings, the time and place of which may be fixed by resolution of the board, any meeting may be called by the chairperson of the board or by joint call of a majority of its members.

**193F—1.5(543D) Executive officer's duties.**

**1.5(1)** The executive officer is to cause complete records to be kept of applications for examination and registration, certificates and permits granted, and all necessary information in regard thereto.

**1.5(2)** The executive officer is to determine when the legal obligations for certification and registration have been satisfied with regard to issuance of certificates or registrations, and the executive officer will submit to the board any questionable application.

**1.5(3)** The executive officer will keep accurate minutes of the meetings of the board. The executive officer will keep a list of the names of persons issued certificates as certified general real property appraisers, certified residential real property appraisers and associate real property appraisers.

**193F—1.6(543D) Records, filings, and requests for public information.** Unless otherwise specified by the rules of the department of inspections, appeals, and licensing, the board is the principal custodian of its own agency orders, statements of law or policy issued by the board, legal documents, and other public documents on file with the board.

**1.6(1)** Any person may examine public records promulgated or maintained by the board at its office during regular business hours.

**1.6(2)** Deadlines. Unless the context dictates otherwise, such as is the case for timely renewal of a registration or certificate, any deadline for filing a document will be extended to the next working day when the deadline falls on a Saturday, Sunday, or official state holiday.

**193F—1.7(543D) Adoption, amendment or repeal of administrative rules.**

**1.7(1)** The board is authorized to adopt, amend or repeal its administrative rules in accordance with the provisions of Iowa Code section 17A.4. Prior to the adoption, amendment or repeal of any rule of the board, any interested person, as described in Iowa Code section 17A.4(1) "b," may submit any data, views, or arguments in writing concerning such rule or may request to make an oral presentation concerning such rule. Such written comments or requests to make oral presentations are to be filed with the board at its official address and should clearly state:

*a.* The name, address, and telephone number of the person or agency authoring the comment or request;

*b.* The number and title of the proposed rule, which is the subject of the comment or request as given in the Notice of Intended Action;



## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

c. The general content of the oral presentation. A separate comment or request to make an oral presentation will be made for each proposed rule to which remarks are to be asserted.

**1.7(2)** The board will acknowledge receipt and acceptance for consideration of written comments and requests to make oral presentations.

**1.7(3)** Written comments received after the deadline set forth in the Notice of Intended Action may be accepted by the board although their consideration is not assured. Requests to make an oral presentation received after the deadline will not be accepted and will be returned to the requester.

**193F—1.8(543D) Types of appraiser classifications.** There are four types of appraiser classifications:

1. Associate residential real property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 4.

2. Associate general property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 4.

3. Certified residential real property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 5.

4. Certified general real property appraiser. This classification consists of those persons who meet the obligations of 193F—Chapter 5.

**193F—1.9(543D) Qualified state appraiser certifying agency.**

**1.9(1)** The real estate appraiser examining board is a state appraiser certifying agency in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). As a result, persons who are issued certificates by the board to practice as certified real estate appraisers are authorized under federal law to perform appraisal services for federally related transactions and are identified as such in the National Registry maintained by the Appraisal Subcommittee (ASC).

**1.9(2)** The board will adhere to the criteria established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation when registering associate appraisers or certifying certified appraisers under Iowa Code chapter 543D. To the extent that the rules conflict with the minimum obligations outlined in the current version of the AQB criteria, the minimum standards established in the criteria will apply and these rules will give way to the minimum obligations to comply with federal rule, law, or policy.

**193F—1.10(543D) AQB criteria.**

**1.10(1)** No person may be certified as a certified appraiser unless the person is eligible under the January 1, 2022, AQB criteria.

**1.10(2)** The January 1, 2022, AQB criteria outline the conditions under which applicants for certification are eligible to take the mandated examinations.

These rules are intended to implement Iowa Code sections 543D.4, 543D.5, 543D.7, 543D.17, 543D.20 and 543D.22 and chapter 272C.

**ARC 7258C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to definitions  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 2, “Definitions,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 2 establishes the definitions of acronyms and terms used in the licensing and regulation of the Board. This aids licensees and the general public in understanding terms used throughout the Board's rules.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193F—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2  
DEFINITIONS

**193F—2.1(543D) Applicability.** The following definitions apply to the rules of the real estate appraiser examining board.

“*Appraisal Foundation*” means the same as defined in Iowa Code section 543D.2(3).

“*Appraisal subcommittee*” means the appraisal subcommittee of the Federal Financial Institutions Examination Council.

“*AQB*” means the Appraiser Qualifications Board of the Appraisal Foundation.

“*AQB Criteria*” or “*the Criteria*” means the Real Property Appraiser Qualification Criteria and Interpretations of the Criteria, effective as of January 1, 2022.

“*ASB*” means the Appraisal Standards Board of the Appraisal Foundation.

“*Associate real property appraiser*” means the same as defined in Iowa Code section 543D.2(6).

“*Certified appraiser*” means an individual who has been certified in one of the following two classifications:

1. The certified residential real property appraiser classification is qualified to appraise one to four residential units without regard to value or complexity.

2. The certified general real property appraiser classification is qualified to appraise all types of real property.

“*Director*” means the same as defined in Iowa Code section 543D.2(9)“a.”

“*FFIEC*” means the Federal Financial Institutions Examination Council.

“*FIRREA*” means the Financial Institutions Reform Recovery and Enforcement Act of 1989.

“*USPAP*” means the Uniform Standards of Professional Appraisal Practice published by the Appraisal Foundation, effective as of January 1, 2024.

This rule is intended to implement Iowa Code section 543D.2.

**ARC 7259C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to general provisions for examinations  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 3, “General Provisions for Examinations,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Proposed Chapter 3 establishes the provisions for those seeking to sit for the Real Estate Appraiser Examination in Iowa. The chapter guides individuals sitting for the certified examination in the state of Iowa as required by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation (TAF).

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
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Des Moines, Iowa 50321  
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*Public Hearing*

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 1. Rescind 193F—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3  
GENERAL PROVISIONS FOR EXAMINATIONS

**193F—3.1(543D) Examinations.** Applicants for a license from the board need to take the examination from the board-approved testing service.

**193F—3.2(543D) Conduct of applicant.**

**3.2(1)** Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of certification in Iowa, be barred from the appraisal certification examinations in Iowa, or be subject to the imposition of other sanctions that the board deems appropriate.

**3.2(2)** Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

*a.* Conduct that violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the examination; aiding by any means in the reproduction or reconstruction of any portion of the examination; selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered examination.

*b.* Conduct that violates the standard of test administration, such as communicating with any other examination candidate during the administration of the examination; copying answers from another candidate or permitting one's answers to be copied by another candidate during the examination; or referencing any books, notes, written or printed materials or data of any kind, other than the examination materials distributed.

*c.* Conduct that violates the examination process, such as falsifying or misrepresenting educational credentials or other information needed for admission to the examination; impersonating an examination candidate or having an impersonator take the examination on one's behalf.

**3.2(3)** Any examination candidate who challenges a decision of the board under this rule may request a contested case hearing. The request for hearing will be in writing, will briefly describe the basis for the challenge, and will be filed in the board's office within 30 days of the date of the board decision that is being challenged.

**193F—3.3(543D) Application for certification or registration.** Applicants for certification or registration have to successfully complete the appropriate examination.

**3.3(1)** All initial applications for certification or associate registration will be made through the board's online system. The board may deny an application as described in Iowa Code sections 543D.12 and 543D.17. The board may also deny an application based on disciplinary action pending or taken against an applicant consistent with Iowa Code section 272C.12.

**3.3(2)** Reserved.

These rules are intended to implement Iowa Code section 543D.8.

**ARC 7260C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to associate real estate appraiser  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 4, “Associate Real Property Appraiser,” and to adopt a new Chapter 4, “Associate Real Estate Appraiser,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 4 establishes the pathway for those seeking an associate real estate appraiser license in Iowa. This gives individuals an avenue to provide services to Iowans if the individuals either convert to a certified real estate appraiser or provide services with the assistance of a supervisor. The chapter guides individuals as required by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation (TAF).

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

February 13, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193F—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
ASSOCIATE REAL ESTATE APPRAISER

**193F—4.1(543D) Qualifications to register as an associate appraiser.**

**4.1(1) Education.** A person applying for registration as an associate appraiser will, at a minimum, satisfactorily complete all AQB-approved, qualifying education courses needed under the AQB criteria specifying educational standards applicable for registration as an associate appraiser.

**4.1(2) Background check.** A state and national criminal history check will be performed on any new associate appraiser applicant. The applicant will authorize release of the results of the criminal history check to the board. If the criminal history check was not completed within 180 calendar days prior to the date the license application is received by the board, the board may perform a new state and national criminal history check or may reject and return the application to the applicant.

**4.1(3) Application process.** After completing the AQB associate appraiser obligations, a person applying as an associate appraiser can then access the application through the board's online system. A sufficient application within the meaning of Iowa Code section 17A.18(2) will include all information as outlined in the board's online system and be accompanied by the applicable fee.

**4.1(4) Registration denial.** The board may deny an application for registration as an associate appraiser on any ground identified in 193F—subrule 3.4(1) or on any ground upon which the board may impose discipline against an associate appraiser, as provided in 193F—Chapter 6.

**193F—4.2(543D) Supervision of associate appraisers.**

**4.2(1) Direct supervision.** An associate appraiser is subject to the direct supervision obligations set by the AQB criteria.

**4.2(2) Supervisor registration.** An associate appraiser, other than a PAREA associate, will identify all supervisors by whom the associate will be supervised through the board's online system and will promptly notify the board in the event of any change in supervisors. An associate appraiser, other than a PAREA associate, who does not have at least one approved active supervisor meeting the supervision obligations will be placed in inactive status until such time as the associate finds a supervisor. Associate appraisers wishing to maintain an inactive license have to continue to renew on a biennial basis in accordance with rule 193F—4.3(543D).

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**4.2(3) *Scope of practice.*** The scope of practice for an associate appraiser is set by the AQB criteria.

**4.2(4) *Logs.*** An associate appraiser will maintain an appraisal experience log consistent with the AQB criteria.

**193F—4.3(543D) Renewal of associate appraiser registration.** An associate appraiser registration has to be renewed on a biennial basis as more fully described in 193F—Chapter 8. An associate appraiser is subject to the same continuing education obligations applicable to a certified appraiser as a precondition for renewal. Continuing education obligations are outlined in 193F—Chapter 10.

**193F—4.4(543D) Progress toward certification as a certified residential appraiser or certified general appraiser.**

**4.4(1) *Associate classification.*** The associate appraiser classification is intended for those persons training to become certified appraisers and is not intended as a long-term method of performing appraisal services under the supervision of a certified appraiser in the absence of progress toward certification. As a result, the board may impose deadlines for achieving certification, or for satisfying certain prerequisites toward certification.

**4.4(2) *Progress reports.*** In order to assess an associate appraiser's progress toward certification, the board may request periodic progress reports from the associate appraiser and from the associate appraiser's supervisory appraiser or appraisers.

**193F—4.5(543D) Applying for certification as a certified residential appraiser or certified general appraiser.** An associate appraiser may apply for certification as a certified residential real estate appraiser or as a certified general real estate appraiser as set by the AQB criteria and consistent with Iowa Code chapter 543D and the rules of the board.

**193F—4.6(272C,543D) Reinstating or reactivating an associate registration.**

**4.6(1)** In order to reinstate or reactivate an associate registration that has lapsed or been placed in inactive or retired status, the applicant has to complete all continuing education obligations for reinstatement as required by board rule and the AQB criteria. Any qualifying education course taken under this rule as continuing education will also apply as qualifying education toward certification. If the applicant has completed all qualifying education prior to applying to reinstate a lapsed, retired, or inactive associate registration, the applicant may use any approved continuing education course as required by board rule and the AQB criteria.

**4.6(2)** If an appraiser's registration is placed in inactive status as a result of the appraiser's failure to maintain at least one approved active supervisor meeting the obligations of this chapter pursuant to subrule 4.2(2), the applicant will complete the continuing education in accordance with subrule 4.6(1) in order to reinstate the associate registration but is not obligated to pay any reinstatement fee otherwise due so long as the associate has not renewed the registration to inactive status or allowed the registration to lapse prior to reinstating or reactivating the registration.

**193F—4.7(543D) Supervisory appraiser requirements.** Iowa follows the AQB criteria and USPAP concerning supervisory appraiser requirements.

These rules are intended to implement Iowa Code chapters 543D and 272C.



**ARC 7261C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to certified residential real property  
appraiser and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 5, “Certified Residential Real Property Appraiser,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. This proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

February 13, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind **193F—Chapter 5.**

**ARC 7262C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to certified general real property appraiser  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to adopt new Chapter 5, "Certified Real Estate Appraiser," and to rescind Chapter 6, "Certified General Real Property Appraiser," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 5 establishes the pathway for those seeking a certified real estate appraiser license in Iowa. This allows individuals an avenue to provide services to Iowans. This chapter guides individuals as required by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation (TAF).

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

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The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 193F—Chapter 5:

CHAPTER 5  
CERTIFIED REAL ESTATE APPRAISER

**193F—5.1(543D) General.**

**5.1(1)** Iowa Code chapter 543D regulates appraisal services performed in this state when appraiser certification is needed under federal law. Iowa recognizes two types of certification: certified residential real estate appraiser and certified general real estate appraiser. Iowa does not provide licenses for the “licensed real estate appraiser” category recognized under federal law. More information can be found in 12 CFR Section 34.43. Therefore, appraisal services involving federally related transactions in the state have to be performed by an Iowa certified real estate appraiser with the appropriate certification

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

for the property at issue, or by a person holding an appropriate license or certification from a foreign jurisdiction who also has been issued a temporary practice permit under Iowa Code section 543D.11(2).

**5.1(2)** The chart below outlines the differences between two certifications issued by the board.

	<b>Certified Residential Real Estate Appraiser</b>	<b>Certified General Real Estate Appraiser</b>
Property type that can be appraised	Residential units ranging from one to four tenants	All real estate, including commercial and agricultural
Qualifying education core curriculum	200 hours	300 hours
Qualifying education	Bachelor's degree or higher from an accredited college, junior college, community college, or university; or, an associate's degree in specific fields, 30 semester hours of college-level course working in specific areas, 30 semester hours of CLEP examinations, or any combination CLEP/college-level covering appropriate hours and topics	Bachelor's degree or higher from an accredited college, junior college, community college, or university
Experience	1,500 hours accumulated in no less than 12 months	3,000 hours with a minimum of 1,500 hours general accumulated in no less than 18 months
Examination	Certified residential real property appraiser examination or the certified general real property appraiser examination	Certified general real property appraiser examination

**5.1(3)** All appraisers performing services regulated by the board are obligated to comply with USPAP.

**193F—5.2(543D) Education.** Applicants for certification by the board have to meet the educational obligations of the AQB criteria.

**193F—5.3(543D) Examination.** The prerequisites for taking the AQB-approved examination are collegiate education, experience, work product review, and completion of all creditable course hours as specified in this chapter. The core criteria hours, collegiate education, and all experience have to be completed as specified in this chapter. Equivalency will be determined in accordance with the AQB. USPAP qualifying education will be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified appraiser credential in active status and good standing.

**5.3(1)** In order to qualify to sit for the appropriate certified real estate appraiser examination, the applicant has to complete the board's application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.

*a.* A sufficient application within the meaning of Iowa Code section 17A.18(2) has to:

- (1) Be through the board's online system;
- (2) Be signed by the applicant, be certified as accurate, or display an electronic signature by the applicant if submitted electronically;
- (3) Be fully completed;
- (4) Reflect, on its face, full compliance with all applicable continuing education obligations; and
- (5) Be accompanied by the fee specified in 193F—Chapter 11.

*b.* The core criteria, collegiate education, experience, and work product review have to be completed and documentation submitted to the board at the time of application to sit for the examination.

**5.3(2)** The board may verify educational credits claimed. Undocumented credits will be sufficient cause to invalidate the examination results.

**5.3(3)** Responsibility for documenting the educational credits claimed rests with the applicant.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**5.3(4)** An applicant has to supply a true and accurate copy of the original examination scores when applying for certification.

**5.3(5)** If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months after passing the examination, that examination result loses its validity to support issuance of an appraiser credential. To regain eligibility for the credential, the applicant has to retake and pass the examination. This obligation applies to individuals obtaining an initial certified credential or upgrading from an associate credential.

**193F—5.4(543D) Supervised experience needed for initial certification.** Except as otherwise permitted herein, all experience needed to obtain certification has to be obtained consistent with Iowa Code section 543D.9.

**5.4(1) *Acceptable experience.*** The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was in an educational program recognized by the Appraiser Qualifications Board and Appraisal Subcommittee as providing qualifying experience for certification, whether or not the applicant was registered as an associate real estate appraiser at the time the educational program was completed. Such programs approved by federal authorities (e.g., PAREA) will incorporate direct supervision by a certified real estate appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as a real estate appraiser.

**5.4(2) *Exceptions.*** Applicants for certified real estate appraiser certification in Iowa may utilize experience obtained in the absence of registration as an associate real estate appraiser under the following circumstances:

*a.* Subject to any obligations or limitations established by applicable federal authorities, including the AQB and ASC, or applicable federal law, rule, or policy, hours qualifying for experience in any jurisdiction will be considered qualifying hours for experience in Iowa without board approval or authorization, as long as the applicant is able to establish by clear and convincing evidence all of the following:

(1) The qualifying hours obtained were completed in another jurisdiction under the direct supervision of an appropriate active certified real estate appraiser in that jurisdiction in accordance with the AQB and the jurisdiction's laws, rules, or policies.

(2) The nature of the experience attained in another jurisdiction is qualitatively and substantially equivalent to the experience an associate real estate appraiser would receive under the direct supervision of a certified real estate appraiser in this state.

*b.* Reserved.

**193F—5.5(543D) Demonstration of experience.** The board applies the dictates of Iowa Code section 543D.9 and the AQB criteria in determining whether the experience necessary for certification has been met.

**5.5(1)** An applicant is obligated to appear before the board to supplement or verify evidence of experience.

**5.5(2)** The board may inspect documentation relating to an applicant's claimed experience.

**193F—5.6(543D) Work product review.**

**5.6(1)** An applicant will submit a complete appraisal log at the time of application for examination and experience consistent with the AQB criteria. Three appraisal reports will be selected by the board from the log. The applicant will submit electronically one copy of each report and work file for each of the selected appraisals along with the appropriate fee. The work product submission will not be redacted by the applicant. The board reserves the right to request additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**5.6(2)** The board will treat all appraisals received as confidential pursuant to USPAP. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit demonstration appraisals if based on factual information and clearly marked as demonstration appraisals.

**5.6(3)** An applicant seeking original certification as a certified general real estate appraiser will submit one residential appraisal and two nonresidential appraisals for review. An applicant seeking an upgrade certification to a certified general real estate appraiser will submit two nonresidential appraisals for review.

**5.6(4)** The board will submit the appraisals to a peer review consultant for an opinion on the appraiser's compliance with applicable appraisal standards.

**5.6(5)** The work product review process is not intended as an endorsement of an applicant's work product. No applicant or appraiser will represent the results of work product review in communications with a client or in marketing to potential clients in a manner that falsely portrays the board's work product review as an endorsement of the appraiser or the appraiser's work product. Failure to comply may be grounds for discipline.

**5.6(6)** The board views work product review, in part, as an educational process. While the board may deny an application based on an applicant's failure to adhere to appraisal standards or otherwise demonstrate a level of competency upon which the public interest can be protected, the board will attempt to work with applicants deemed in need of assistance to arrive at a mutually agreeable remedial plan. A remedial plan may include additional education, desk review, a mentoring program, or additional precertification experience.

**5.6(7)** An applicant who is denied certification based on the work product review described in this rule, or on any other ground, will be entitled to a contested case hearing. Notice of denial will specify the grounds for denial, which may include any of the work performance-related grounds for discipline against a certified appraiser.

**5.6(8)** If probable cause exists, the board may open a disciplinary investigation based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real estate appraiser seeking an upgrade to a certified general real estate appraiser, or where the applicant is uncertified and is working under the supervision of a certified real estate appraiser who cosigned the appraisal report.

**5.6(9)** After accumulating a minimum of 500 hours of appraisal experience, an applicant may voluntarily submit work product to the board to be reviewed by a peer reviewer for educational purposes only. A maximum of three reports may be submitted for review during the experience portion of the certification process. Work product submitted for educational purposes only will not result in disciplinary action on either the associate appraiser or the associate appraiser's supervisor so long as the appraisal review did not reveal negligent or egregious errors or omissions. The fee for voluntary submissions of work product for review is provided in 193F—Chapter 11.

**5.6(10)** The board will retain the appraisals for as long as needed as documentation of the board's actions for the Appraisal Subcommittee or as needed in a pending proceeding involving the work product of the applicant or the applicant's supervisor. When no longer needed for such purposes, the work product may be retained or destroyed at the board's discretion.

**193F—5.7(543D) Practical Applications of Real Estate Appraisal (PAREA).** PAREA utilizes simulated experience training and serves as an alternative to the traditional supervisor/trainee experience model. PAREA programs have to be AQB-approved and meet all the applicable AQB criteria. An applicant who meets the prerequisites of a PAREA program prior to commencement of training and who receives a valid certificate of completion from an AQB-approved PAREA program, has met the allotted experience obligations as outlined in the AQB criteria for that specific PAREA program. PAREA program experience allotment will be awarded per the AQB criteria at the time of program completion.

Applicants claiming PAREA experience credit are not allowed partial credit for PAREA training (rules 193F—5.1(543D) through 193F—5.7(543D)).

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**193F—5.8(543D) Upgrade from a certified residential real estate appraiser to a certified general real estate appraiser.** To upgrade from a certified residential real estate appraiser to a certified general real estate appraiser, an applicant has to satisfy all obligations of this rule, which include work product review and a state and national criminal history check as provided in Iowa Code section 543D.22.

**5.8(1) Education.**

*a. Collegiate education.* Certified residential real estate appraisers have to satisfy the college-level education obligations of the AQB.

*b. Core criteria.* In addition to the formal education and core criteria educational obligations originally needed to obtain a certified residential credential, an applicant has to meet the current AQB obligations before taking the AQB-approved examination.

**5.8(2) Examination.** An applicant has to satisfy the examination obligations.

**5.8(3) Supervision and experience.**

*a. Experience.* An applicant has to satisfy all of the experience obligations while in active status and in accordance with AQB criteria.

*b. Supervision.* Subject to applicable exceptions, all nonresidential experience obtained and applied toward obtaining a certified general credential as part of the upgrade process will be performed under the tutelage of a certified general real property appraiser, subject to AQB-required coursework.

These rules are intended to implement Iowa Code sections 543D.5, 543D.8, 543D.9, and 543D.22.

ITEM 2. Rescind **193F—Chapter 6.**

**ARC 7263C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to disciplinary actions against certified and associate appraisers and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to adopt new Chapter 6, “Disciplinary Actions Against Certified and Associate Appraisers,” and to rescind Chapter 7, “Disciplinary Actions Against Certified and Associate Appraisers,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 6 establishes the disciplinary actions for the protection and well-being of those persons who may rely upon registered associate appraisers or certified appraisers for the performance of real property appraisals within the state and for clients in the state. The chapter also establishes the standards of practice that govern all real property appraisal activities required by Uniform Standards of Professional Appraisal Practice (USPAP). The intended benefit of this rulemaking is to ensure the public and licensees are aware of the disciplinary grounds against licensees.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 193F—Chapter 6:

CHAPTER 6  
DISCIPLINARY ACTIONS AGAINST CERTIFIED AND  
ASSOCIATE APPRAISERS

**193F—6.1(17A,272C,543D) Disciplinary authority.** The board is empowered to regulate the real estate appraiser profession for the protection and well-being of the public trust. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of applicants and licensees and to address disciplinary concerns under Iowa law.



## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**193F—6.2(543D) Standards of practice.** All registered associate appraisers and certified real estate appraisers will comply with the USPAP edition applicable to each appraisal assignment.

**193F—6.3(17A,272C,543D) Grounds for discipline.** The board may initiate disciplinary action against a registered associate appraiser or a certified real estate appraiser based on any one or more of the following grounds:

**6.3(1) Code violations.** Any violation of an Iowa Code provision that authorizes imposition of licensee sanctions:

*a.* False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed;

*b.* Attempting to file or filing with the board any false or forged diploma, course certificate, identification, credential, license, registration, certification, examination report, affidavit, or other record;

*c.* Failing or refusing to provide complete information in response to a question on an application for initial or renewal registration or certification; or

*d.* Otherwise participating in any form of fraud or misrepresentation by act or omission.

**6.3(2) Professional incompetence.** Professional incompetence includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care that is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standards of acceptable and prevailing practice of registered associate appraisers or certified real property appraisers in this state.

*e.* A willful, repeated, or material deviation from USPAP standards, or other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest, including any violation of USPAP's competency rule.

**6.3(3) Deceptive practices.** Deceptive practices are grounds for discipline, whether or not actual injury is established, and include but are not limited to:

*a.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of real property appraising.

*b.* Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a registrant or certificate holder in making information or intention known to the public that is false, deceptive, misleading or promoted through fraud or misrepresentation.

*c.* Falsification of business records or appraisal logs through false or deceptive representations or omissions.

*d.* Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.

*e.* Making any false or misleading statement in support of an application for registration or certification submitted by another.

*f.* Knowingly presenting as one's own a certificate or registration, certificate or registration number, or signature of another or of a fictitious registrant or certificate holder, or otherwise falsely impersonating a certified appraiser or registered associate appraiser.

*g.* Representing oneself as a registered associate appraiser or certified appraiser when one's registration or certificate has been suspended, revoked, surrendered, or placed on inactive or retired status, or has lapsed.

*h.* Permitting another person to use the registrant's or certificate holder's registration or certificate for any purposes.

*i.* Fraud in representations as to skill or ability.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*j.* Misrepresenting a specialized service as an appraisal assignment in violation of Iowa Code section 543D.18(3) or (5).

**6.3(4) *Unethical, harmful or detrimental conduct.*** Registrants and certificate holders engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct that are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

*a.* Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of real property appraising or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior within the practice of real estate appraising would place the public at risk.

*b.* Engaging in a professional conflict of interest, or otherwise violating the public trust, as provided in USPAP's ethics rule.

*c.* Aiding or abetting any unlawful activity for which a civil penalty can be imposed under rule 193F—12.2(543D).

**6.3(5) *Lack of proper qualifications.***

*a.* Continuing to practice as a registered associate appraiser or certified real property appraiser without satisfying the continuing education for registration or certificate renewal.

*b.* Acting as a supervisor without proper qualification, as provided in rule 193F—4.7(543D).

*c.* Habitual intoxication or addiction to the use of drugs, or impairment that adversely affects the registrant's or certificate holder's ability to practice in a safe and competent manner.

*d.* Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications that are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b," or that impairs a practitioner's ability to safely and skillfully practice the profession.

*e.* Failure to meet the minimum qualifications for registration as an associate appraiser or certification as a certified real property appraiser.

*f.* Practicing outside the scope of a certification, or outside the scope of a supervisor's certification.

**6.3(6) *Negligence by the registrant or certificate holder in the practice of the profession.*** Negligence by the registrant or certificate holder in the practice of the profession includes but is not limited to:

*a.* A failure to exercise due care including negligent delegation of duties to or supervision of associate appraisers, or other employees, agents, or persons, in developing an appraisal, preparing an appraisal report, or communicating an appraisal, whether or not injury results.

*b.* Neglect of contractual or other duties to a client.

**6.3(7) *Professional misconduct.***

*a.* Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of real estate appraising.

*b.* Engaging in any conduct that subverts or attempts to subvert a board investigation.

*c.* Revocation, suspension, or other disciplinary action taken by a licensing authority of this state or another state, territory, or country. A stay by an appellate court will not negate this obligation; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action will be vacated.

*d.* A violation of Iowa Code section 543D.18.

*e.* A violation of Iowa Code section 543D.20 (limitations on persons assisting in the development or reporting of a certified appraisal).

*f.* Failure to retain records as provided in Iowa Code section 543D.19.

*g.* Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

**6.3(8) *Willful or repeated violations.*** The willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 543D, or any administrative rule adopted by the board in the administration or enforcement of such chapters.

**6.3(9) *Failure to report.***

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*a.* Failure by a registrant or certificate holder or an applicant for a registration or certificate to report in writing to the board any revocation, suspension, or other disciplinary action taken by a licensing authority, in Iowa or any other jurisdiction, within 30 calendar days of the final action.

*b.* Failure of a registrant or certificate holder or an applicant for a registration or certificate to report, within 30 calendar days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action, in Iowa or any other jurisdiction.

*c.* Failure to notify the board of a criminal conviction within 30 calendar days of the action, regardless of the jurisdiction where it occurred.

*d.* Failure to notify the board within 30 calendar days after occurrence of any adverse judgment in a professional or occupational malpractice action, or settlement of any claim involving malpractice, regardless of the jurisdiction where it occurred.

*e.* Failure to report another registrant or certificate holder to the board for any violation listed in these rules, pursuant to Iowa Code section 272C.9(2), promptly after the registrant or certificate holder becomes aware that a reportable violation has occurred.

*f.* Failure to report to the board the appraiser's principal place of business and any change in the appraiser's principal place of business within 30 calendar days of such change.

*g.* Failure of an associate appraiser or supervisor to timely respond to board requests for information, as provided in 193F—Chapter 4.

**6.3(10)** *Failure to comply with board order.* Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

**6.3(11)** *Conviction of a crime.*

*a.* Conviction, in this state or any other jurisdiction, of any felony offense that directly relates to the profession, or of any crime that is substantially related to the qualifications, functions, duties or practice of a person developing or communicating real estate appraisals to others. Any crime involving deception, dishonesty or disregard for the safety of others will be deemed directly related to the practice of real property appraising. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another jurisdiction will be conclusive evidence of the conviction. "Conviction" includes any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, withheld, or not entered, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction will be vacated. A conviction qualifies as a felony offense if the offense is designated as a felony in the jurisdiction in which the conviction occurred, or if the offense is committed in this state, the offense would be a felony, without regard to its designation elsewhere. An offense directly relates to the profession if either:

(1) The actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession, or

(2) The circumstances under which an offense was committed are circumstances customary to the profession.

*b.* Notwithstanding the foregoing, a conviction may be grounds for revocation or suspension only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543D and 2007 Iowa Acts, Senate File 137.

ITEM 2. Rescind **193F—Chapter 7.**

**ARC 7264C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to investigations and disciplinary procedures  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to adopt a new Chapter 7, “Investigations and Disciplinary Procedures,” and to rescind Chapter 8, “Investigations and Disciplinary Procedures,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 7 establishes the provisions for investigatory and disciplinary procedures over which the Board has authority. The benefit is to clearly specify to all parties their rights and responsibilities during the investigation and discipline process.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

February 13, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

February 14, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 193F—Chapter 7:

CHAPTER 7  
INVESTIGATIONS AND DISCIPLINARY PROCEDURES

**193F—7.1(272C,543D) Disciplinary action.** The real estate appraiser examining board has authority under applicable law to impose discipline for violations of law.

**193F—7.2(17A,272C,543D) Initiation of disciplinary investigations.** The board may initiate a licensee disciplinary investigation upon the board's receipt of information suggesting that a licensee may have violated the licensee's legal obligations under the Iowa Code or board rule.

**193F—7.3(17A,272C,543D) Conflict of interest.** If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member will abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

**193F—7.4(272C,543D) Complaints.** Written complaints need to be submitted to the board through the board's online system. The board may also initiate its own complaints.

**7.4(1) Role of complainant.** The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the board based in whole or in part on information provided by the complainant.

**7.4(2) Role of the board.** The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

**7.4(3) Initial complaint screening.** Tips that are not complaints will be evaluated by the disciplinary committee but may not be assigned a case number or further investigated. Complaints that have been

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

submitted and assigned a case number will be referred to the discipline committee. Final decisions on complaints will be made by the board.

**193F—7.5(272C,543D) Case numbers.** Whether based on written complaint received by the board or complaint initiated by the board, all complaint files will be tracked by a case numbering system. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.

**193F—7.6(17A,272C,543D) Investigation procedures.**

**7.6(1) Disciplinary committee.** The board chairperson will annually appoint two to three members of the board to serve on the board's disciplinary committee. The disciplinary committee is a purely advisory body that reviews complaint files referred by the board's executive officer, generally supervises the investigation of complaints, and makes recommendations to the full board on the disposition of complaints. Members of the committee will not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

**7.6(2) Screening of complaints.** All complaints presented to the board will be screened, evaluated and, where appropriate, investigated.

**193F—7.7(17A,272C,543D) Informal discussion.** If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee any opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

**7.7(1)** Because disciplinary investigations are confidential, only the licensee's legal representative may attend the information discussion with the board.

**7.7(2)** Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, licensees who desire to attend an informal discussion waive their right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

**7.7(3)** Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

**7.7(4)** The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion.

**193F—7.8(272C,543D) Peer review committee (PRC).** A peer review committee may be appointed by the board to investigate a complaint.

**193F—7.9(17A,272C,543D) Closing complaint files.**

**7.9(1) Grounds for closing.** The board may close a complaint file, with or without prior investigation.

**7.9(2) Cautionary letters.** The board may issue a confidential letter of caution to a licensee when a complaint file is closed that informally cautions or educates the licensee about matters that could form the basis for disciplinary action in the future if corrective action is not taken by the licensee.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

**7.9(3) Reopening closed complaint files.** The board may reopen a closed complaint file if additional information arises after closure that provides a basis to reassess the merits of the initial complaint. Complaint files may also be reopened when a complaint has been previously closed due to the lapse of the licensee's license.

**193F—7.10(17A,272C,543D) Initiation of disciplinary proceedings.** Disciplinary proceedings may only be initiated by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified will not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, three members of the board constitute a quorum of the remaining five board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the executive officer may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11(5).

**193F—7.11(543D) Decisions.** The board will make findings of fact and conclusions of law, and set forth the board's decision, order, or both in the case. The board's decision may include, without limitation, any of the following outcomes, either individually or in combination:

1. Dismissing the charges;
2. Suspending or revoking the appraiser's certification or associate's registration as authorized by law;
3. Imposing civil penalties, the amount to be set at the discretion of the board but not exceeding \$1,000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in Iowa Code section 543D.17 and chapter 272C or for any repeat offenses;
4. Imposing a period of probation, either with or without conditions;
5. Obligating the licensee to undergo reexamination;
6. Obligating the licensee to take additional professional education, reeducation, or continuing education;
7. Issuing a citation and a warning;
8. Imposing desk review of the appraiser's work product;
9. Issuing a consent order either with or without conditions;
10. Imposing consultation with one or more peer reviewers;
11. Revoking an appraiser's eligibility to supervise;
12. Compelling submission of monthly logs;
13. Placing limitations on a licensee's practice, such as removing a licensee's authority to act as an instructor; and
14. Imposing any other form of discipline authorized by a provision of law that the board, in its discretion, believes is warranted under the circumstances of the case.

**193F—7.12(272C,543D) Mitigating and aggravating factors.** Factors the board may consider when determining whether to impose discipline and what type of discipline to impose include but are not limited to:

- 7.12(1) History and background of respondent.**
- a. Whether the respondent was a registered associate appraiser or a certified appraiser at the time of the violation.
  - b. Prior disciplinary history or cautionary letters.
  - c. Length of certification or registration at the time of the violation.
  - d. Disciplinary history of current or prior supervisor.
  - e. Degree of cooperation with investigation.
  - f. Extent of self-initiated reform or remedial action after the date of the violation.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*g.* Whether the volume or geographic range of the respondent's practice is, or was at the time of the violation, reasonable under the circumstances.

*h.* Whether the respondent practiced with a lapsed, inactive, retired, suspended, revoked, or surrendered certificate or registration.

**7.12(2)** Nature of violations, not limited to:

*a.* Length of time since the date of the violation.

*b.* Whether the violation is isolated or recurring.

*c.* Whether there are multiple violations or appraisals involved.

*d.* Whether the violation is in the nature of an error or situational carelessness or neglect, or reflects a more fundamental lack of familiarity with applicable appraisal methodology or standards.

*e.* Indicia of bad faith, false statements, deceptive practices, or willful and intentional acts, whether within the circumstances of the violation or in the course of the board's investigation or disciplinary proceeding.

*f.* Evidence of improper advocacy or other violation of the USPAP ethics rule or of Iowa Code section 543D.18 or 543D.18A(1).

*g.* The clarity of the issue or standard involved.

*h.* Whether the respondent practiced outside the scope of practice authorized by respondent's certification or registration.

*i.* Whether the violation relates to the respondent's supervisory role, the respondent's individual appraisal practice, or both.

**7.12(3)** Interest of the public, not limited to:

*a.* Degree of financial or other harm to a client, consumer, lending institution, or others.

*b.* Risk of harm, whether or not the violation caused actual harm.

*c.* Economic or other benefit gained by respondent or by others as a result of the violation.

*d.* Deterrent impact of discipline.

*e.* Whether the respondent issued a corrected appraisal report when warranted.

**193F—7.13(272C,543D) Voluntary surrender.** The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board will not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such voluntary surrender is considered disciplinary action and will be published in the same manner as is applicable to any other form of disciplinary order.

**193F—7.14(272C,543D) Reinstatement.** The following provisions apply to license reinstatement proceedings:

**7.14(1)** The board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on an application to reinstate if the applicant requests an informal appearance in the application and agrees not to seek to disqualify, on the ground of personal investigation, board members or staff before whom the applicant appears.

**7.14(2)** An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193F—7.14(272C,543D).

**7.14(3)** The board will not grant an application for reinstatement when the initial order that revoked, suspended or placed limitations on the license, denied license renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

*a.* All terms of the sentencing or other criminal order have been fully satisfied;

*b.* The applicant has been released from confinement and any applicable probation or parole; and

*c.* Restitution has been made or is reasonably in the process of being made to any victims of the crime.



## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**7.14(4)** A state and national criminal history check may be performed on any applicant applying to reinstate registration or credential consistent with Iowa Code section 543D.22.

These rules are intended to implement Iowa Code sections 543D.5, 543D.17, and 543D.18 and chapters 17A and 272C.

ITEM 2. Rescind 193F—Chapter 8.

**ARC 7265C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to renewal, expiration and reinstatement  
of certificates and registrations, retired status, and inactive status  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to adopt a new Chapter 8, “Renewal, Expiration and Reinstatement of Certificates and Registrations, Retired Status, and Inactive Status,” and to rescind Chapter 9, “Renewal, Expiration and Reinstatement of Certificates and Registrations, Retired Status, and Inactive Status,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 8 establishes the provisions for those seeking to renew, reinstate and/or change the status of their appraiser license in Iowa. The benefit is to allow individuals to renew or reinstate licensure in the state of Iowa as required by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation (TAF).

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Kimberly Gleason, Board Administrator  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321  
 Phone: 515.725.8145  
 Fax: 515.725.9032  
 Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 193F—Chapter 8:

CHAPTER 8  
 RENEWAL, EXPIRATION AND REINSTATEMENT OF  
 CERTIFICATES AND REGISTRATIONS, RETIRED STATUS, AND INACTIVE STATUS

**193F—8.1(272C,543D) Biennial renewal.**

**8.1(1)** Licenses have to be renewed on a biennial basis or they lapse.

**8.1(2)** Persons licensed before June 30, 2024, will maintain their biennial renewal timelines. For licensees initially licensed after June 30, 2024, all licenses will expire biennially on June 30.

Example: Certified general licensee obtains licensure on May 25, 2025. License will expire on June 30, 2026, with the first year being a partial year.

**8.1(3)** An application to renew a certificate or registration has to be submitted through the board's online system.

**8.1(4)** All continuing education claimed on a biennial renewal needs to have been acquired during the renewal period. In addition, all continuing education claimed on a biennial renewal has to have been taken and completed prior to submission of the renewal application.

**193F—8.2(272C,543D) Notices.**

**8.2(1)** The board may send renewal notices to licensed appraisers. However, it is the licensee's responsibility to renew timely.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**8.2(2)** Certified and associate appraisers have to ensure that their contact information on file with the board office is current and that the board is notified within 30 days of any changes.

**193F—8.3(272C,543D) Renewal procedures.**

**8.3(1)** *Date of filing.* Certified and associate appraisers have to file a complete renewal application with the board by the June 30 deadline in the biennial renewal year. An application will be deemed filed on the date of board receipt, the date of electronic submission or, if payment is mailed, the date postmarked but not the date metered.

**8.3(2)** *Continuing education.* An applicant for renewal has to report the applicant's compliance with the continuing education obligations provided in 193F—Chapter 10.

**8.3(3)** *Background disclosures.* An applicant for renewal has to disclose such background and character information as the board requests, which may include disciplinary action taken by any jurisdiction regarding a professional license of any type, the denial of an application for a professional license of any type by any jurisdiction, and the conviction of any crime.

**8.3(4)** *Insufficient applications.* The board will reject applications that are insufficient.

**8.3(5)** *Resubmission of rejected applications.* The board will promptly notify an applicant of the basis for rejecting an insufficient renewal application. Applicants may correct deficiencies and resubmit an application. Resubmitted applications are deemed received on the date of electronic submission.

**8.3(6)** *Administrative processing not determinative.* The administrative processing of an application to renew a certificate or registration will not prevent the board from subsequently challenging the application based on new information, such as after-acquired information of continuing education violations.

**8.3(7)** *Denial of timely and sufficient application to renew.* If grounds exist to deny an application to renew, the board will send notification to the applicant stating the grounds for denial.

**193F—8.4(272C,543D) Failure to renew.**

**8.4(1)** The certificate or registration of a certified or associate appraiser lapses unless the appraiser submitted a timely and sufficient renewal application by the expiration date.

**8.4(2)** Certified and associate appraisers are not authorized to practice or to hold themselves out to the public as certified or registered appraisers during the period of time that the certificate or registration is lapsed. Any violation of this subrule will be grounds for discipline.

**8.4(3)** *Reinstatement.* The board may reinstate a lapsed certificate or registration upon the applicant's submission of an application to reinstate and completion of all of the following:

- a. Paying a penalty as provided by board rule; and
- b. Paying the current renewal fee as provided by board rule; and
- c. Paying the Appraisal Subcommittee National Registry fee as provided by board rule; and
- d. Completing a state and national criminal history check as required by law; and
- e. Providing evidence of completed continuing education outlined in rule 193F—10.2(272C,543D), as modified for associate appraisers in subrule 8.4(6), if the licensee wishes to reinstate to active status; and
- f. Providing a written statement outlining the professional activities of the applicant in the state of Iowa during the period in which the applicant's license had lapsed. The statement will describe all appraisal services performed, with or without the use of the titles described in Iowa Code section 543D.15, for all appraisal assignments that federal or state law, rule, or policy mandate to be performed by a certified real estate appraiser.

**8.4(4)** Reinstating associate appraisers are to follow special continuing education obligations. The board seeks to ensure that associate appraisers make progress toward full completion of all qualifying education needed for eventual certification, as provided in the rules. As a result, an associate appraiser applying to reinstate a registration that has been lapsed for 12 months or longer will complete the most recent seven-hour USPAP course, and only qualifying education toward the continuing education needed for reinstatement, until all qualifying education has been completed. If the applicant has already completed all qualifying education or has to have continuing education hours beyond those needed

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

to fully complete all qualifying education, the applicant may use any approved continuing education course in addition to the mandatory seven-hour USPAP course.

**193F—8.5(272C,543D) Inactive status.**

**8.5(1) *General purpose.*** A licensee who is not engaged in Iowa in any practice licensed by the board may allow a license to lapse or register as inactive. The board will continue to maintain a database of persons registered as inactive as well as those whose license has lapsed. A person registered in inactive status is not allowed to perform services in this state regulated by the board. Continuing education is not required for licensees in inactive status.

**8.5(2) *Eligibility.*** A person holding an active license may apply on forms through the board's online system to register as inactive if the person is not engaged in appraisal practice in the state of Iowa for which a certificate or associate registration is needed. Inactive status is not available to an individual who has had a board-issued license revoked or suspended. A person seeking inactive status may be actively engaged in the practice of real estate appraising in another jurisdiction.

**8.5(3) *Affirmation.*** The application form will contain a statement in which the applicant affirms that the applicant will not engage in any conduct that would require an Iowa license without first complying with all rules governing reactivation to active status. A person in inactive status may reactivate to active status at any time pursuant to subrule 8.5(6).

**8.5(4) *Renewal.*** A person registered as inactive will need to renew biennially. Licensees in inactive status may continue to renew in inactive status. Active licensees may register in inactive status if, for instance, they have not completed all continuing education obligations needed for active status renewal. Any licensee in inactive status must satisfy all outstanding continuing education obligations before reinstating to active status. Continuing education obligations do not accrue during the period of inactive registration.

**8.5(5) *Grounds for discipline.*** Licensees are not authorized to practice or to hold themselves out to the public as board-licensed appraisers during the period of time that the licensee is in retired or inactive status. Any violation of this subrule will be grounds for discipline.

**8.5(6) *Reactivation.*** A person registered as inactive will apply to reactivate to active status prior to engaging in any practice in Iowa that necessitates active licensure by the board. An application to reactivate to active status will be through the board's online system. Prior to reactivation to active status, the applicant has to complete all education that would have been needed had the applicant been on active status, including the required courses set by the AQB criteria. All such continuing education has to be verified whether or not the applicant has been in active practice in another jurisdiction. Such an applicant will be given credit for the most recent renewal fees previously paid if the applicant applies to reactivate in the same biennium at other than the applicant's regular renewal date. An associate licensee changing from active to inactive status during a biennial renewal period will not, however, be entitled to a refund of any of the fees previously paid to attain active status.

**193F—8.6(272C,543D) Retired status.** A certified licensee may place the licensee's license in retired status. For purposes of this rule, the term "retired" means the person has retired from working as a certified appraiser and has requested to be placed in retired status through the board's online system. A licensee in retired status may request that the license be placed back into active status so long as the licensee is still within the biennial period of the last active status. The board will not provide a refund of biennial registration and certification fees when an application for retired status is granted in a biennium in which the applicant has previously paid the biennial fees for either active or inactive status. Licensees in retired status are exempt from the renewal obligation. While in retired status, appraisers cannot hold themselves out to the public as being certified appraisers during the period of time that the license is in retired status.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**193F—8.7(272C,543D) Property of the board.** Every license issued by the board will, while it remains in the possession of the holder, be preserved by the holder but will, nevertheless, always remain the property of the board.

These rules are intended to implement Iowa Code section 543D.5.

ITEM 2. Rescind 193F—Chapter 9.

**ARC 7266C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to reciprocity  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to adopt a new chapter 9, “Reciprocity,” and to rescind Chapter 10, “Reciprocity,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 9 establishes the pathway for those seeking real estate appraiser certification/permits in Iowa. This gives individuals an avenue to provide services to Iowans either on an ongoing or a temporary basis. It also allows for a certified appraiser moving to the state of Iowa to be licensed prior to arriving, thus attracting people to the state.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 193F—Chapter 9:

CHAPTER 9  
RECIPROCITY

**193F—9.1(543D) Nonresident certification by reciprocity.**

**9.1(1)** A nonresident of Iowa seeking certification in this state can apply for reciprocity through the board's online system and pay the board-established fee.

**9.1(2)** The board may issue a reciprocal certificate to a nonresident individual who is certified and demonstrates good standing in another state. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the good standing obligation without additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee will need to supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal.

**9.1(3)** A reciprocal certified appraiser will comply with all provisions of Iowa law and rules.

**9.1(4)** Reciprocal certified appraisers are obligated to pay the federal registry fee as set forth in the board's rules.

**193F—9.2(543D) Temporary practice permit.**

**9.2(1)** The board will recognize, on a temporary basis, the license of a certified appraiser issued by another state for a period of six months, unless the applicant requests, and is approved for, a one-time extension. An extension request has to be received prior to the expiration date of the issuance of the temporary practice permit. An extension may be granted for up to six months past the original expiration date so long as the applicant is still eligible for a temporary practice permit.

**9.2(2)** The appraiser has to apply through the board's online system. The appraiser seeking a temporary practice permit must meet the other qualifying factors associated with reciprocity, including good standing and payment of the appropriate fee. The temporary practice permit will authorize the licensee to perform appraisal on the properties listed on the permit.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**9.2(3)** An appraiser holding an inactive, retired, or lapsed certificate as a real estate appraiser in Iowa may apply for a temporary practice permit if the appraiser holds an active, unexpired certificate as a real estate appraiser in good standing in another jurisdiction and is otherwise eligible for a temporary practice permit.

**9.2(4)** An appraiser who was previously a registered associate or certified appraiser in Iowa whose Iowa license has been revoked or surrendered in connection with a disciplinary investigation or proceeding is ineligible to apply for a temporary practice permit in Iowa.

**9.2(5)** The board may deny an application for a temporary practice permit based on prior discipline in this jurisdiction or other jurisdictions.

**9.2(6)** An appraiser holding an inactive, retired, or lapsed Iowa certificate who applies to reinstate to active status in Iowa will not be given credit for any fees paid during the biennial period for one or more temporary practice permits.

**9.2(7)** An appraiser holding a license to practice as a real estate appraiser in another jurisdiction may practice in Iowa without applying for a temporary practice permit or paying any fees as long as the appraiser does not perform appraisal services in Iowa that require licensure in this state.

**9.2(8)** The board will receive and approve an application for a temporary practice permit before the applicant is eligible to practice in Iowa under a temporary practice permit. Applicants will apply using the board's online system. The board will grant or deny all applications for temporary practice permits within the requirements set by the ASC. Applicants disclosing discipline or criminal convictions will need to attach supporting documentation so that the board can assess whether grounds exist to deny the application. Falsification of information or failure to disclose material information will be grounds to deny the application, deny subsequent applications, or to reinstate a lapsed or inactive Iowa license.

These rules are intended to implement Iowa Code sections 543D.10 and 543D.11.

ITEM 2. Rescind 193F—Chapter 10.

**ARC 7267C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to adopt a new Chapter 10, "Continuing Education," and to rescind Chapter 11, "Continuing Education," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 10 establishes the continuing education requirements for initial and renewal licensees and also clarifies the requirements/processes for course providers that wish to provide education services to Iowa licensees.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 193F—Chapter 10:

CHAPTER 10  
CONTINUING EDUCATION

**193F—10.1(272C,543D) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Approved program*” means a continuing education program, course, or activity that satisfies the standards set forth in these rules and has received advance board approval pursuant to these rules.



## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*“Approved provider”* means a person or an organization that has been approved by the board to conduct continuing education programs pursuant to these rules.

*“Asynchronous”* means that the instructor and student interact in an educational offering in which the student progresses at the student’s own pace through structured course content and scheduled quizzes and examinations.

*“Board”* means the same as defined in Iowa Code section 543D.2(7).

*“Continuing education”* means education that is obtained by a person certified to practice real estate appraising in order to maintain, improve, or expand skills and knowledge obtained prior to initial certification or registration, or to develop new and relevant skills and knowledge, all as a condition of renewal.

*“Credit hour”* means the value assigned by the board, or the AQB, to a continuing or qualifying education program.

*“Distance education”* means any education process based on the geographical separation of student and instructor. “Distance education” includes asynchronous, synchronous, and hybrid educational offerings.

*“Guest speaker”* means an individual who teaches an appraisal education program on a one-time-only or very limited basis and who possesses a unique depth of knowledge and experience in the subject matter.

*“Hybrid,”* also known as a blended course, means a learning environment that allows for both in-person and online (synchronous or asynchronous) interaction.

*“Live instruction”* means an educational program delivered in a classroom setting where both the student and the instructor are present in the same room.

*“Qualifying education”* means education that is obtained by a person seeking certification as a real property appraiser prior to initial certification or registration.

*“Synchronous”* means that in an educational offering the instructor and student interact online simultaneously, as in a phone call, video chat or live webinar, or web-based meeting.

**193F—10.2(272C,543D) Continuing education obligations.**

**10.2(1)** Board-licensed appraisers have to demonstrate compliance with the continuing education set by the AQB criteria.

**10.2(2)** All continuing education credit hours may be acquired in approved education programs.

**10.2(3)** Instructors claiming continuing education credit may be requested to provide supporting documentation to ascertain course content and related details.

**10.2(4)** An applicant seeking to renew an initial license issued less than 185 days prior to renewal is not obligated to report any continuing education. An applicant seeking to renew an initial certificate or registration issued for 185 days to 365 days prior to renewal has to demonstrate completion of at least 14 credit hours, including the National USPAP continuing education course or its AQB equivalent. An applicant seeking to renew an initial certificate or registration issued 365 days prior to renewal or more has to demonstrate completion of at least 28 credit hours, including seven credit hours of the most recent National USPAP continuing education.

**10.2(5)** Prior to reinstatement or reactivation of a certified general or residential registration, a licensee in inactive, retired, or lapsed status has to complete all continuing education hours that would have been needed if the licensee was in active status. The hours will also include the most recent edition of a National USPAP Update course.

**10.2(6)** During each two-year renewal period, a continuing education program may be taken for credit only once.

**10.2(7)** At least 50 minutes of every class hour have to be attended by the student to count as an hour of continuing education.

**10.2(8)** An applicant may claim continuing education credits that have been approved by another jurisdiction that has a continuing education obligation for license renewal in that jurisdiction if the applicable program was approved by the other jurisdiction’s appraisal regulatory body or the AQB for continuing education purposes at the time the applicant completed the course. The burden of proof in

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

this regard is on the applicant. All other programs have to be approved upon application to the board pursuant to this chapter.

**10.2(9)** A person certified or registered to practice real estate appraising in Iowa will be deemed to have complied with Iowa's continuing education obligation for periods in which the person is a resident of another state or district having continuing education obligations for real estate appraising and meets all obligations of that state or district.

**10.2(10)** A person certified or registered to practice real estate appraising in Iowa who completes an education course approved by both the board and another appraiser regulatory body, for which the approved hours vary, will only be allowed to claim the hours approved by the board to meet the obligations of renewal of the person's associate registration or certified credential in Iowa. A person certified or registered to practice real estate appraising in Iowa who completes an educational course not approved in Iowa, but approved by either the AQB or by another appraiser regulatory body, may claim the hours awarded by either the AQB or the appraiser regulatory body of the other jurisdiction.

**193F—10.3(272C,543D) Minimum program qualifications.**

**10.3(1)** The board will only approve continuing education programs that provide a formal program of learning that contributes to the growth in the professional knowledge and professional competence of real estate appraisers.

**10.3(2)** Continuing education programs as listed in the AQB criteria are accepted by the board, as well as the following appraisal topics, which the board has determined are integrally related to appraisal topics in the state:

- a. Agriculture production and economics;
- b. Agronomy/soil; and
- c. Real estate appraisal technology (e.g., drones).

**10.3(3)** The following programs will not be acceptable:

- a. Sales promotion meetings held in conjunction with the appraiser's general business;
- b. Time devoted to breakfast, lunch, or dinner;
- c. A program certified by the use of a challenge examination. The number of hours will be completed to receive credit hours; and
- d. Programs that do not provide at least two credit hours.

**10.3(4)** Continuing education credit will be granted only for whole hours, with a minimum of 50 minutes constituting one hour.

**10.3(5)** Continuing education credit may be approved for university or college courses, when an official transcript is provided, in qualifying topics according to the following formula: Each semester hour of credit will equal 15 credit hours and each quarter hour of credit will equal 10 credit hours.

**193F—10.4(272C,543D) Standards for provider and program approval.** Providers and programs will satisfy the following minimum standards in order to be preapproved in accordance with the procedures established in this chapter and in order to maintain approved status:

**10.4(1)** The program will be taught or developed by individuals who have the education, training and experience to be considered experts in the subject matter of the program and competent in the use of teaching methods appropriate to the program.

**10.4(2)** Programs will be taught by instructors who have successfully completed an instructor development workshop within 24 months preceding board approval of the program. Certified USPAP instructors and instructors approved via a course delivery mechanism approval per the AQB criteria will be considered to have met this obligation.

**10.4(3)** In determining whether an instructor is qualified to teach a particular program, the board will consider whether the instructor has an ability to teach and an in-depth knowledge of the subject matter.

**10.4(4)** An instructor may demonstrate the ability to teach by meeting one or more of the following criteria:

- a. Hold a bachelor's degree or higher in education from an accredited college;
- b. Hold a current teaching credential or certificate in any real estate or real estate-related fields;

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

- c.* Hold a certificate of completion in the area of instruction from an instructor institute, workshop or school that is sponsored by a member of the Appraisal Foundation;
- d.* Hold a full-time current appointment to the faculty of an accredited college; and
- e.* Other, as the board may determine.

**10.4(5)** An instructor may demonstrate in-depth knowledge of the program's subject matter by meeting one or more of the following criteria:

- a.* Hold a bachelor's degree or higher from an accredited college with a major in a field of study directly related to the subject matter of the course the instructor proposes to teach, such as business, economics, accounting, real estate or finance;
- b.* Hold a bachelor's degree or higher from an accredited college and have five years of appraisal experience related to the subject matter of the course the instructor proposes to teach;
- c.* Hold a generally recognized professional real property appraisal designation or be a sponsor member of the Appraisal Foundation; and
- d.* Other, as the board may determine.

**10.4(6)** Only AQB-certified USPAP instructors, listed on the website of the Appraisal Foundation may teach the National USPAP courses, or the AQB-approved equivalent.

**10.4(7)** Course content and materials will be accurate, consistent with currently accepted standards relating to the program's subject matter and updated no later than 30 days after the effective date of a change in standards, laws, or rules.

**10.4(8)** Programs will have an appropriate means of written evaluation by participants. Evaluations will include the relevance of the materials, effectiveness of presentation, content, facilities, and such additional features as are appropriate to the nature of the program.

**10.4(9)** No part of any course will be used to solicit memberships in organizations, recruit appraisers for affiliation with any organization or advertise the merits of any organization or sell any product, or service.

**10.4(10)** Providers will clearly inform prospective participants of the number of credit hours preapproved by the board for each program and all applicable policies concerning registration, payment, refunds, attendance obligations, and examination grading.

**10.4(11)** Procedures will be in place to monitor whether the person receiving credit hours is the person who attended or completed the program.

**10.4(12)** Providers will be accessible to students during normal business hours to answer questions and provide assistance as necessary.

**10.4(13)** Providers will comply with or demonstrate exemption from the provisions of Iowa Code sections 714.14 to 714.25.

**10.4(14)** Providers will designate a coordinator in charge of each program who will act as the board's contact on all compliance issues.

**10.4(15)** Programs will not offer more than eight credit hours in a single day.

**10.4(16)** Providers will not provide any information to the board, the public, or prospective students that is misleading in nature. For example, providers will not refer to themselves as a "college" or "university" unless qualified as such under Iowa law.

**10.4(17)** Providers will establish and maintain for a period of five years complete and detailed records on the programs successfully attended by each Iowa participant.

**10.4(18)** Providers will issue an individual certificate of attendance to each participant upon successful completion of the program.

**10.4(19)** Program providers and instructors are solely responsible for the accuracy of all program materials, instruction, and examinations. Board approval of a provider or program is not an assurance or warranty of accuracy and will not be explicitly or implicitly marketed or advertised as such.

**10.4(20)** Providers will apply for approval using the board's online system.

**10.4(21)** Providers will notify the board within 30 days of a change in the provider's primary contact, name, business address, or any other change that may affect the provider's tax identification number or bond obligations with the Iowa college aid commission.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**193F—10.5(272C,543D) Acceptable distance education courses.** Distance education involves geographical separation of student and instructor. A distance education course is acceptable to meet class hour obligations if it complies with the generic education criteria in the current AQB criteria.

**193F—10.6(272C,543D) Applications for approval of programs.** Applications for approval of programs will be submitted through the board's online system. All non-AQB courses are approved for 24 months, including the month of approval. Programs approved for distance education or by the AQB may be approved by the board. Board approval of a program will only be valid for the shortest period of time such a program is approved by either organization.

**10.6(1)** Approval will be obtained for each program separately. With the exception of hybrid courses, courses that are offered via more than one delivery method will require separate program approvals.

**10.6(2)** A nonrefundable fee of \$50 will be submitted for each program except for programs that are submitted for approval by the primary provider and that have been approved by the AQB through the AQB Course Approval Program (CAP).

**10.6(3)** All online applications and attachments will be submitted for approval at least 30 days prior to the first offering of each program or, if renewing, within 30 days of the course expiration date. The board will approve or deny each program, in whole or part, within 15 days of the date the board receives a fully completed application. Upon approval of an application for course offering, the board will specify the number of credit hours allowed. Payments for course program applications will be made within 30 calendar days of board approval or the application approval may be reversed.

**10.6(4)** Applications for non-AQB CAP courses will request information including, but not limited to, the following:

- a. Program description;
- b. Program purpose;
- c. Learning objectives that specify the level of knowledge or competency the student should demonstrate upon completing the program;
- d. Description of the instructional methods utilized to accomplish the learning objective;
- e. Identifying information for all guest speakers or instructors and such documentation as is necessary to verify compliance with the instructor qualifications described in this chapter;
- f. Copies of all instructor and student program materials or, in the case of a one-time course offering, a statement that attests all instructor and student materials will be submitted to the board within ten calendar days of the course offering;
- g. Copies of all examinations and a description of all grading procedures;
- h. A description of the diagnostic assessment method(s) used when examinations are not given;
- i. Such information as needed to verify compliance with board rules;
- j. The name, address, telephone number, and email address for the program's coordinator; and
- k. Such other information as the board deems reasonably needed for informed decision making.

**10.6(5)** Application forms for courses that are AQB CAP-approved will include information as deemed necessary for accurate documentation but may be more limited than information set forth in this chapter.

**10.6(6)** The board will assign each provider and program a number. This number will be placed on all correspondence with the board, all subsequent applications by the same provider, and all certificates of attendance issued to participants.

**193F—10.7(272C,543D) Waiver of application fees.** Application fees may be waived for approved programs sponsored by a governmental entity when the program is offered at no cost or at a nominal cost to participants. A request for waiver of application fees should be made by the provider or certificate holder at the time the application is filed with the board.

**193F—10.8(272C,543D) Authority to approve education.** The executive officer has the authority to approve or deny education applications subject to the applicant's right to a hearing as provided for in this chapter.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**193F—10.9(272C,543D) Appraiser request for preapproval of continuing education programs.** An appraiser seeking credit for attendance and participation in a program that is to be conducted by a provider not accredited or otherwise approved by the board will apply for approval to the board at least 15 days in advance of the commencement of the activity. The board will approve or deny the application in writing. The online application for prior approval of a continuing education activity will include the following fee and information:

1. Application fee of \$25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title and hour-by-hour outline of the program, course or activity;
5. Credit hours requested for approval;
6. Date of program; and
7. Principal instructor(s).

**193F—10.10(272C,543D) Appraiser request for postapproval of continuing education program.** An appraiser seeking credit for attendance and participation in a program that was not conducted by an approved provider or approved by the licensing authority in another state or otherwise approved by the board may submit a request for credit for the program. Within 15 days after receipt of the request, the board will advise the requester in writing whether the program is approved and the number of hours allowed. Appraisers not complying with the obligation of this rule may be denied credit for the program. Application for postapproval of a continuing education program will include the following fee and information:

1. Application fee of \$25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title of program and description of program;
5. Credit hours requested for approval;
6. Date(s) of program;
7. Student and instructor materials;
8. Principal instructor(s); and
9. Verification of attendance.

**193F—10.11(272C,543D) Review of provider or program.** The board on its own motion or upon receipt of a complaint or negative evaluation may monitor or review any approved program or provider and may withdraw approval of the provider or program and disallow all or any part of the approved hours granted to the provider based on evidence that the obligations of this chapter have not been met. The provider, as a condition of approval, agrees to allow the board or its authorized representatives to monitor ongoing compliance with board rules through means including, but not limited to, unannounced attendance at programs.

**193F—10.12(272C,543D) Hearings.** Any person aggrieved by board action related to this chapter may request a contested case hearing before the board.

These rules are intended to implement Iowa Code sections 543D.5, 543D.9 and 543D.16 and chapter 272C.

ITEM 2. Rescind 193F—Chapter 11.

**ARC 7268C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to fees  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to adopt a new Chapter 11, “Fees,” and to rescind Chapter 12, “Fees,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 11 establishes the fees assessed for the licensing of real estate appraisers in the state of Iowa. It also includes a provision for the Appraisal Subcommittee Federal Financial Institutions Examination Council fees that are collected by the State of Iowa on licensees’ behalf. The benefit of this rulemaking is being upfront with prospective appraisers and the general public about the fees associated with each application type.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

February 13, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

February 14, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 193F—Chapter 11:

CHAPTER 11  
FEES

**193F—11.1(543D) Fees.**

Initial examination application fee	\$150
Biennial registration fee for active status (initial, reciprocal, renewal):	
Associate/Certified real property appraiser > one year	\$200
Associate/Certified real property appraiser < one year	\$100
Biennial registration fee for inactive status (initial, reciprocal, renewal):	
Certified real property appraiser	\$100
Associate real property appraiser	\$50
Temporary practice permit fee (each request)	\$100
Reinstatement of a lapsed or retired license (lapsed or retired to active status)	\$150 (plus the registration fee)
Reactivation of an inactive or retired license (inactive or retired to active status)	\$50 (plus the registration fee)
Formal wall certificate	\$25
Work product review fees:	
Original submission, certified residential	\$300
Original submission, certified general	\$650
Additional residential reports as requested by the board	\$150 per report
Additional nonresidential reports as requested by the board	\$250 per report
Voluntary submission of residential reports for review	\$150 per report

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Voluntary submission of nonresidential reports for review	\$250 per report
Course application fee (non-AQB-approved courses and secondary providers)	\$50
Pre-/post-course application fee	\$25
Background check	\$51
Add supervisory appraiser	\$25
Add course instructor	\$10
Waiver to administrative rules	\$25
Late renewal of associate or certified	\$50
ASC National Registry fee > one year, separate from registration fee (collected by the board for FFIEC)	\$80
ASC National Registry fee < one year, separate from registration fee (collected by the board for FFIEC)	\$40
Examination fee (and reexamination fee) (to be paid to the examination provider)	Current provider rate

**193F—11.2(543D) Prorating of registration fees.** An applicant applying for initial or reciprocal registration or certification within 12 months from the applicant’s renewal date, pursuant to rule 193F—8.1(543D), will pay half the fee. An applicant applying for initial or reciprocal registration or certification more than 12 months from the applicant’s renewal date will pay the full registration fee. An applicant applying to reinstate or reactivate a lapsed registration or certification within 12 months from the applicant’s renewal date, pursuant to rule 193F—8.1(543D), will pay half the renewal fee plus the applicable reactivation or reinstatement fee. An applicant applying to reinstate or reactivate a lapsed registration or certification more than 12 months from the applicant’s renewal date will pay the full renewal fee plus the applicable reactivation or reinstatement fee.

These rules are intended to implement Iowa Code section 543D.6.

ITEM 2. Rescind **193F—Chapter 12.**

**ARC 7272C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to enforcement proceedings against nonlicensees and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to adopt a new Chapter 12, “Enforcement Proceedings Against Nonlicensees,” and to rescind Chapter 16, “Enforcement Proceedings Against Nonlicensees,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*



## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Proposed Chapter 12 establishes the enforcement proceedings against nonlicensees. The benefit of this rulemaking is that it protects clients and residents in Iowa that require a certified appraiser for federally regulated transactions as required by federal statute.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

February 14, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, IA 50321  
6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 193F—Chapter 12:

CHAPTER 12  
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

**193F—12.1(543D) Civil penalties against nonlicensees.** The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 543D.21.

**193F—12.2(543D) Grounds for imposing civil penalties.** Grounds for issuing an order requiring compliance with Iowa Code chapter 543D or imposing civil penalties up to \$1,000 for each violation include:

**12.2(1)** Violating Iowa Code section 543D.15(1) “a.”

**12.2(2)** Failing to obtain a temporary practice permit under Iowa Code section 543D.11(2);

**12.2(3)** Falsely impersonating a licensee by using the certification or registration title, number or signature of a licensee, or by using the nonexistent certification or registration title, number or signature of a fictitious holder of a board-issued license.

**12.2(4)** Violating Iowa Code section 543D.21(4) “e.”

**12.2(5)** Violating Iowa Code section 543D.20(1) “a,” “b,” “c,” or “d.”

**12.2(6)** Violating Iowa Code section 543D.18A.

**193F—12.3(543D) Notice of intent to impose civil penalties.**

**12.3(1)** The notice of the board’s intent to issue an order to compel compliance with Iowa Code section 543D.21 and to impose a civil penalty will be served upon the nonlicensee by certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel.

**12.3(2)** The notice will include the following:

*a.* A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.

*b.* Reference to the particular sections of the statutes and rules involved.

*c.* A short, plain statement of the alleged unlawful practices.

*d.* The dollar amount of the proposed civil penalty and the nature of the intended order to compel compliance with Iowa Code section 543D.21.

*e.* Notice of the nonlicensee’s right to a hearing and the time frame in which hearing has to be requested.

*f.* The address to which a written request for hearing has to be made.

**193F—12.4(543D) Request for hearing.**

**12.4(1)** Nonlicensees have to request a hearing within 30 days of the date the notice is received or service is accepted. A request for hearing has to be in writing and is deemed made on the date of the non-metered United States Postal Service postmark or the date of personal delivery to the board office.

**12.4(2)** If a request for hearing is not timely made, as described in the notice, the board chairperson or the chairperson’s designee may issue an order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

**12.4(3)** If a request for hearing is timely made, the board will issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees. Hearings involving nonlicensees are open to the public.

**12.4(4)** A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D at any stage of the proceeding upon mutual consent of the board.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**12.4(5)** The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22.

These rules are intended to implement Iowa Code chapters 17A and 543D.

ITEM 2. Rescind and reserve **193F—Chapter 16**.

**ARC 7269C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to use of criminal convictions in eligibility determinations and initial licensing decisions and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 13, “Use of Criminal Convictions in Eligibility Determinations and Initial Licensing Decisions,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

February 14, 2024  
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6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193F—Chapter 13.

**ARC 7275C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to licensure of persons licensed in other jurisdictions and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to adopt a new Chapter 13, "Licensure of Persons Licensed in Other Jurisdictions," and to rescind Chapter 26, "Military Service, Veteran Reciprocity, and Licensure of Persons Licensed in Other Jurisdictions," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

Proposed Chapter 13 establishes the pathway for those seeking real estate appraiser certification/permits in Iowa with veteran reciprocity, military service, and verification of licensure in another jurisdiction. The benefit of this rulemaking is giving individuals an avenue to provide services to Iowans. The provisions of this chapter related to military service and veteran reciprocity are proposed to be removed because they are now in the general chapters of the Board's rules.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 13, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/zuu-vunu-dcc](https://meet.google.com/zuu-vunu-dcc)

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 193F—Chapter 13:

CHAPTER 13  
LICENSURE OF PERSONS LICENSED IN OTHER JURISDICTIONS

**193F—13.1(272C) Definitions.**

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*“Issuing jurisdiction”* means the duly constituted authority in another state that has issued a professional license, certificate, or registration to a person.

*“License”* or *“licensure”* means any license that may be granted by the board.

**193F—13.2(272C) Licensure of persons licensed in other jurisdictions.**

**13.2(1)** An individual who establishes residency in this state or who is married to an active duty member of the military forces of the United States and who is accompanying the member on an official permanent change of station to a military installation located in this state may apply for licensure under this rule on forms provided by the board. A certification or registration will be issued if all of the following conditions are met:

*a.* The person is currently licensed, certified, or registered by at least one other issuing jurisdiction in the profession or occupation applied for with a substantially similar scope of practice and is in good standing in all issuing jurisdictions in which the person holds a license, certificate, or registration. A license, certificate, or registration issued by another jurisdiction that is classified as a licensed residential real property credential or with a scope of practice of a licensed residential real property appraiser, as defined by the AQB criteria, other applicable federal law, rule, or policy, will not be considered a profession or occupation with a substantially similar scope of practice as it relates to a certification or registration as an associate real property appraiser, certified residential real property appraiser, or a certified general real property appraiser.

*b.* The person has been licensed, certified, or registered by the other issuing jurisdiction forming the basis of the application.

*c.* When the person was licensed by the other issuing jurisdiction forming the basis of the application, the issuing jurisdiction imposed minimum educational and experience obligations, and the issuing jurisdiction verifies that the person met those obligations in order to be licensed in that issuing jurisdiction. Generally, given federal mandates, the minimum educational and experience obligations to become certified as a real estate appraiser are substantially the same nationwide within the applicable classification and scope of practice.

*d.* The person previously passed an AQB-approved examination by the other issuing jurisdiction for licensure, certification, or registration.

*e.* The person has not had a license, certificate, or registration revoked and has not voluntarily surrendered a license, certificate, or registration in any other issuing jurisdiction or country while under investigation for unprofessional conduct.

*f.* The person has not had discipline imposed by any other regulating entity in this state or another issuing jurisdiction or country. If another jurisdiction has taken disciplinary action against the person, the appropriate licensing board shall determine if the cause for the action was corrected and the matter resolved. If the licensing board determines that the matter has not been resolved by the jurisdiction imposing discipline, the licensing board will not issue or deny a license, certificate, or registration to the person until the matter is resolved.

*g.* The person does not have a complaint, allegation, or investigation pending before any regulating entity in another issuing jurisdiction or country that relates to unprofessional conduct. If the person has any complaints, allegations, or investigations pending, the appropriate licensing board shall not issue or deny a license, certificate, or registration to the person until the complaint, allegation, or investigation is resolved.

*h.* The person pays all applicable fees. The fees for applying for licensure under this rule will be the same as the fees for reciprocal licensure.

*i.* The person does not have a criminal history that would prevent the person from holding the license applied for in this state.

**13.2(2)** An individual applying for licensure under this rule will provide, as applicable, proof of current residency in the state of Iowa or proof of the military member’s official permanent change of station to the state of Iowa.

*a.* Proof of residency may include, by way of example:

(1) Residential mortgage, lease, or rental agreement;

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

- (2) Utility bill;
- (3) Bank statement;
- (4) Paycheck or pay stub;
- (5) Property tax statement;
- (6) A federal or state government document; or
- (7) Any other document that reliably confirms Iowa residency.

*b.* Proof of permanent change of station to the state of Iowa includes documentation issued by the appropriate branch of the military requiring a permanent change of station or otherwise indicating or demonstrating a permanent change of station has occurred.

**13.2(3)** In order to be considered a sufficient application, an application for licensure under this rule must include all appropriate information as required by this rule and, if applicable, the submission of fingerprints and an appropriate authorization of release as may be necessary to facilitate the board's completion of a criminal history check and any corresponding fee.

**13.2(4)** A person issued a license under this rule is subject to the jurisdiction of the board.

**13.2(5)** An applicant who is aggrieved by the board's decision to deny an application for a license under this rule may request a contested case hearing. A request for such a contested case hearing will be granted only if the board receives the request within 30 days of issuance of the board's decision.

These rules are intended to implement Iowa Code chapters 543D and 272C and 2019 Iowa Acts, House File 288.

ITEM 2. Rescind and reserve **193F—Chapter 26.**

**ARC 7271C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to supervisor responsibilities  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 15, "Supervisor Responsibilities," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
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*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193F—Chapter 15**.

**ARC 7273C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to superintendent supervision standards  
and procedures and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 17, "Superintendent Supervision Standards and Procedures," Iowa Administrative Code.



## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

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Iowa Department of Inspections, Appeals, and Licensing  
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Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve 193F—Chapter 17.

**ARC 7274C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to waivers  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 18, "Waivers," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Kimberly Gleason, Board Administrator  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321  
 Phone: 515.725.8145  
 Fax: 515.725.9032  
 Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m..	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

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The following rulemaking action is proposed:

ITEM 1. Rescind and reserve 193F—Chapter 18.

**ARC 7338C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to investigatory subpoenas  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 19, "Investigatory Subpoenas," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

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Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
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*Review by Administrative Rules Review Committee*

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The following rulemaking action is proposed:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 1. Rescind and reserve **193F—Chapter 19.**

**ARC 7339C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to contested cases  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 20, “Contested Cases,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

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Fax: 515.725.9032  
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*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

February 13, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

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The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193F—Chapter 20**.

**ARC 7340C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to debt  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 21, "Denial of Issuance or Renewal, Suspension, or Revocation of License for Nonpayment of Child Support or State Debt," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193F—Chapter 21**.

**ARC 7341C****REAL ESTATE APPRAISER EXAMINING BOARD[193F]****Notice of Intended Action****Proposing rulemaking related to petition for rulemaking  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 22, "Petition for Rule Making," Iowa Administrative Code.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

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*Public Hearing*

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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*



## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve 193F—Chapter 22.

**ARC 7357C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to declaratory orders  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 23, “Declaratory Orders,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Kimberly Gleason, Board Administrator  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321  
 Phone: 515.725.8145  
 Fax: 515.725.9032  
 Email:[kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve 193F—Chapter 23.

**ARC 7381C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to sales and leases of goods and services  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 24, "Sales and Leases of Goods and Services," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a>
February 14, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 1. Rescind and reserve 193F—Chapter 24.

**ARC 7382C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to public records and fair information practices  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 25, “Public Records and Fair Information Practices,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

February 13, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

February 14, 2024  
10:40 to 11 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link: [meet.google.com/yxd-hmkw-ppo](https://meet.google.com/yxd-hmkw-ppo)

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193F—Chapter 25.**

**ARC 7383C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Notice of Intended Action**

**Proposing rulemaking related to impaired licensee review committee and recovery program and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 27, "Impaired Licensee Review Committee and Impaired Licensee Recovery Program," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a>
February 14, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/yxd-hmkw-ppo">meet.google.com/yxd-hmkw-ppo</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193F—Chapter 27**.

**ARC 7342C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]****Notice of Intended Action****Proposing rulemaking related to social security numbers and proof of legal presence and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 28, “Social Security Numbers and Proof of Legal Presence,” Iowa Administrative Code.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Phone: 515.725.8145  
Fax: 515.725.9032  
Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **193F—Chapter 28**.

**ARC 7376C**

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]****Notice of Intended Action****Proposing rulemaking related to vendor appeals  
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 29, "Vendor Appeals," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

*Purpose and Summary*

As of July 1, 2023, the Real Estate Appraiser Examining Board from the Division of Banking became part of the Iowa Department of Inspections, Appeals, and Licensing. The proposed rulemaking rescinds this chapter so that the Department will have one agencywide chapter to better serve Iowans and streamline operations.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:



## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Kimberly Gleason, Board Administrator  
 Iowa Department of Inspections, Appeals, and Licensing  
 6200 Park Avenue, Suite 100  
 Des Moines, Iowa 50321  
 Phone: 515.725.8145  
 Fax: 515.725.9032  
 Email: [kimberly.gleason@dia.iowa.gov](mailto:kimberly.gleason@dia.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>
February 14, 2024 10:40 to 11 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: <a href="https://meet.google.com/zuu-vunu-dcc">meet.google.com/zuu-vunu-dcc</a>

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve 193F—Chapter 29.

**ARC 7535C**

**UTILITIES DIVISION[199]****Notice of Intended Action****Proposing rulemaking related to forms  
and providing an opportunity for public comment**

The Utilities Board hereby proposes to rescind Chapter 2, "Forms," Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code sections 17A.3, 474.5 and 476.2.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 17A.3.

*Purpose and Summary*

## UTILITIES DIVISION[199](cont'd)

The purpose of Chapter 2 is to inform the public of the location of Board-approved forms that the public may use in connection with requests for Board action or in proceedings before the Board. However, the forms will be available for public use on the Board's website irrespective of Chapter 2; therefore, the chapter is unnecessary and is proposed to be rescinded.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

No waiver provision is included in the proposed amendment because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the Board's rules.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 29, 2024. Comments should be directed to:

IT Support  
Iowa Utilities Board  
Phone: 515.725.7300  
Email: [ITSupport@iub.iowa.gov](mailto:ITSupport@iub.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 20, 2024 9 to 11 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa
February 29, 2024 9 to 11 a.m.	Board Hearing Room 1375 East Court Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **199—Chapter 2**.

**ARC 7536C****UTILITIES DIVISION[199]****Notice of Intended Action****Proposing rulemaking related to civil penalties  
and providing an opportunity for public comment**

The Utilities Board hereby proposes to rescind Chapter 8, “Civil Penalties,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code chapters 476, 476A, 478, 479 and 479B.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 476.51, 476.103, 476A.14, 478.29, 479.31 and 479B.21.

*Purpose and Summary*

Chapter 8 currently describes the Board’s authority to assess civil penalties. Chapter 8 is proposed to be rescinded because it primarily restates and references existing statutes. The Board issued an order on November 7, 2023, commencing this rulemaking. The order is available on the Board’s electronic filing system, [efs.iowa.gov](https://efs.iowa.gov), under RMU-2023-0008.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

No waiver provision is included in the proposed amendment because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the Board’s rules.

*Public Comment*

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 29, 2024. Comments should be directed to:

IT Support  
Iowa Utilities Board  
Phone: 515.725.7300  
Email: [ITSupport@iub.iowa.gov](mailto:ITSupport@iub.iowa.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

UTILITIES DIVISION[199](cont'd)

February 20, 2024  
9 to 11 a.m.

Board Hearing Room  
1375 East Court Avenue  
Des Moines, Iowa

February 29, 2024  
9 to 11 a.m.

Board Hearing Room  
1375 East Court Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **199—Chapter 8.**

**ARC 7556C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rulemaking related to organization and definitions  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 1, "Description of Organization and Definitions," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 169 and 272C.

*Purpose and Summary*

This proposed rulemaking updates the Board's description of organization and definition rules by removing outdated or redundant provisions that are covered by statute.

The proposed rulemaking also makes conforming updates to reflect changes made by 2023 Iowa Acts, House File 670.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

## VETERINARY MEDICINE BOARD[811](cont'd)

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1  
DESCRIPTION OF ORGANIZATION AND DEFINITIONS

**811—1.1(17A,169) Organization and duties.** The board of veterinary medicine has a membership as established in Iowa Code section 169.5(1)“a.” One public member may be a graduate of an accredited veterinary technology program and hold a certificate of registration. The state veterinarian serves as secretary. The board may administer examinations to applicants for a license or temporary permit to practice veterinary medicine and to applicants for licenses or certificates for auxiliary personnel. The board investigates and disciplines, as necessary, persons for whom credentials have been issued or who are engaged in an activity regulated by the board.

## VETERINARY MEDICINE BOARD[811](cont'd)

**811—1.2(17A,169) Headquarters of the board.** The official mailing address of the board is: Iowa Board of Veterinary Medicine, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053.

**811—1.3(17A,169) Meetings.** The board meets once a year at its headquarters and may hold additional meetings as necessary for the purpose of administering examinations and conducting its duties. The organizational meeting is the first board meeting of the fiscal year. The fiscal year begins July 1. Three members constitute a quorum authorized to act in the name of the board.

**811—1.4(17A,169) Definitions.** As used in the rules of the board, unless the context otherwise entails:

“*AAVSB*” means the American Association of Veterinary State Boards.

“*AVMA*” means the American Veterinary Medical Association.

“*AVMA-accredited*” means colleges in the United States and foreign colleges evaluated by the AVMA Council on Education and found to meet accreditation standards as published.

“*AVMA-listed*” means a foreign college recognized by the World Health Organization or the government of its own country whose graduates are eligible to practice veterinary medicine in that country and whose graduates may qualify for entrance in the ECFVG certification program.

“*Board*” means the same as defined in Iowa Code section 169.3(4).

“*Certificate of registration*” means a certificate issued by the board to a veterinary technician who has met the requirements of Iowa Code section 169.34 and rule 811—8.1(169), to perform authorized veterinary medical services to an animal patient under the supervision of a supervising veterinarian.

“*Classroom*” means any location where veterinary students are present and educational or research activities are being provided.

“*Client*” means the patient’s owner, owner’s designee, or other person responsible for the patient.

“*Client consent*” means that the licensed veterinarian has informed the client of the reasonable and usual diagnostic and treatment options available and provides an assessment of the risks and benefits of such choices, the prognosis and an estimate of the fees expected for the provision of services. The consent of the client shall be provided in verbal or written form prior to initiation of diagnostic and treatment procedures and documented in the medical record by the licensed veterinarian or veterinary auxiliary personnel. Consent is valid if it indicates that the client’s questions have been answered to the client’s satisfaction and that the client consents to the recommended treatments or procedures.

“*Credential*” means, as applicable, a certificate, license, or permit issued by the board.

“*Credential holder*” means a person who holds a certificate, license, or permit issued by the board.

“*Department*” means the Iowa department of agriculture and land stewardship.

“*ECFVG*” means the Educational Commission for Foreign Veterinary Graduates.

“*Emergency*” means that an animal has been placed in a life-threatening condition and immediate treatment is necessary to sustain life or that death is imminent and action is necessary to relieve extreme pain or suffering.

“*ICVA*” means the International Council for Veterinary Assessment.

“*License*” means a credential issued by the board that permits a person to practice veterinary medicine.

“*Licensee*” means a person holding a license issued by the board.

“*NAVLE*” means the North American Veterinary Licensing Examination.

“*Patient*” means an animal or group of animals examined or treated by a licensed veterinarian.

“*PAVE*” means the Program for the Assessment of Veterinary Education Equivalence.

“*Permit*” means a temporary educational permit or a temporary in-state practice permit issued by the board pursuant to rule 811—9.1(169).

“*Permit holder*” means a person holding a permit issued by the board.

“*Physical examination*” means a veterinarian is physically proximate, hands-on to the patient and subjectively and objectively evaluates the patient’s health status through the use of observation, auscultation, palpation, percussion or manipulations, or, for a group of patients, the veterinarian

## VETERINARY MEDICINE BOARD[811](cont'd)

is physically proximate to the group of patients and has subjectively and objectively assessed a representative sample of the patients.

“*Premises*” means the land, buildings, enclosures, and facilities operated or owned by the client where the patient or representative patients are housed, kept, located, or grazed.

“*Qualifying military service personnel*” means a person, or the spouse of that person, who is currently or who has been during the past 12 months on federal active duty, state active duty, or national guard duty and has provided sufficient documentation to the board concerning the service and, if applicable, marriage.

“*RACE*” means the Registry of Approved Continuing Education, which is the national clearinghouse for approval of continuing education providers and their programs. All RACE-approved continuing education providers and programs are listed on the American Association of Veterinary State Boards website.

“*Veterinarian*” means the same as defined in Iowa Code section 169.3(11).

“*Veterinary student certificate*” means a certificate issued by the board to a veterinary student to practice on an animal pursuant to 811—subrule 6.7(3).

“*VTNE*” means the Veterinary Technician National Examination.

“*VTSE*” means the veterinary technician state examination.

These rules are intended to implement Iowa Code section 17A.3 and chapters 169 and 272C.

**ARC 7557C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rulemaking related to petitions for rulemaking  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 2, “Petitions for Rule Making,” and adopt a new Chapter 2, “Petitions for Rulemaking,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

*Purpose and Summary*

This proposed rulemaking updates the Board petition for rulemaking chapter by removing outdated or redundant provisions that are covered by statute.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

## VETERINARY MEDICINE BOARD[811](cont'd)

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2  
PETITIONS FOR RULEMAKING

The board of veterinary medicine hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf) on the general assembly's website, with the addition of new rule 811—2.5(17A).

**811—2.1(17A) Petition for rulemaking.** In lieu of “(designate office)”, insert “Board of Veterinary Medicine at the Iowa Department of Agriculture and Land Stewardship, State Veterinarian, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”. In lieu of “(AGENCY NAME)”, insert “BOARD OF VETERINARY MEDICINE”.

**811—2.3(17A) Inquiries.** In lieu of “(designate official by full title and address)”, insert “the State Veterinarian, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”.



## VETERINARY MEDICINE BOARD[811](cont'd)

**811—2.5(17A) Petitions received by department.** If, pursuant to rule 21—3.5(17A), the secretary of agriculture receives and forwards a petition for rulemaking that is not within the rulemaking power of the secretary but that is within the rulemaking power of the board, the petition will be accepted for action by the board.

These rules are intended to implement Iowa Code chapter 17A.

**ARC 7558C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rulemaking related to declaratory orders  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 3, “Declaratory Orders,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 169 and 272C.

*Purpose and Summary*

This proposed rulemaking updates the Board’s declaratory order rules by removing outdated or redundant provisions that are covered by statute.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

## VETERINARY MEDICINE BOARD[811](cont'd)

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3  
DECLARATORY ORDERS

The veterinary medicine board hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf) on the general assembly's website.

**811—3.1(17A,169,272C) Petition for declaratory order.** In lieu of “(designate agency)”, insert “board of veterinary medicine (hereinafter referred to as “the board”)”. In lieu of “(designate agency)” the subsequent times the words are used, insert “board”. In lieu of “(designate office)”, insert “State Veterinarian’s Office, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”. In lieu of “(AGENCY NAME)”, insert “BOARD OF VETERINARY MEDICINE”.

**811—3.2(17A,169,272C) Notice of petition.** In lieu of “\_\_\_\_\_ days (15 or less)”, insert “15 days”. In lieu of “(designate agency)”, insert “board”.

**811—3.3(17A,169,272C) Intervention.**

**3.3(1)** In lieu of “\_\_\_\_\_ days”, insert “20 days”.

**3.3(2)** In lieu of “(designate agency)”, insert “the board”.

**3.3(3)** In lieu of “(designate office)”, insert “the state veterinarian’s office at the department of agriculture and land stewardship in the Wallace State Office Building”. In lieu of the words “(designate agency)”, insert “board”. In lieu of “(AGENCY NAME)”, insert “BOARD OF VETERINARY MEDICINE”.

Delete paragraph 6 and insert in lieu thereof the following:

“6. A statement that the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.”

**811—3.4(17A,169,272C) Briefs.** In lieu of “(designate agency)”, insert “board”.

## VETERINARY MEDICINE BOARD[811](cont'd)

**811—3.5(17A,169,272C) Inquiries.** In lieu of “(designate official by full title and address)”, insert “the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”.

**811—3.6(17A,169,272C) Service and filing of petitions and other papers.**

**3.6(2)** In lieu of “(specify office and address)”, insert “the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”. In lieu of the words “(agency name)”, insert “board”.

**3.6(3)** In lieu of the words “(uniform rule on contested cases X.12(17A))”, insert “rule 811—10.23(17A,169,272C)”.

**811—3.7(17A,169,272C) Consideration.** In lieu of “(designate agency)”, insert “board”.

**811—3.8(17A,169,272C) Action on petition.**

**3.8(1)** In lieu of “(designate agency head)”, insert “the chairperson of the board”.

**3.8(2)** In lieu of “(contested case uniform rule X.2(17A))”, insert “rule 811—10.14(17A,169,272C)”.

**811—3.9(17A,169,272C) Refusal to issue order.**

**3.9(1)** In lieu of “(designate agency)”, insert “board”.

**811—3.12(17A,169,272C) Effect of a declaratory order.** In lieu of “(designate agency)”, insert “board”. Delete the words “(who consent to be bound)”.

These rules are intended to implement Iowa Code chapters 17A, 169, and 272C.

**ARC 7559C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rulemaking related to agency procedure for rulemaking  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 4, “Agency Procedure for Rule Making,” and adopt a new Chapter 4, “Agency Procedure for Rulemaking,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 169 and 272C.

*Purpose and Summary*

This proposed rulemaking updates the Board’s procedure for rulemaking rules by removing outdated or redundant provisions that are covered by statute.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4  
AGENCY PROCEDURE FOR RULEMAKING

The veterinary medicine board hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rulemaking, which are published at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf) on the general assembly's website.

**811—4.1(17A,169,272C) Applicability.** In lieu of “agency”, insert “the board of veterinary medicine (hereinafter referred to as “the board”)”.

## VETERINARY MEDICINE BOARD[811](cont'd)

**811—4.3(17A,169,272C) Public rulemaking docket.**

**4.3(2)** In lieu of “(commission, board, council, director)”, insert “board”.

**811—4.4(17A,169,272C) Notice of proposed rulemaking.**

**4.4(3)** In lieu of “(specify time period)”, insert “one year”.

**811—4.5(17A,169,272C) Public participation.**

**4.5(1)** In lieu of “(identify office and address)”, insert “the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”.

**4.5(5)** In lieu of “(designate office and telephone number)”, insert “the state veterinarian office at 515.281.8617”.

**811—4.6(17A,169,272C) Regulatory analysis.**

**4.6(2)** In lieu of “(designate office)”, insert “state veterinarian’s office”.

**811—4.10(17A,169,272C) Exemptions from public rulemaking procedures.**

**4.10(2)** This subrule is not adopted.

**811—4.11(17A,169,272C) Concise statement of reasons.**

**4.11(1)** In lieu of “(specify the office and address)”, insert “the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”.

**811—4.13(17A,169,272C) Agency rulemaking record.**

**4.13(2)** In lieu of “(agency head)”, insert “chairperson of the board”.

These rules are intended to implement Iowa Code chapters 17A, 169, and 272C.

**ARC 7560C****VETERINARY MEDICINE BOARD[811]****Notice of Intended Action****Proposing rulemaking related to public records and fair information practices and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 5, “Public Records and Fair Information Practices,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 22, 169 and 252J.

*Purpose and Summary*

This proposed rulemaking updates the Board’s public records and fair information practice rules by removing outdated or redundant provisions that are covered by statute.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

## VETERINARY MEDICINE BOARD[811](cont'd)

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The board of veterinary medicine hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to fair information practices, which are published at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf) on the general assembly's website, with the addition of new rules 811—5.9(17A,22) through 811—5.16(17A,22).

## VETERINARY MEDICINE BOARD[811](cont'd)

**811—5.1(17A,22) Definitions.** In lieu of “(official or body issuing these rules)”, insert “board of veterinary medicine”.

**811—5.3(17A,22) Requests for access to records.**

**5.3(1) Location of record.** In lieu of “(insert agency head)”, insert “state veterinarian as secretary of the board of veterinary medicine”. In lieu of “(insert agency name and address)”, insert “Board of Veterinary Medicine, State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”.

**5.3(2) Office hours.** In lieu of the parenthetical statement, insert “8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays”.

**5.3(7) Fees.**

*a. When charged.* To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

*c. Supervisory fee.* In lieu of “(specify time period)”, insert “one-half hour”.

**811—5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.** In lieu of “(designate office)”, insert “the board of veterinary medicine”.

**811—5.9(17A,22) Disclosures without the consent of the subject.**

**5.9(1)** Open records are routinely disclosed without the consent of the subject.

**5.9(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

*a.* For a routine use as defined in rule 811—5.10(17A,22) or in any notice for a particular record system.

*b.* To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

*c.* To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

*d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

*e.* To the legislative services agency under Iowa Code section 2A.3.

*f.* Disclosures in the course of employee disciplinary proceedings.

*g.* In response to a court order or subpoena.

**811—5.10(17A,22) Routine use.**

**5.10(1)** “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

**5.10(2)** To the extent allowed by law, the following uses are considered routine uses of all agency records:

*a.* Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

*b.* Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

## VETERINARY MEDICINE BOARD[811](cont'd)

- c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.
- d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.
- e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.
- f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

**811—5.11(17A,22) Consensual disclosure of confidential records.**

**5.11(1)** *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 811—5.7(17A,22).

**5.11(2)** *Complaints to public officials.* A letter from a subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

**811—5.12(17A,22) Release to subject.**

**5.12(1)** A written request to review confidential records may be filed by the subject of the record as provided in rule 811—5.6(17A,22). The agency need not release the following records to the subject:

- a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.
- b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.
- c. Peace officers' investigative reports may be withheld from the subject, except as required by Iowa Code section 22.7(5).
- d. Any others authorized by law.

**5.12(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

**811—5.13(17A,22) Availability of records.**

**5.13(1)** *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

**5.13(2)** *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection:

- a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)
- b. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)
- c. Records that are exempt from disclosure under Iowa Code section 22.7.
- d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))
- e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "d."
- f. Those portions of agency staff manuals, instructions or other statements issued that set forth criteria or guidelines to be used by agency staff in circumstances authorized by Iowa Code sections 17A.2 and 17A.3.
- g. Records that constitute attorney work product, constitute attorney-client communications, or are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.
- h. Any other records considered confidential by law.



## VETERINARY MEDICINE BOARD[811](cont'd)

**5.13(3) Authority to release confidential records.** The agency may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute that authorizes limited or discretionary disclosure as provided in rule 811—5.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 5.4(3).

**811—5.14(17A,22) Personally identifiable information.** The agency maintains systems of records that contain personally identifiable information. Unless otherwise stated, the authority for this agency to maintain the record is provided by Iowa Code chapter 169. The record systems maintained by the agency are:

**5.14(1) Personnel files.** Employees of the agency are employed through the department of agriculture and land stewardship. Through the department of agriculture and land stewardship, the agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

**5.14(2) Litigation files.** These files or records contain information regarding litigation or anticipated litigation, which include judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials that are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons seeking copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court that maintains the official copy.

**5.14(3) Contested case matters.** These records are collected and maintained pursuant to Iowa Code sections 17A.3(1) "d," 17A.3(2), and 17A.12, and the Iowa Code sections noted in subrule 5.14(4). Contested case matters include all pleadings, motions, briefs, orders, transcripts, exhibits, and physical evidence utilized in the resolution of the matter, and may, unless released by the credential holder, be confidential as stated in subrule 5.14(4). These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

**5.14(4) Credential records.** Under Iowa Code chapter 169, the board regulates by license veterinarians, and regulates by certificate veterinary technicians, assistants and veterinary students, and regulates by temporary permit veterinarians credentialed under Iowa Code section 169.11 and rule 811—9.1(169). Credential records include, but are not limited to, information identifying the credential holder by name or code, location, and form of business entity, including the names of corporate principals. These records may include examinations, complaints, compliance activities and investigatory reports that are confidential. These records may include confidential information protected from disclosure under Iowa Code sections 22.7, 169.6 and 272.6. These records are maintained jointly with the department of agriculture and land stewardship. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

**5.14(5) Laboratory reports.** In furtherance of licensure and certification regulation under subrule 5.14(4), the board may procure laboratory reports consisting of analytical results of samples. These records may include confidential information protected from disclosure under Iowa Code section 22.7(3), 22.7(6), or 22.7(18), as well as those provisions stated in subrule 5.14(4). These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system. These records are identified by the name or code of the subject of the investigation.

**811—5.15(17A,22) Other groups of records.** Other groups of records are maintained by the agency other than the records defined in rule 811—5.1(17A,22). These records are routinely available to the

## VETERINARY MEDICINE BOARD[811](cont'd)

public. However, the agency's files of these records may contain confidential information as discussed in rule 811—5.13(17A,22). The records listed may contain information about individuals.

**5.15(1) Administrative records.** This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

**5.15(2) Publications.** The office receives a number of books, periodicals, newsletters, government documents, etc. These materials would generally be open to the public but may be protected by copyright law. Most publications of general interest are available in the state law library.

**5.15(3) Rulemaking records.** Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is available for public inspection.

**5.15(4) Board records.** Agendas, minutes, and materials prepared or maintained by the board are available from the office, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5 or that are otherwise confidential by law. Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored on an automated data processing system.

**5.15(5) Other records.** All other records that are not exempted from disclosure by law.

**811—5.16(17A,22) Data processing systems.** None of the data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

**811—5.17(169,252J,272D) Release of confidential licensing information for collection purposes.** Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit or with the centralized collection unit of the department of revenue through manual or automated means for the sole purpose of identifying applicants or credential holders subject to enforcement under Iowa Code chapter 252J, 598 or 272D.

These rules are intended to implement Iowa Code chapters 17A, 22, 169 and 252J.

**ARC 7561C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rulemaking related to application for veterinary licensure  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 6, "Application for Veterinary Licensure," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 169 and 272C.

*Purpose and Summary*

This proposed rulemaking updates the Board's application for veterinary licensure rules by removing outdated or redundant provisions that are covered by statute.

Additionally, the proposed rules provide additional opportunities for students of veterinary medicine at American Veterinary Medical Association (AVMA)-accredited colleges to practice on a limited license. These updates are incorporated to reflect changes made by 2023 Iowa Acts, House File 670.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6  
APPLICATION FOR VETERINARY LICENSURE

## VETERINARY MEDICINE BOARD[811](cont'd)

**811—6.1(169) Procedure.**

**6.1(1) Application to take examination.** Any person desiring to take the NAVLE in Iowa for a license to practice veterinary medicine applies to the board in accordance with the guidelines and timelines established by the ICVA. The applicant will submit proof of completing the application process with ICVA along with the administrative fee by sending the proof and fee to:

Iowa Board of Veterinary Medicine  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 E. 9th Street  
Des Moines, Iowa 50319-0053

Proof of NAVLE application is to be submitted on forms provided by the board in accordance with the guidelines and timelines established by the ICVA. The completed form is to be notarized and includes one current passport size and quality photograph of the applicant. Incomplete applications will be returned to the applicant along with the tendered fee and a written statement setting forth the reasons for such rejections.

A completed form is to be accompanied by satisfactory evidence of the applicant having graduated from an AVMA-accredited school of veterinary medicine or satisfactory evidence that the applicant is expected to graduate within six months of the date of the examination.

Applications to take the NAVLE will not be accepted from any person who has previously taken and passed that examination in any jurisdiction, except on case-by-case petition to the board for good cause shown or other order of the board.

**6.1(2) License requirements.** Prior to the board's issuance of a license, the applicant will:

- a. Successfully complete the NAVLE as provided in rule 811—7.1(169);
- b. Remit the proper application fee for licensure;
- c. Graduate from:
  - (1) An AVMA-accredited school of veterinary medicine; or
  - (2) An AVMA-listed school of veterinary medicine and have received a certificate from either ECFVG or PAVE;
- d. Provide a statement indicating all jurisdictions in which the applicant is or has ever been licensed to practice veterinary medicine and consent to release to the board license information from jurisdictions in which the applicant is or has ever been licensed;
- e. Provide information or consent to the release of information pertinent to the character and education of the applicant as the board may deem necessary in order to evaluate the applicant's qualifications; and
- f. Submit evidence of having completed at least 60 hours of approved continuing education within the last three licensing years. New graduates and applicants within one year after the date of graduation are exempt from continuing education requirements for initial licensing. Applicants who apply more than one year but less than two years after the date of graduation need to complete at least 20 hours of approved continuing education. Applicants who apply more than two years but less than three years after the date of graduation need to complete at least 40 hours of approved continuing education. As used in this paragraph, "date of graduation" also includes the date of PAVE or ECFVG certification.

A license issued during a triennium, upon the applicant's completion of these requirements and payment of the prorated triennial license fee, is issued for the balance of the triennium. A license expires on June 30 of the third year of the triennium.

**811—6.2(169) Fee schedule for veterinarians.** The following fees are collected by the board and will not be refunded except by board action in unusual instances such as documented illness of the applicant, death of the applicant, inability of the applicant to comply with the rules of the board, or withdrawal of an examination application provided withdrawal is received in writing 45 days prior to the examination date. However, the state fees may be waived for qualifying military service personnel upon request. Examination fees are not transferable from one examination to another.

VETERINARY MEDICINE BOARD[811](cont'd)

The fee for the NAVLE, which is utilized by the board as a part of the licensure process, is the fee charged that year by ICVA, plus an administrative fee payable to the board.

Based on the board’s anticipated financial requirements, the following fees are hereby adopted:

License—application fee . . . . .	\$50
NAVLE examination fee . . . . .	set by ICVA
Board administrative fee for NAVLE. . . . .	\$25
Triennial license . . . . .	\$60
Late renewal penalty . . . . .	\$100
License by endorsement—application fee . . . . .	\$50
License by verification—application fee . . . . .	\$50
Reactivation fee for lapsed or inactive license . . . . .	\$100
Reinstatement fee . . . . .	\$100
Duplicate license. . . . .	\$15
Temporary permit . . . . .	\$35
Temporary permit application fee . . . . .	\$15
Official licensure verification . . . . .	\$15
Charge for insufficient funds or returned checks. . . . .	\$25

This rule is intended to implement Iowa Code sections 169.5 and 169.12.

**811—6.3(169) Reactivation fee.** All applications for reactivation of a lapsed or inactive license to practice veterinary medicine are filed with the secretary of the board, together with the then-current license fee, the current reactivation fee, and all applicable penalties for a lapsed or inactive license.

**811—6.4(169) Graduates of foreign schools.** Graduates of foreign veterinary schools may become eligible for examination and licensure by either of the following methods:

**6.4(1) Examination eligibility through ECFVG.** Graduates of foreign veterinary schools that, pursuant to the AVMA criteria, are not AVMA-accredited but are AVMA-listed may make application to take the NAVLE in this state provided that the application includes a copy of the applicant’s diploma or certificate indicating the award of a degree in veterinary medicine from an AVMA-listed college and a letter from the ECFVG verifying that the applicant is or will be participating in an ECFVG certification program.

**6.4(2) Licensure eligibility through ECFVG.** Graduates of foreign veterinary schools that are not AVMA-accredited but are AVMA-listed will not be considered for licensing until they have received the certificate granted by the ECFVG. A license will not be issued to an applicant until the applicant submits a certified copy of the applicant’s ECFVG certificate.

**6.4(3) Examination eligibility through PAVE.** Graduates of foreign veterinary schools may make application to take the NAVLE in this state provided that the application includes a certified copy of the applicant’s diploma or certificate indicating the award of a degree in veterinary medicine from a foreign veterinary school and a letter from the AAVSB on behalf of PAVE verifying that the applicant is participating in the PAVE certification program administered by the AAVSB, and has met the requirements for taking the NAVLE.

**6.4(4) Licensure eligibility through PAVE.** Graduates of foreign veterinary schools will not be considered for licensing until they have received the certificate granted by PAVE. A license will not be issued to an applicant until the applicant submits a copy of the applicant’s PAVE certificate.

**811—6.5(169) License by endorsement.**

**6.5(1)** A license by endorsement may be granted by the board pursuant to either Iowa Code section 169.10(1) or 169.10(2). An applicant may apply for a license by endorsement on a form provided by the board and pay the application fee and triennial license fee. In addition to the information specified

## VETERINARY MEDICINE BOARD[811](cont'd)

in Iowa Code section 169.10, the applicant will supply the items referenced in paragraphs 6.1(2) “d” through “f.”

**6.5(2)** For an applicant with a non-Iowa license seeking licensure under Iowa Code section 169.10(1), the following applies:

*a.* If the applicant’s non-Iowa license was issued between December 31, 1964, and December 31, 1979, the applicant successfully completed the National Board Examination (NBE).

*b.* If the applicant’s non-Iowa license was issued between January 1, 1980, and December 31, 2000, the applicant successfully completed the NBE and the Clinical Competency Test (CCT).

*c.* If the applicant’s non-Iowa license was issued on or after January 1, 2001, the applicant successfully completed the NAVLE in accordance with rule 811—7.1(169).

**6.5(3)** An applicant who is a diplomate under Iowa Code section 169.10(2) will also include a copy of the applicant’s board or college specialty certificate. For the purpose of this rule, a specialty board or college means a specialty board or college that has been officially recognized by the AVMA. Changes of specialty status shall be reported to the board within 30 days of the action.

**811—6.6(272C) Licensure by verification.** Licensure by verification is available in accordance with the following:

**6.6(1) Eligibility.** A person may seek licensure by verification if the person is licensed in at least one other jurisdiction.

**6.6(2) Board application.** The applicant will submit the following:

*a.* A completed application for licensure by verification.

*b.* Payment of the application fee.

*c.* A verification form, completed by the licensing authority in the jurisdiction that issued the applicant’s license, verifying that the applicant’s license in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form is sent directly from the licensing authority to the board. This form is available on the board’s website.

*d.* A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.

**6.6(3) Applicants with prior discipline or pending licensing complaints or investigations.** If another jurisdiction has taken disciplinary action against an applicant or if the applicant has a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will proceed according to Iowa Code section 272C.12(1) “f.”

**811—6.7(169) Issuance of limited license; specialization.**

**6.7(1)** The board may grant a license to practice veterinary medicine within a limited and specified scope:

*a.* As an option for board discipline under 811—Chapter 10.

*b.* To a qualified member of the faculty of the Iowa State University College of Veterinary Medicine.

*c.* To an applicant requesting limited or specialized status.

**6.7(2)** A licensed veterinarian will not claim or imply specialization unless the veterinarian is a diplomate in good standing of the respective specialty board or college recognized by the AVMA.

**6.7(3) Veterinary student certificate.**

*a.* The board may issue a veterinary student certificate to a veterinary student who is attending an AVMA-accredited college of veterinary medicine and in good academic standing, upon endorsement by the college that the student is competent to perform veterinary duties under the direction of an instructor of veterinary medicine or under the supervision of a supervising veterinarian. The college shall update the board if the veterinary student is no longer attending or in good academic standing with the school.

*b.* Unless extended by the board, the certificates are valid for no more than one year and expire each year on May 31. The board may grant an extension of the certificate for up to one year under extenuating circumstances.

## VETERINARY MEDICINE BOARD[811](cont'd)

c. Veterinary student certificate holders are barred from administering rabies vaccine to dogs as described in Iowa Code section 351.35 and signing a certificate of veterinary inspection as described in Iowa Code section 163.12.

**6.7(4)** Limited licensure for faculty. Faculty, not including residents or interns, at Iowa State University College of Veterinary Medicine may be issued a limited license to practice veterinary medicine. The applicant for a limited license for faculty has graduated from an AVMA-accredited or AVMA-listed school of veterinary medicine or has received a PAVE or ECFVG certificate and submitted a completed application and the necessary fees. Holders of limited licenses for faculty are limited to duties performed in the classroom during periods of employment at the college.

**811—6.8(169) License renewal.**

**6.8(1)** A license to practice veterinary medicine, including a limited or specialized license, is issued for a three-year period, except that new licenses issued during a triennium are issued for the balance of that triennium. A license expires on June 30 of the third year of the triennium..

**6.8(2)** At least two months before the end of a triennium, a renewal notice will be sent to each licensee at the last address in the board's file. Failure to receive the notice does not relieve the licensee of the obligation to pay triennium renewal fees on or before June 30.

**6.8(3)** The license renewal application will include a statement that certifies the jurisdictions in which the licensee is currently or has in the past been licensed to practice veterinary medicine.

**6.8(4)** Renewal fees shall be received by the board on or before the end of the triennium on June 30. Whenever renewal fees are not received as specified, the license lapses and the practice of veterinary medicine ceases until all renewal fees and penalty fees are received by the board.

**6.8(5)** If the renewal fee has not been received by the board before the license has lapsed, an application for renewal filed with the board needs to include a renewal fee in addition to the reactivation fee and the late renewal penalty fee.

**811—6.9(169) Renewal, lapsed or inactive license.** A veterinarian whose license has lapsed may renew an expired license in circumstances authorized by Iowa Code section 169.12(2). A veterinarian whose license has lapsed or has been placed on inactive status, prior to receiving active status licensure in the practice of veterinary medicine in the state of Iowa, satisfies the requirements in either subrule 6.9(1) or 6.9(2) for renewal of a lapsed or inactive license as follows:

**6.9(1)** *Renewal of a lapsed or inactive license.* An applicant for renewal of a lapsed or inactive license needs to do the following:

a. Submit written application for renewal of a lapsed or inactive license to the board upon forms provided by the board;

b. Furnish evidence of compliance with continuing education requirements specified in rule 811—11.3(169).

**6.9(2)** *Renewal by endorsement.* An applicant for renewal by endorsement may submit an application for renewal by endorsement by following the procedures set out in rule 811—6.5(169).

These rules are intended to implement Iowa Code chapters 17A, 169 and 272C.

**ARC 7562C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rulemaking related to veterinary examinations  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 7, "Veterinary Examinations," Iowa Administrative Code, and to adopt a new chapter with the same title.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 169.

*Purpose and Summary*

This proposed rulemaking updates the Board's veterinary examination rules by removing outdated or redundant provisions that are covered by statute.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*



## VETERINARY MEDICINE BOARD[811](cont'd)

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7  
VETERINARY EXAMINATIONS

**811—7.1(169) Examination procedure.** In order to successfully complete the NAVLE, an applicant will achieve the minimum passing score as determined by the ICVA. The NAVLE is prepared by the ICVA for use by the board.

**7.1(1)** The dates for the examination are set by the ICVA. Examinations are held at a site to be determined by the ICVA.

**7.1(2)** Upon request, the ICVA will attempt to provide adequate individualized testing arrangements for applicants who establish the existence of a verified disability, including a verified learning disability, consistent with the provisions of the Americans with Disabilities Act of 1990 and regulations promulgated thereunder. Verification may be provided by a testing or evaluation agency approved by the ICVA or by a physician approved by the ICVA.

**811—7.2(169) Conduct.** An examinee who violates any of the ICVA rules or instructions applicable to them may be declared by the board to have failed the examination.

**7.2(1)** The ability of an examinee to read and interpret instructions will be evaluated and considered by the board as part of the examination.

**7.2(2)** Any examinee who gives or receives unauthorized assistance in any portion of the examination may be dismissed from the examination.

**7.2(3)** If the examinee fails the examination and desires to take a subsequent examination, the examinee will notify the board at least 60 days prior to the first day of the next examination, will certify that the material statements contained in the original applications are currently true and correct, will supplement that information as necessary, and will pay the requisite fee.

These rules are intended to implement Iowa Code chapters 17A and 169.

**ARC 7563C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rulemaking related to auxiliary personnel  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 8, "Auxiliary Personnel," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 169 and 272C.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Purpose and Summary*

This proposed rulemaking updates the Board's auxiliary personnel rules by removing outdated or redundant provisions that are covered by statute.

In addition, the proposed rules stipulate which veterinary practices veterinary assistants, technicians and students are allowed to perform under direct, indirect and immediate supervision from a licensed veterinarian, as well as which practices they are not allowed to perform. These updates are incorporated to reflect changes made by 2023 Iowa Acts, House File 670.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's

## VETERINARY MEDICINE BOARD[811](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8  
AUXILIARY PERSONNEL

**811—8.1(169) Registered veterinary technician—certificate of registration.**

**8.1(1)** In addition to the requirements set forth in Iowa Code section 169.34(1), prior to issuance of a certificate of registration, the applicant will:

- a.* Successfully pass the VTSE as approved by the board;
- b.* Provide a statement indicating all jurisdictions in which the applicant is or has ever been certified, licensed, permitted, or otherwise credentialed to perform authorized medical services to an animal patient as a veterinary technician, and consent to release to the board such information from jurisdictions in which the applicant is or has ever been certified, licensed, permitted, or otherwise credentialed;
- c.* Provide information or consent to the release of information pertinent to the character and education of the applicant as the board may deem necessary in order to evaluate the applicant's qualifications; and
- d.* Submit evidence of having completed at least 30 hours of approved continuing education within the last three calendar years from the date of the application, unless the applicant recently passed the VTNE within the last three calendar years. New graduates and applicants within one year after the date of graduation are exempt from continuing education requirements for initial certification. Applicants who apply more than one year but less than two years after the date of graduation need to complete at least ten hours of approved continuing education. Applicants who apply more than two years but less than three years after the date of graduation need to complete at least 20 hours of approved continuing education. A maximum of ten hours of continuing education may be achieved by the completion of approved distance education courses.

**8.1(2)** A certificate of registration issued during a triennium, upon the applicant's completion of these requirements and payment of the prorated triennial certificate of registration fee, is issued for the balance of the triennium. A certificate of registration expires on December 31 of the third year of the triennium.

**811—8.2(169) Fee schedule for registered veterinary technicians.**

**8.2(1)** The following fees are collected by the board and will not be refunded except by board action in unusual circumstances, such as documented illness of the applicant, death of the applicant, inability of the applicant to comply with the rules of the board, or withdrawal of an examination application provided withdrawal is received in writing 45 days prior to the examination date. However, the fees may be waived for qualifying military service personnel upon request. Examination fees are not transferable from one examination to another.

**8.2(2)** Based on the board's anticipated financial requirements, the following fees are hereby adopted:

## VETERINARY MEDICINE BOARD[811](cont'd)

Certificate of registration application fee . . . . .	\$45
VTNE . . . . .	set by AAVSB
VTSE . . . . .	set by AAVSB
Triennial certificate of registration . . . . .	\$30
Late renewal penalty . . . . .	\$50
License by endorsement—application fee . . . . .	\$45
License by verification—application fee . . . . .	\$45
Reactivation fee for lapsed or inactive certificate of registration. . . . .	\$100
Official certificate or registration verification . . . . .	\$15
Charge for insufficient funds or returned checks . . . . .	\$25

**811—8.3(169) Veterinary technician state examination.** The VTSE is given at least once annually at a site or sites to be designated by the board at least 60 days before the date of the examination. The board may provide for additional veterinary technician state examinations as deemed appropriate. In the event the board provides for additional examinations, the site or sites of the examination are designated by the board at least 60 days prior to the date of the examination.

**8.3(1)** In order for an applicant to sit for the VTSE, the application and fee will need to be received by the board at least 30 days before the date of the examination. The fee for the VTSE may be waived for qualifying military service personnel upon request.

**8.3(2)** An applicant who fails to earn a passing score on the VTSE is entitled to retake the examination not earlier than 90 days since the applicant last took the examination. The applicant will submit a new application and the application fee in accordance with subrule 8.3(1) to retake the VTSE. An applicant is limited to five total attempts at the VTSE; any additional applications to retake the examination beyond the five allowable attempts may be considered by the board and may be granted at the board's discretion.

**811—8.4(272C) Registration as veterinary technician by verification.** Registration by verification for a veterinary technician is available in accordance with the following:

**8.4(1) Eligibility.** A person may seek registration by verification if the person is registered or licensed in at least one other jurisdiction and in circumstances set forth by Iowa Code section 272C.12(1).

**8.4(2) Board application.** The applicant will submit the following:

- a. A completed application for registration by verification.
- b. Payment of the application fee.
- c. A verification form, completed by the licensing/registration authority in the jurisdiction that issued the applicant's license or registration, verifying that the applicant's license or registration in that jurisdiction complies with the requirements of Iowa Code section 272C.12. The completed verification form is sent directly from the licensing/registration authority to the board. This form is available on the board's website.
- d. Proof of passing the VTSE.
- e. A copy of the relevant disciplinary documents if another jurisdiction has taken disciplinary action against the applicant.

The board can waive these requirements pursuant to Iowa Code section 169.34(1) "e."

**8.4(3) Applicants with prior discipline or pending licensing complaints or investigations.** If another jurisdiction has taken disciplinary action against an applicant or if the applicant has a complaint, allegation, or investigation relating to unprofessional conduct pending before any regulating entity in another jurisdiction, the board will proceed according to Iowa Code section 272C.12(1) "f."

**8.4(4) Limitations.** A person who has had a license/registration revoked, or who has voluntarily surrendered a license/registration while under investigation for unprofessional conduct in another jurisdiction, is ineligible for registration by verification.

## VETERINARY MEDICINE BOARD[811](cont'd)

**811—8.5(272C) Applicants with work experience in jurisdictions without licensure requirements.**

**8.5(1) *Work experience.*** An applicant for initial registration who has relocated to Iowa from another jurisdiction that did not need a professional license or registration to practice in the profession may be considered to have met any educational and training requirements if the person meets the requirements detailed in Iowa Code section 272C.13(1). The applicant will satisfy all other requirements, including passing any necessary examinations, to receive a license.

**8.5(2) *Board application.*** The applicant will submit the following:

- a. A completed application for registration through work experience.
- b. Payment of the application fee.
- c. Proof of passing both the VTNE and VTSE.

**8.5(3) *Mandatory documentation.*** An applicant who wishes to substitute work experience in lieu of satisfying applicable education or training requirements carries the burden of providing all of the following by submitting relevant documents as part of a completed registration application:

- a. Proof of Iowa residency, which may include one or more of the following:
  - (1) A residential mortgage, lease, or rental agreement;
  - (2) A utility bill;
  - (3) A bank statement;
  - (4) A paycheck or pay stub;
  - (5) A property tax statement;
  - (6) A document issued by the federal or state government;
  - (7) Any other board-approved document that reliably confirms Iowa residency.
- b. Proof of three or more years of work experience within the four years preceding the application for registration, which may include one or more of the following:
  - (1) A letter from the applicant's prior employer documenting the dates of employment;
  - (2) Paychecks or pay stubs; or
  - (3) Any other board-approved evidence of sufficient work experience.
- c. Proof that the work experience was in a practice with a scope of practice substantially similar to that for the registration sought in Iowa, which includes:
  - (1) A written statement by the applicant detailing the scope of practice; and
  - (2) Business or marketing materials detailing the services provided.
- d. Proof that a professional license/registration was not mandatory in the other state, which may include:
  - (1) Copies of applicable laws;
  - (2) Materials from a website operated by a governmental entity; or
  - (3) Materials from a national professional association.

**811—8.6(169,272C) Endorsed certificate of registration.**

**8.6(1)** The board may issue an endorsed certificate of registration to an individual who satisfies the requirements set forth in Iowa Code section 169.34(2) and who satisfies the following:

- a. Successfully pass the VTSE as approved by the board;
- b. Provide a statement indicating all jurisdictions in which the applicant is or has ever been certified, licensed, permitted, or otherwise credentialed to perform authorized medical services to an animal patient as a veterinary technician, and consent to release to the board such information from jurisdictions in which the applicant is or has ever been certified, licensed, permitted, or otherwise credentialed;
- c. Provide information or consent to the release of information pertinent to the character and education of the applicant as the board may deem necessary in order to evaluate the applicant's qualifications; and
- d. Submit evidence of having completed at least 30 hours of approved continuing education within the last three calendar years from the date of the application. New graduates and applicants within one year after the date of graduation are exempt from continuing education requirements for initial certification. Applicants who apply more than one year but less than two years after the date of graduation

## VETERINARY MEDICINE BOARD[811](cont'd)

need to complete at least ten hours of approved continuing education. Applicants who apply more than two years but less than three years after the date of graduation need to complete at least 40 hours of approved continuing education.

**8.6(2)** The board can waive these requirements pursuant to Iowa Code section 169.34(2)“e.”

**811—8.7(169) Supervision of veterinary auxiliary personnel.**

**8.7(1) Emergencies.** Under conditions of an emergency, veterinarian auxiliary personnel may render without supervision such lifesaving aid and treatment as follows: administration of oxygen; maintenance of airways including the nonsurgical insertion of an endotracheal tube; placement of an intravenous (IV) catheter; administration of fluids; external cardiac massage; and control of hemorrhage. Even under conditions of emergency, a veterinary assistant or veterinary technician student may not render additional lifesaving aid and treatment as follows: the administration of emergency pharmaceuticals. Emergency aid and treatment, if rendered to an animal not in the presence of a licensed veterinarian, may only be continued under the supervision of a licensed veterinarian, which in the case of emergency may include telephone or other means of immediate communication with a veterinarian en route to the site, until the veterinarian arrives in a timely manner.

**8.7(2) Veterinary assistants.** The following delegated tasks may be performed by a veterinary assistant under the indicated level of supervision if the supervising veterinarian has delegated the task.

*a.* Tasks that require direct supervision:

- (1) Take patient’s medical history.
- (2) Take patient temperature, pulse, and respiratory rate (TPR).
- (3) Oscillometric measurement of blood pressure.
- (4) Record client/patient complaint(s).
- (5) Administer subcutaneous (SQ) and intramuscular (IM) injections.
- (6) Administer SQ fluid.
- (7) Maintain IV fluids.
- (8) Implant an SQ microchip.
- (9) Implant growth-promoting implants.
- (10) Manage a nasogastric (NG) tube, not including insertion or placement.
- (11) Administer and monitor light/moderate sedation.
- (12) Apply government-required identification.
- (13) Administer internal and external parasite treatments.
- (14) Vaccinate livestock.
- (15) Vaccinate companion animals (excluding canine rabies, pursuant to Iowa Code section 351.33).
- (16) Radiograph and ultrasound positioning.
- (17) Ocular tonometry, fluorescein stain, and Schirmer Tear Testing to monitor animal eye health.
- (18) Remove sutures, staples, or drains.
- (19) Venipuncture for the purposes of IV injections and blood withdrawal for sampling.
- (20) IV catheter placement.
- (21) Expression of urinary bladder.
- (22) Drain and lance abscesses.
- (23) Dental prophylaxis (teeth cleaning).
- (24) Laser therapy treatments.
- (25) Take ear cytology samples.
- (26) Conduct livestock necropsy for sample collection purposes.
- (27) Administer medication(s) prescribed by a veterinarian other than medications administered while boarding the animal.

*b.* Tasks that require immediate supervision:

- (1) Monitor heavy sedation.
- (2) Monitor general anesthesia.
- (3) Surgical assistance (including but not limited to passing instruments, tissue retraction, assist in hemostasis—utilizing sponges and clamps).

## VETERINARY MEDICINE BOARD[811](cont'd)

- (4) Shockwave therapy for pain treatment.
  - (5) Take blood pressure.
  - (6) Nonsurgical castration.
  - (7) Nonsurgical dehorning.
  - (8) Place endotracheal tube (ET) tube.
  - (9) Administer anesthetic-related drugs (general anesthetic, not locals or reversal agents), maintenance and recovery.
  - (10) Administer enema.
  - (11) Animal dynamic rehabilitation therapies.
  - (12) Rectal palpation for pregnancy testing of bovine.
- c. Veterinary assistants are not permitted to perform the following tasks:
- (1) Reading ear and skin cytology.
  - (2) Equine floating teeth services.
  - (3) Gingival resection.
  - (4) Prohibitions contained in Iowa Code sections 351.33 and 169.32(2).

**8.7(3) *Veterinary technician student.*** A veterinary technician student may perform tasks as allowed in subrule 8.7(4) for registered veterinary technicians except that the tasks must be performed under the indicated level of supervision if the supervising veterinarian has delegated the task.

a. Tasks that require direct supervision include all tasks requiring indirect supervision if they were performed by a registered veterinary technician.

b. Tasks that require immediate supervision include all tasks requiring immediate or direct supervision if they were performed by a registered veterinary technician.

c. Tasks that are not allowed include all tasks that are not allowed to be performed by a registered veterinary technician.

**8.7(4) *Registered veterinary technician.*** The following delegated tasks may be performed by a registered veterinary technician under the indicated level of supervision if the supervising veterinarian has delegated the task.

a. Tasks that require indirect supervision:

(1) Administration, preparation, and application of treatments, including but not limited to drugs, medications, controlled substances, biological and immunological agents in livestock and previously established biologic and immunologic protocols in companion animals, unless prohibited by government regulation.

(2) Intravenous catheterizations and maintenance of intra-arterial catheterizations.

(3) Collection and preparation of cellular or microbiological samples impressions or other nonsurgical methods, except when in conflict with government regulations.

(4) Collection of urine by bladder expression, catheterization (unobstructed) and insertion of an indwelling urinary catheter.

(5) Monitoring, including but not limited to electrocardiogram (ECG), blood pressure, carbon dioxide (CO<sub>2</sub>) and blood oxygen saturation.

(6) Radiography and ultrasonography imaging for purposes other than diagnosis.

(7) Clinical laboratory test procedures.

(8) Implantation of a subcutaneous microchip.

(9) Laser therapy.

(10) Staple removal.

(11) Application of splints and slings for the temporary immobilization of fractures.

(12) Euthanasia of livestock as defined in Iowa Code section 717.1(4), excluding equine species.

b. Tasks that require direct supervision:

(1) General anesthesia and sedation, maintenance and recovery.

(2) Administer general anesthesia.

(3) Nonemergency endotracheal intubation.

(4) Regional anesthesia, including paravertebral blocks and local blocks.

(5) Dental procedures, limited to:

## VETERINARY MEDICINE BOARD[811](cont'd)

1. The removal of calculus, soft deposits, plaque, and stains.
2. The smoothing, filing, and polishing of teeth.
- (6) Collection and preparation of cellular or microbiological samples by skin scrapings, except when in conflict with government regulations.
- (7) Blood or blood component collection, preparation, and administration for transfusion or blood banking purposes.
- (8) Placement of tubes, including but not limited to gastric, nasogastric, and nasoesophageal.
- (9) Ear flushing with pressure or suction.
- (10) Application of casts, splints, and slings for the immobilization of fractures.
- (11) Fluid aspiration from a body cavity or organ (i.e., cystocentesis, thoracocentesis, abdominocentesis).
- (12) Stapling and gluing of an existing surgical skin incision.
- (13) Placement of intraosseous and nasal catheters.
- (14) Performing enemas.
- (15) Performing fluorescein stain ocular tonometry or the Schirmer tear test.
- (16) Imaging, including but not limited to diagnostic radiography, diagnostic ultrasonography, computed tomography, magnetic resonance imaging, and fluoroscopy and the administration of radio-opaque agents or materials.
- (17) Collection of blood, except when in conflict with government regulations.
- (18) Administration of new/initial biological and immunological treatment protocols on companion animals.
- c. Tasks that require immediate supervision:
  - (1) Suturing an existing surgical skin incision.
  - (2) Placing an epidural.
  - (3) Assisting with surgical procedures.
  - (4) Administering general anesthesia.
  - (5) Placing abdominal, thoracic, or percutaneous endoscopic gastrostomy (PEG) tubes.
  - (6) Single root extractions that do not require sectioning of the tooth or sectioning of the bone.
  - (7) Euthanizing any animal, including the equine species, that is not livestock as defined in Iowa Code section 717.1(4).
  - (8) Rectal palpation for pregnancy testing of bovine.

**8.7(5) *Veterinary student.***

a. Unless otherwise prohibited by law, a veterinary student may perform surgery or diagnosis under direct or immediate supervision and may perform any other task delegated by the supervising veterinarian under indirect supervision.

b. A veterinary student may not prescribe any drug, medicine or biologic; administer rabies vaccine to dogs as described in Iowa Code section 351.35; sign a certificate of veterinary inspection as described in Iowa Code section 163.12; perform any task requiring USDA accreditation; or perform any task otherwise prohibited by law.

**8.7(6) *Foreign graduate.***

a. Unless otherwise prohibited by law, a graduate of a foreign college of veterinary medicine or a person who has received an Educational Commission for Foreign Veterinary Graduates (ECFVG) or PAVE certificate, either of whom is not a licensed veterinarian, may perform surgery or diagnosis under direct or immediate supervision and may perform any other task delegated by the supervising veterinarian under indirect supervision.

b. A graduate of a foreign college of veterinary medicine or a person who has received an ECFVG or PAVE certificate, either of whom is not a licensed veterinarian, may not prescribe any drug, medicine or biologic; administer rabies vaccine to dogs as described in Iowa Code section 351.35; sign a certificate of veterinary inspection as described in Iowa Code section 163.12; perform any task requiring USDA accreditation; or perform any task otherwise prohibited by law.

**811—8.8(169,272C) Continuing education.**



## VETERINARY MEDICINE BOARD[811](cont'd)

**8.8(1)** In order to renew a certificate of registration, each credentialed veterinary technician completes, triennially, at least 30 hours of continuing education in courses approved by the board. The credentialed veterinary technician has the responsibility for financing continuing education. These credit hours may be obtained by attending approved scientific seminars and meetings on the basis of one credit hour for each hour of attendance. Attendance at any board-approved national, state or regional meeting will be acceptable. Credit for qualified graduate college courses may be approved on the basis of multiplying each college credit hour by 10, to a maximum of 15 hours during any one triennial. A maximum of ten hours during any one triennial may be achieved by the completion of approved distance education courses.

**8.8(2)** Each credentialed veterinary technician obtains the 30 credit hours between January 1 of the first year of the triennium and December 31 of third year of the triennium. Continuing education credits in excess of 30 hours for the triennium may be carried over to the next triennial period, but the total number of credits carried over cannot exceed 10 hours.

If a recent graduate is credentialed during the first year of the triennium, the person will complete 20 hours of continuing education for the first certificate of registration renewal. If a recent graduate is credentialed during the second year of the triennium, the person will complete ten hours of continuing education for the first certificate of registration renewal. If a recent graduate is credentialed during the third year of the triennium, the person is exempt from meeting continuing education requirements for the first certificate of registration renewal. For the purpose of this rule, “recent graduate” means a person who has graduated from an accredited or approved veterinary technology program no more than three years prior to application for certification of registration.

**8.8(3)** Completion of the continuing education will be reported to the secretary of the board of veterinary medicine on forms provided by the board by December 31 of the third year of the triennium.

**8.8(4)** Upon request, the board may waive continuing education requirements for qualifying military service personnel or spouse as defined in 811—Chapter 15.

These rules are intended to implement Iowa Code sections 17A.3, 169.4, 169.5, 169.9, 169.12, 169.20 and 272C.4.

**ARC 7564C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rulemaking related to temporary veterinary permits  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind and adopt new Chapter 9, “Temporary Veterinary Permits,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 169.

*Purpose and Summary*

This proposed rulemaking updates the Board’s temporary permit rules by removing outdated or redundant provisions that are covered by statute.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9  
TEMPORARY VETERINARY PERMITS

**811—9.1(169) Eligibility for a temporary permit.**

## VETERINARY MEDICINE BOARD[811](cont'd)

**9.1(1) *Temporary educational permit.*** For the purpose of this subrule, “qualified applicant” means a person who is undertaking internship or residency training at Iowa State University College of Veterinary Medicine. A temporary educational permit may be issued upon application to a qualified applicant who does not also seek an Iowa veterinary license. A temporary educational permit allows the permit holder to act as a licensed veterinarian, including for privately owned animals, but only within the scope of the permit holder’s internship or residency program at Iowa State University College of Veterinary Medicine. Verification of internship or residency consists of an endorsement signed by the dean of the school and submitted directly to the board by the school. A temporary educational permit expires upon termination of the permit holder’s internship or residency program, as reported by the dean of the school of veterinary medicine. An initial temporary educational permit may be issued by the board for a term of up to two years. An initial temporary educational permit may be renewed by the board for a term of up to one year. No more than two renewals will be granted to the same person.

**9.1(2) *Temporary in-state practice permit.***

*a.* A temporary in-state practice permit may be issued upon application to a qualified applicant who does not also seek an Iowa license. For the purpose of this subrule, “qualified applicant” means a person who:

(1) Has graduated from an AVMA-accredited or AVMA-listed school of veterinary medicine or has received an ECFVG or PAVE certificate.

(2) Is licensed in good standing in another jurisdiction.

(3) Has, in the case of an applicant with a non-Iowa license seeking licensure under Iowa Code section 169.10(1):

1. Successfully completed the National Board Examination (NBE) if the applicant’s non-Iowa license was issued between December 31, 1964, and December 31, 1979.

2. Successfully completed the NBE and the Clinical Competency Test (CCT) if the applicant’s non-Iowa license was issued between January 1, 1980, and December 31, 2000.

3. Successfully completed the NAVLE in accordance with rule 811—7.1(169) if the applicant’s non-Iowa license was issued on or after January 1, 2001.

*b.* The temporary permit is issued in accordance with Iowa Code section 169.11(2). The temporary in-state practice permit allows the permit holder to act as a licensed veterinarian in this state. A person cannot obtain more than three temporary permits.

**811—9.2(169) Application.**

**9.2(1)** An application for a temporary permit is to be made on a form provided by the board. The application will state whether the applicant is applying for a temporary educational permit or a temporary in-state practice permit. The applicant will provide a statement indicating all jurisdictions in which the applicant is or has ever been licensed to practice veterinary medicine and consent to the release of information to the board from jurisdictions in which the applicant is or has ever been licensed.

**9.2(2)** The board may require from an applicant or obtain from other sources such other information pertinent to character and education of the applicant as it may deem necessary in order to pass upon the applicant’s qualifications.

**9.2(3)** In the case of an applicant under subrule 9.1(2), the applicant will provide evidence of approved continuing education totaling at least 60 hours obtained in the previous three years.

**9.2(4)** The temporary permit fee and the application fee will accompany the application.

**811—9.3(169) Practice without benefit of temporary permit or Iowa license.** An applicant for a temporary permit or an Iowa license cannot engage in the practice of veterinary medicine unless and until a temporary permit or Iowa license is granted by the board. Prior to the issuance of the temporary permit or Iowa license, an applicant who is otherwise qualified under rule 811—9.1(169) may perform within the same scope of authority as a licensed veterinary technician, as provided in 811—Chapter 8.

**811—9.4(169) Grounds for discipline and disciplinary procedures.** A disciplinary action against a permit holder, including grounds for disciplinary action, is governed by 811—Chapter 10. In addition

## VETERINARY MEDICINE BOARD[811](cont'd)

to the applicable grounds set forth in 811—Chapter 10, an applicant for a temporary permit or an Iowa license who engages in the practice of veterinary medicine prior to the issuance of the temporary permit or Iowa license is subject to denial or revocation of the temporary permit, denial or revocation of the Iowa license, and referral for civil or criminal prosecution, at the board's discretion.

These rules are intended to implement Iowa Code chapter 169.

**ARC 7565C****VETERINARY MEDICINE BOARD[811]****Notice of Intended Action****Proposing rulemaking related to discipline  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 10, "Discipline," Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 169 and 272C.

*Purpose and Summary*

This proposed rulemaking updates the Board's discipline rules by removing outdated or redundant provisions that are covered by statute. Previously, contested case rules were included in this chapter, but those rules are proposed to be moved to a new Chapter 16 as part of a separate rulemaking (**ARC 7570C**, IAB 1/24/24).

Additionally, the proposed rules also make conforming updates to reflect changes made by 2023 Iowa Acts, House File 670.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

## VETERINARY MEDICINE BOARD[811](cont'd)

Colin Tadlock  
 Iowa Department of Agriculture and Land Stewardship  
 Wallace State Office Building  
 502 East 9th Street  
 Des Moines, Iowa 50319  
 Phone: 515.518.7609  
 Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10  
 DISCIPLINE

**811—10.1(17A,169,272C) Board authority.** The board may discipline any credential holder for any grounds stated in Iowa Code chapters 169 and 272C or rules promulgated thereunder.

**811—10.2(17A,169,272C) Complaints and investigations.**

**10.2(1)** Complaints are allegations of wrongful acts or omissions relating to the ethical or professional conduct of a credential holder.

**10.2(2)** The executive secretary or authorized designee investigates complaints in order to determine the probability that a violation of law or rule has occurred.

**811—10.3(17A,169,272C) Investigatory subpoena powers.** The board has the authority to issue an investigatory subpoena in accordance with the provisions of Iowa Code section 17A.13.

**10.3(1)** A subpoena which requires production of real evidence that is necessary to an investigation may be issued upon the authority of the executive secretary or a designee.

**10.3(2)** Any person who is aggrieved or adversely affected by compliance with the subpoena and who desires to challenge the subpoena has 14 days after the service of the subpoena, or before the time specified for compliance if such time is less than 14 days, to file with the board a motion to quash or

## VETERINARY MEDICINE BOARD[811](cont'd)

modify the subpoena. The motion will describe legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.

**10.3(3)** Iowa Code section 272C.6(3)“a”(3) contains information regarding what happens in the event obedience to a subpoena is refused.

**811—10.4(17A,169,272C) Board action.** The board will review investigative conclusions and take one of the following actions:

1. Close the investigative case without action.
2. Request further inquiry.
3. Appoint a peer review committee to assist with the investigation.
4. Determine the existence of sufficient probable cause and order a disciplinary hearing to be held in compliance with Iowa Code section 272C.6.

**811—10.5(17A,169,272C) Peer review committee.** The board may establish a peer review committee to assist with the investigative process when deemed necessary.

**10.5(1)** The committee will determine if the conduct of the credential holder conforms to minimum standards of acceptable and prevailing practice of veterinary medicine or other applicable standards and submit a report of its findings to the board.

**10.5(2)** The board will review the committee’s findings and proceed with action available under rule 811—10.4(17A,169,272C).

**10.5(3)** The confidentiality requirements imposed by Iowa Code section 272C.6 apply to the peer review committee.

**811—10.6(17A,169,272C) Grounds for discipline and principles of veterinary medical ethics.** The provisions of Iowa Code sections 272C.10 and 169.13 are incorporated by reference. The board has established grounds for discipline and principles of ethics for veterinary medicine. Without regard as to whether the board has determined that an injury has occurred, the board may impose any of the disciplinary sanctions set forth in rule 811—10.7(17A,169,272C), including civil penalties in an amount not to exceed \$10,000, when the board determines that the credential holder is guilty of any of the following acts or offenses:

**10.6(1)** *Grounds applicable to all credential holders.*

*a.* Fraud in procuring a credential, which includes but is not limited to an intentional perversion of the truth in making application for a credential to practice any of the professions or activities regulated by the board in this state and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a credential in this state, or attempting to file or filing with the board or the Iowa department of agriculture and land stewardship any false or forged diploma, certificate, affidavit, identification, or qualification in making an application for a credential in this state.

*b.* Professional incompetency of a credential holder may be established by:

- (1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the credential holder’s practice.
- (2) A substantial deviation by the credential holder from the standards of learning or skill ordinarily possessed and applied by other credential holders acting in the same or similar circumstances.
- (3) A willful or repeated departure from or the failure to conform to the minimal standards of acceptable and prevailing practice of credential holders.
- (4) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public.

1. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, and includes any representation contrary to legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare or may operate to the injury of another.

## VETERINARY MEDICINE BOARD[811](cont'd)

2. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a credential holder to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent credential holder acting in the same or similar circumstances, including for a veterinarian a violation of the standards of practice as set out in 811—Chapter 12, or when a credential holder is unable to practice with reasonable skill and safety on a client's animals as a result of a mental or physical impairment or chemical abuse.

*c.* Habitual intoxication or addiction to the use of drugs means the same as Iowa Code section 169.13(1) "h." The board may mandate a credential holder's completion of a treatment program as a condition of probation or suspension and will consider the credential holder's willingness to complete a treatment program when determining the appropriate degree of disciplinary sanction.

*d.* Conviction of a felony or misdemeanor, which includes, but is not limited to, the conviction of a public offense in the practice of the credential holder's profession and is defined or classified as a felony under state or federal law, or violation of a statute or law designated as a felony in this state, another state, or the United States, which statute or law directly relates to the credential holder's profession or ability to practice within the profession.

*e.* Fraud in representations as to skill or ability, which includes but is not limited to a credential holder's having made misleading, deceptive or untrue representations as to the credential holder's competency to perform professional services for which the credential holder is not qualified to perform by training or experience.

*f.* Use of untruthful or improbable statements in advertisements, which includes but is not limited to an action by a credential holder in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but not be limited to:

- (1) Inflated or unjustified expectations of favorable results;
- (2) Self-laudatory claims that imply that the credential holder engaged in a field or specialty of practice for which the credential holder is not qualified. A veterinarian is not qualified to claim or imply specialization unless the veterinarian is a member in good standing of the respective specialty board or college recognized by the AVMA;
- (3) Representations that are likely to cause the average person to misunderstand; or
- (4) Extravagant claims or claims of extraordinary skills not recognized by the credential holder's profession.

*g.* Willful or repeated violations of the provisions of Iowa Code chapters 169 and 272C and rules promulgated thereunder by the board.

*h.* Failure to report a license, certificate, permit, or other credential revocation, suspension or other disciplinary action taken by a licensing or regulating authority of another state, territory or country within 30 days of the final action by such licensing or regulating authority. A stay by an appellate court cannot negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report is expunged from the records of the board.

*i.* Failure of a credential holder or an applicant for a credential in this state to report, within 30 days, any settlement agreement or voluntary agreement to limit the practice of veterinary medicine or other applicable activities entered into in another state, district, territory or country or those included in Iowa Code section 272C.9 or 169.13.

*j.* Knowingly submitting a false report of continuing education or failure to submit the triennial report of continuing education.

*k.* Failure to comply with a subpoena issued by the board.

*l.* Willful or gross negligence.

*m.* Obtaining any fee by fraud or misrepresentation.

*n.* Violating any of the grounds for the revocation or suspension of a credential as listed in Iowa Code section 169.13 or these rules.

*o.* A violation of Iowa Code section 169.13(1) "d"; having the person's certificate, license, permit, or other credential revoked or suspended by the United States Department of Agriculture (USDA); or

## VETERINARY MEDICINE BOARD[811](cont'd)

having the veterinarian's USDA accreditation revoked, suspended or other disciplinary action taken against the accreditation.

- p.* Failing to comply with a lawful child support order as provided in 811—Chapter 13.
- q.* Failing to pay any hearing fees and costs within the time specified in the board's decision.
- r.* Failure to satisfy the continuing education requirements of rule 811—8.10(169,272C).

The board cannot suspend or revoke a license issued by the board to a person who is in circumstances outlined by Iowa Code section 272C.4(10).

**10.6(2)** *Grounds applicable to licensed veterinarians only.* In addition to the grounds set out in subrule 10.6(1), without regard as to whether the board has determined that injury has occurred, a licensed veterinarian is subject to disciplinary action for the violation of any of the following:

*a.* Engaging in unethical conduct which includes, but is not limited to, a violation of the standards of practice as set out in 811—Chapter 12, and which may include acts or offenses in violation of Iowa's principles of veterinary medical ethics, as adopted in subrule 10.6(3).

*b.* Engaging in practice harmful or detrimental to the public which includes, but is not limited to, either of the following:

(1) The use of a rubber stamp to affix a signature to a prescription. A licensee who is unable, due to a physical disability, to make a written signature or mark may substitute in lieu of a signature a rubber stamp which is adopted by the disabled person for all purposes requiring a signature and which is affixed by the disabled person or affixed by another person upon the request of the disabled person and in the licensee's presence.

(2) The practice of maintaining any presigned prescription which is intended to be completed and issued at a later time.

*c.* Iowa Code section 169.13(1)“g.”

*d.* Indiscriminately or promiscuously prescribing, administering or dispensing any drug; or prescribing, administering or dispensing any drug for other than a lawful purpose.

*e.* Permitting or directing any veterinary auxiliary personnel or any other person who does not hold the proper credentials to perform veterinary duties involving diagnosis, prescription or surgery, except as allowed pursuant to subrule 8.7(4).

*f.* Permitting or directing any veterinary auxiliary personnel or any other person to perform any act that would be a legal or ethical violation if committed by a veterinarian.

*g.* Negligently failing to exercise due care in the delegation of veterinary services to or in supervision of veterinary auxiliary personnel, whether or not injury results.

**10.6(3)** *Principles of veterinary medical ethics.* All Iowa-licensed veterinarians are expected to adhere to these principles of veterinary medical ethics listed below and adopted by the board.

*a. General ethics principles.*

(1) A veterinarian may only be influenced by the welfare of the patient, the needs of the client, the safety of the public, and the need to uphold the public trust vested in the veterinary profession and shall avoid conflicts of interest or the appearance thereof.

(2) A veterinarian shall provide competent veterinary medical care under the terms of a veterinarian-client-patient relationship (VCPR), with compassion and respect for animal welfare and human health.

(3) A veterinarian shall uphold the standards of professionalism, be honest in all professional interactions, and report veterinarians who are deficient in character or competence to the appropriate entities.

(4) A veterinarian shall not willfully violate the provisions of Iowa Code chapters 169 and 272C and rules promulgated thereunder by the board, or other law of this state, another state, or the United States, which relates to the practice of veterinary medicine.

(5) A veterinarian shall respect the rights of clients, colleagues, and other health professionals and safeguard medical information within the confines of the law.

(6) A veterinarian shall continue to study, apply, and advance scientific knowledge; maintain a commitment to veterinary medical education; make relevant information available to clients, colleagues, and the public; and obtain consultation or referral when indicated.



## VETERINARY MEDICINE BOARD[811](cont'd)

(7) A veterinarian shall, in the provision of appropriate patient care, be free to choose whom to serve, with whom to associate, and the environment in which to provide veterinary medical care.

(8) A veterinarian shall not advertise a specialty or claim to be a specialist when not a diplomate of a veterinary specialty organization recognized by the AVMA.

*b. Veterinarian-client-patient relationship ethics.* A veterinarian shall not engage in the practice of veterinary medicine without a valid VCPR as defined in these rules.

*c. Veterinarian-client communication; documentation of informed consent.*

(1) A veterinarian shall explain to clients how any diagnostic tests offered would help diagnose a patient's medical condition.

(2) A veterinarian is responsible for professional communication directly with the client regarding diagnosis, options for treatment(s), expected cost of treatment(s), expected outcome of treatment(s), and the potential risks associated with each treatment regimen, as well as the client's ability to decline treatment(s). Client consent for the treatment(s) shall be documented in the patient's medical records. Veterinary auxiliary personnel may communicate the information listed in this subparagraph to the client under the supervision of an Iowa-licensed veterinarian.

(3) If a veterinarian does not have the expertise or the necessary equipment and facilities to adequately diagnose or treat a patient, the veterinarian shall offer a referral to another veterinarian where the diagnosis or treatment can be performed.

*d. Veterinary medical records.*

(1) Complete, accurate and legible medical records that are considered to meet the prevailing standard of the practice of veterinary medicine are set by the board.

(2) Any controlled substances administered to a patient must be written into the patient's medical record, which shall include the drug name, the date the drug was administered, the amount of drug administered, the frequency of drug administration, and the prescribing (and administering, if different) veterinarian's name, pursuant to rules 811—12.2(169) to 811—12.4(169). This requirement is in addition to regulations and requirements promulgated by the Iowa board of pharmacy, U.S. Drug Enforcement Administration, and any other applicable governmental agency. Violating or failing to comply with a state or federal law or regulation relating to the storing, labeling, prescribing, or dispensing of controlled substances is unethical.

(3) Humane euthanasia of animals is an ethical veterinary procedure. A veterinarian can refuse to perform euthanasia.

*e. Client and patient privacy rights.*

(1) A veterinarian shall protect and respect the privacy rights of clients, colleagues, and other health professionals. A veterinarian shall not reveal confidential medical records or other medical information unless authorized to do so by law.

(2) It is unethical to place photographs or information regarding a patient, a client, or a client's premises on social media or other public platforms without the consent of the owner, unless the patient, client, or client's premises cannot be identified by its marking and unless all personally identifying information has been removed from the photograph. Use of photographs and information for didactic purposes is permitted with client consent or after removal of any information that would identify the client or patient.

*f. Professional behavior.*

(1) A veterinarian shall be honest in all professional interactions while respecting the rights of clients, colleagues, and other health professionals. A veterinarian must be honest and fair in relations with others, and a veterinarian shall not engage in fraud, misrepresentation, or deceit, including by material omission, in accordance with Iowa Code section 169.13(1) "a."

(2) A veterinarian must not defame or injure the professional standing or reputation of another veterinarian in a false or misleading manner. Any complaints about behavior of a veterinarian that may violate the principles of veterinary medical ethics should be addressed through the board in an appropriate and timely manner.

## VETERINARY MEDICINE BOARD[811](cont'd)

(3) A veterinarian who is impaired due to substance abuse or mental health or physical conditions as set forth in Iowa Code section 169.13(1) "h" must not act in the capacity of a veterinarian and shall seek medical treatment from qualified organizations or individuals.

**10.6(4) Recommended practices for veterinarians.**

a. A veterinarian is encouraged to participate in activities contributing to the improvement of the community and the betterment of public health. The responsibilities of the veterinary profession extend beyond individual patients and clients to society in general.

b. A veterinarian is encouraged to participate in the political process to seek changes to laws and regulations that are contrary to the best interests of the patient, the client and public health.

c. A veterinarian is encouraged to make the veterinarian's knowledge available to the community and to provide the veterinarian's services for activities that protect public health.

d. A veterinarian is encouraged to view, evaluate, and treat all individual persons in any professional activity or circumstance in which the veterinarian may be involved solely as individuals on the basis of the person's personal abilities, qualifications and character.

**811—10.7(17A,169,272C) Sanctions.** The board has authority to impose disciplinary sanctions in circumstances allowed by Iowa Code section 272C.3(2) "a" through "f."

**811—10.8(17A,169,272C) Panel of specialists.** The board may appoint a panel of veterinarians who are specialists to ascertain the facts of a case pursuant to Iowa Code section 272C.6(2). The board chairperson or designee appoints the presiding officer.

**10.8(1)** The executive secretary sets the date, time, and location of the hearing and makes proper notification to all parties.

**10.8(2)** The panel of specialists shall:

a. Enter into the record the names of the presiding officer, members of the panel, the parties and their representatives.

b. Enter into the record the notice and evidence of service, order for hearing, statement of charges, answer, if available, and any other pleadings, motions or orders.

c. Receive opening statements from the parties.

d. Receive evidence, in accordance with Iowa Code section 17A.14, on behalf of the state of Iowa and on behalf of the credential holder.

e. Question the witnesses.

f. Receive closing statements from the parties.

g. Determine the findings of fact by a majority vote and make a written report of its findings to the board within a reasonable period.

**811—10.9(17A,169,272C) Informal settlement.** Pursuant to the provisions of Iowa Code sections 17A.12 and 272C.3, the board may consider resolution of disciplinary matters through informal settlement prior to commencement of contested case proceedings. The secretary or designee may negotiate with the credential holder regarding a proposed disposition of the controversy. Upon consent of both parties, the board will review the proposal for action.

**811—10.10(17A,169,272C) Voluntary surrender.** A voluntary surrender of credentials may be submitted to the board as resolution of a contested case or in lieu of continued compliance with a disciplinary decision of the board.

**811—10.11(17A,169,272C) Application for reinstatement.** A person whose credential has been suspended, revoked, or voluntarily surrendered may apply to the board for reinstatement in accordance with the terms and conditions of the order.

**10.11(1)** If the credential was voluntarily surrendered, or if the order for suspension or revocation did not establish terms and conditions for reinstatement, an initial application cannot be made until one year has elapsed from the date of the order.

## VETERINARY MEDICINE BOARD[811](cont'd)

**10.11(2)** The application alleges facts and circumstances which will enable the board to determine that the basis for the sanction or voluntary surrender no longer exists and that it is in the public interest to reinstate the credential. The burden of proof to establish these facts rests with the petitioner.

**10.11(3)** The hearing in an application for reinstatement is a contested case within the meaning of Iowa Code section 17A.12.

**10.11(4)** The order to grant or deny reinstatement incorporates findings of fact and conclusions of law. If reinstatement is granted, terms and conditions for reinstating the credential may be imposed.

These rules are intended to implement Iowa Code chapters 17A, 169, and 272C.

**ARC 7566C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rulemaking related to continuing education  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 11, “Continuing Education,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 169 and 272C.

*Purpose and Summary*

This proposed rulemaking updates the Board’s continuing education rules by removing outdated or redundant provisions that are covered by statute.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

## VETERINARY MEDICINE BOARD[811](cont'd)

Colin Tadlock  
 Iowa Department of Agriculture and Land Stewardship  
 Wallace State Office Building  
 502 East Ninth Street  
 Des Moines, Iowa 50319  
 Phone: 515.518.7609  
 Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11  
CONTINUING EDUCATION

**811—11.1(169) Continuing education necessary for a veterinary licensee.**

**11.1(1)** Within the last three licensing years, each licensee is to complete at least 60 hours of continuing education in courses approved by the board as a condition for license renewal. The licensee has financial responsibility for the cost of continuing education. These credit hours may be obtained by attending board-approved scientific or practice management seminars and meetings on the basis of one credit hour for each hour of attendance. Attendance at any approved national, state or regional meeting or RACE-approved meeting will be acceptable. One hour of credit may be approved for local meetings where a scientific paper is presented. Credit for qualified graduate college courses may be approved on the basis of multiplying each college credit hour by 10, to a maximum of 30 hours during any one triennial license period. A maximum of 20 hours during any one triennial license period of continuing education may be achieved by completion of approved distance education courses. A maximum of 20 hours of continuing education during any one triennial license period may be achieved by completion of approved practice management courses.

**11.1(2)** To qualify for license renewal, each licensee is to obtain the 60 credit hours between July 1 of the year the license was issued and June 30 of the following third year. Continuing education credits

## VETERINARY MEDICINE BOARD[811](cont'd)

in excess of 60 hours for any three-year license period may be carried over to the next triennial license period, but the total number of credit hours carried over cannot exceed 20 hours.

**11.1(3)** A recent graduate is exempt from meeting continuing education requirements at the time of original licensure and for the first year of practice. For the purpose of this rule, “recent graduate” means a person who has graduated from an accredited or approved school of veterinary medicine, or received a certificate from the ECFVG or PAVE no more than three years prior to application for licensure. If a recent graduate is licensed during the first year of the triennial license period, the licensee needs to complete 40 hours of continuing education for the first license renewal. If a recent graduate is licensed during the second year of the triennial license period, the licensee needs to complete 20 hours of continuing education for the first license renewal. If a recent graduate is licensed during the third year of the triennial license period, the licensee is exempt from meeting continuing education requirements for the first license renewal.

**11.1(4)** Completion of the continuing education requirement will be reported to the secretary of the board, on a form provided by the board, at the time of license renewal. The form is to be signed by the licensee and be accompanied by renewal application and the proper renewal fee.

**11.1(5)** The board may waive continuing education requirements for qualifying military service personnel upon request.

**811—11.2(169) Exemptions for an inactive veterinary licensee.** A licensee residing within or outside Iowa who is not engaged in practice in the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon paying the annual license renewal fee. The licensee is to provide a written application to the board that includes a statement that the applicant will not engage in the practice of veterinary medicine in Iowa without first complying with all the rules governing reactivation after exemption. The application for a certificate of exemption is to be submitted on a form provided by the board.

**811—11.3(169) Reactivation of license.** A veterinarian whose license has lapsed or been placed on inactive status is to provide evidence of completion of a total number of hours of accredited continuing education computed by multiplying 20 by the number of years since the date of the last issuance of the license for which reactivation is sought.

These rules are intended to implement Iowa Code chapters 169 and 272C.

**ARC 7567C**

**VETERINARY MEDICINE BOARD[811]**

**Notice of Intended Action**

**Proposing rulemaking related to standards of practice  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 12, “Standards of Practice,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapter 169.

*Purpose and Summary*

This proposed rulemaking updates the Board’s standards of practice rules by removing outdated or redundant provisions that are covered by statute.

## VETERINARY MEDICINE BOARD[811](cont'd)

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12  
STANDARDS OF PRACTICE

## VETERINARY MEDICINE BOARD[811](cont'd)

**811—12.1(169) Veterinarian/client/patient relationships.**

**12.1(1)** The board shall determine, on a case-by-case basis, whether a valid veterinarian/client/patient relationship exists. This relationship is deemed to exist when all of the following criteria have been met:

*a.* The licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of the patient and the need for medical treatment, and the client has agreed to follow the instructions of the licensed veterinarian;

*b.* The licensed veterinarian has sufficient knowledge of the patient to initiate at least a general or preliminary diagnosis of the medical condition of the patient. Sufficient knowledge means that the licensed veterinarian has recently seen or is personally acquainted with the keeping and care of the patient by virtue of any of the following:

- (1) A physical examination of the patient within the past 12 months;
- (2) A professional visit within the past 12 months to the premises where the patient or representative patients are housed, kept, located or grazed; or
- (3) The licensed veterinarian has been temporarily designated by a licensed veterinarian, who has a prior veterinarian/client/patient relationship, to provide reasonable and appropriate medical care. The veterinarian making the designation must meet the requirements of either subparagraph 12.1(1) “b”(1) or 12.1(1) “b”(2), and the designated veterinarian must have access to the patient’s medical records.

The 12-month time period in paragraph 12.1(1) “b” does not apply until June 14, 2023.

*c.* The licensed veterinarian is readily available or provides for follow-up care in case of adverse reactions or failure of the regimen of therapy, or, if unavailable, has designated another available licensed veterinarian who has access to the patient’s records to provide reasonable and appropriate medical care.

**12.1(2)** A valid veterinarian/client/patient relationship cannot be established by contact solely based on a telephonic or electronic communication.

**12.1(3)** In the absence of a veterinarian/client/patient relationship:

*a.* Advice that is provided through electronic means can only be general and not specific to a particular animal or its diagnosis or treatment.

*b.* Advice and recommendations may be provided via veterinary telephonic or electronic communication in an emergency, but only until the animal can be examined in person by a licensed veterinarian.

**12.1(4)** Both the licensed veterinarian and the client have the right to establish or decline a valid veterinarian/client/patient relationship. Once the licensed veterinarian and the client have agreed and entered into a relationship, and the licensed veterinarian has begun patient care, the licensed veterinarian cannot neglect the patient and must continue to provide professional services related to the patient’s injury or illness within the previously agreed limits. As subsequent needs and costs for patient care are identified, the licensed veterinarian and the client must confer and reach agreement on the continued care and responsibility for fees. If the informed client declines future care or declines to assume responsibility for the fees, the relationship may be terminated by either party.

**12.1(5)** If no ongoing medical condition exists, a licensed veterinarian may terminate a valid veterinarian/client/patient relationship by notifying the client that the licensed veterinarian no longer wishes to serve that patient and client. However, if an ongoing medical or surgical condition exists, the patient should be referred to another licensed veterinarian for diagnosis, care and treatment and the former attending licensed veterinarian should continue to provide care as needed during the transition.

**12.1(6)** Concerns about licensed veterinarian or staff safety may result in immediate termination of the veterinarian/client/patient relationship.

**12.1(7)** In emergencies, a veterinarian has an ethical responsibility to provide essential services for an animal when necessary to save the animal’s life or relieve extreme suffering, subsequent to a client agreement (or until such agreement can be obtained when a client is not present or cannot be reached). Such emergency care may be limited to relieve extreme pain or suffering, or to stabilization of the patient for transport to another source of animal care or euthanasia when deemed necessary by the veterinarian. When a veterinarian cannot be available to provide services, the veterinarian should provide readily accessible information to assist a client in obtaining emergency services, consistent with the needs of

## VETERINARY MEDICINE BOARD[811](cont'd)

the locality. In an emergency, if a veterinarian does not have the expertise or the necessary equipment and facilities to adequately diagnose or treat a patient, the veterinarian should advise the client that more qualified or specialized services are available elsewhere and offer to expedite referral to those services.

**12.1(8)** A licensed veterinarian who in good faith engages in the practice of veterinary medicine by rendering or attempting to render emergency or urgent care to a patient when a client cannot be identified, and a veterinarian/client/patient relationship is not established, is not subject to discipline based solely on the veterinarian's inability to establish a veterinarian/client/patient relationship.

**811—12.2(169) Controlled substances, drugs, prescription medications and specific restricted immunization products.** When state or federal law restricts a drug, medication or immunization product intended for use by or on the order of a licensed veterinarian, the licensed veterinarian can only sell, distribute or order the drug or medication in the course of the licensed veterinarian's professional practice. A prescription veterinary drug, medication or immunization product shall not be deemed to be used "in the course of the licensed veterinarian's professional practice" unless a valid veterinarian/client/patient relationship exists.

**12.2(1) Prescriptions.** Orders for all such drugs, medications or immunization products shall be accompanied by the licensed veterinarian's original prescription that shows the following:

- a. Licensed veterinarian's name, address and telephone number;
- b. Client's name;
- c. Patient's name or identification;
- d. Date issued;
- e. Drug, medication or product name, strength and quantity;
- f. Directions for use;
- g. Number of times the prescription may be refilled;
- h. Expiration date of the drug, medication or product; and
- i. Applicable withdrawal period (paragraph 12.2(2)"d") for livestock and poultry.

**12.2(2) Extra-label use of veterinary drugs, medications and immunization products.** Any extra-label use of veterinary drugs, medications or immunization products can only be administered by or under the order of a licensed veterinarian and is subject to the following criteria:

- a. There is a valid veterinarian/client/patient relationship as defined in subrule 12.1(1).
- b. For drugs or medications used in patients not intended for food, one of the following applies:
  - (1) There are no marketed drugs, medications or immunization products specifically labeled for the condition(s) diagnosed;
  - (2) The approved product is clinically ineffective; or
  - (3) In the licensed veterinarian's clinical judgment, the labeled dosage is inappropriate for the condition or the extra-label use should result in a better outcome for the patient.
- c. The health of the treated patient is immediately threatened, or suffering or death would result from a failure to treat the affected patient.
- d. The appropriate withdrawal period is specified when the drugs, medications or immunization products are used in animals intended as food. Extra-label drug use in food-producing animals must follow Food and Drug Administration—Animal Medicinal Drug Use Clarification Act regulations (21 CFR Part 530 as amended through December 21, 2023). Licensed veterinarians are encouraged to consult the Food Animal Residue Avoidance Databank (FARAD) or public peer-reviewed documents when determining appropriate withdrawal period.

**811—12.3(169) Prescription drug or medication labeling and packaging.** A licensed veterinarian shall comply with all of the following requirements for the storage, handling, dispensing and administering of a drug or medication.

**12.3(1)** All prescription drugs, medications and controlled substances shall be purchased, maintained, handled, prescribed and dispensed in compliance with state and federal requirements including but not limited to the requirements of the Iowa board of pharmacy, the U.S. Occupational Safety and Health Administration, the U.S. Department of Agriculture, the U.S. Food and Drug



## VETERINARY MEDICINE BOARD[811](cont'd)

Administration, the U.S. Environmental Protection Agency and the U.S. Drug Enforcement Administration.

*a.* A valid veterinarian/client/patient relationship shall be established before prescription drugs or medications may be dispensed or a prescription released. All drugs or medications administered, prescribed or dispensed shall be documented in the patient's medical record. The sale of veterinary prescription drugs or medications or the extra-label use of any drug, medication or product by a licensed veterinarian without a valid veterinarian/client/patient relationship is not permissible.

*b.* If a veterinarian prescribes a drug for the client's animal, the veterinarian shall, upon request, provide the prescription to the client, unless barred by state or federal law or to prevent inappropriate use. The veterinarian may charge a fee for issuing the prescription. This paragraph does not apply to livestock as defined in Iowa Code section 717.1(4).

**12.3(2)** All drugs or medications dispensed shall be labeled with the following information:

- a.* Name, telephone number and address of the veterinary clinic, hospital or service facility.
- b.* Name of the prescribing licensed veterinarian.
- c.* Date on which the prescription is dispensed.
- d.* Directions for use, including any cautionary statements and withdrawal times when appropriate.
- e.* Species of the patient.
- f.* Name, or identification, or location of the patient.
- g.* Name of the owner.
- h.* Name, strength and dosage form of the drug or medication. If the drug or medication is a compounded product, all active ingredients must be listed on the label, with corresponding strengths or concentrations of each ingredient.
- i.* Number of units dispensed.
- j.* Expiration date. If the drug or medication is a compounded product with no assigned expiration date, the licensed veterinarian shall determine a beyond-use date as supported by the literature or by the licensed veterinarian's professional judgment when no such supportive information exists.
- k.* Appropriate withdrawal period for livestock or poultry, when the patient or its product is intended as food.

**12.3(3)** All drugs or medications dispensed in the original container shall retain the original label and be labeled with the same information identified in subrule 12.3(2).

**12.3(4)** All drugs or medications that are dispensed in a container other than the original container shall be placed in a tamper-resistant container unless otherwise requested by the owner or unless the drug or medication is in a form or size that cannot be easily dispensed in a tamper-resistant container.

**12.3(5)** Drugs or medications that have expired shall be removed from current inventory and cannot be dispensed or sold. Expired drugs or medications shall be disposed of in accordance with local, state and federal regulations.

**12.3(6)** Drugs or medications shall be dispensed only for specific animals and for specific veterinary medical therapies with the exception of groups of similar animals and other groups such as pet fish, kennels and catteries for which dispensing shall be done judiciously within a valid veterinarian/client/patient relationship.

**811—12.4(169) Veterinary medical records.**

**12.4(1)** *Controlled substances records.* The licensed veterinarian must maintain a controlled substance log that contains complete, accurate and readily retrievable records of all controlled substances possessed, administered or dispensed.

*a.* Each record of a controlled substance that is dispensed must meet all U.S. Drug Enforcement Administration and Iowa board of pharmacy regulations for the controlled substances log.

*b.* Each log record must include the following information:

- (1) Name or identification of the patient.
- (2) Client's name and address, if not readily available from the licensed veterinarian's records.
- (3) Name, strength and quantity of the controlled substance dispensed.
- (4) Date on which the controlled substance was dispensed.

## VETERINARY MEDICINE BOARD[811](cont'd)

(5) Initials of the dispensing licensed veterinarian or authorized auxiliary.

(6) Name of the prescribing licensed veterinarian.

c. All controlled substances must be kept in a locked storage area, and access to the storage area must be limited pursuant to state and federal laws and regulations.

d. Each package or container in which a controlled substance is stored or dispensed must be clearly labeled pursuant to the requirements set forth in state and federal laws and regulations.

e. Each package or container in which a controlled substance is stored or dispensed must comply with all state and federal packaging requirements and with rule 811—12.2(169).

**12.4(2) Patient records.** Patient records are the property of the veterinary practice. Each licensed veterinarian shall maintain for at least five years an easily retrievable record for each patient that receives veterinary services. The record must be available for inspection by the client during normal business hours. The information within patient records is privileged and confidential and cannot be released except by court order, a public health emergency, consent of the client or as otherwise authorized by law. The licensed veterinarian in charge shall provide a copy of the complete record to the client not later than two business days after the licensed veterinarian or practice receives from the client a request for the record. A licensed veterinarian or veterinary practice may have an additional three business days to provide a copy of nondigital diagnostic images. The licensed veterinarian may charge reasonable and customary fees for the copying of records.

a. Records required for patients defined as “livestock” in Iowa Code section 717.1(4) include the following:

(1) Name, address and telephone number of the client.

(2) Name or identity of the patient, pen, herd, flock or group, including the identification number, if any.

(3) Date of service.

(4) Documentation of client consent.

(5) Diagnosis or condition at the beginning of treatment of the patient, including results of tests.

(6) Procedures/indications.

(7) Name of drug or medication and treatment administered indicating dosage, frequency and route of administration.

(8) Withdrawal period.

(9) Record of diagnostic images taken.

(10) Name of attending licensed veterinarian.

b. Records required for other patients include the following:

(1) Name, address and telephone number of the client.

(2) Name and identity of the patient, including the identification number, if any.

(3) Date of birth (or estimated age), sex, species and breed of patient.

(4) Dates of care, custody or treatment of the patient.

(5) A history of the patient's condition as it pertains to the patient's medical status.

(6) Documentation of client consent.

(7) Diagnosis or condition at the beginning of treatment of the patient, including results of tests and body weight.

(8) Surgery record, including preanesthesia medication, anesthesia and the procedure performed.

(9) Name of drug or medication and treatment administered indicating dosage, frequency and route of administration.

(10) Progress and disposition of the case.

(11) Record of diagnostic images taken.

(12) Name of attending licensed veterinarian.

**12.4(3) Stored diagnostic images.**

a. Each stored diagnostic image must be identified with the following information:

(1) The name of the licensed veterinarian or facility that took the diagnostic image.

(2) The name or identifying number, or both, of the patient.

(3) The name of the client.

## VETERINARY MEDICINE BOARD[811](cont'd)

- (4) The date on which the diagnostic image was taken.
- (5) The anatomical orientation depicted by the diagnostic image.
- b.* Stored diagnostic images must be retained for at least five years.
- c.* A stored diagnostic image of the patient or a copy must be released, upon the written or verbal request, to another licensed veterinarian who has the authorization of the client. Original diagnostic images shall be returned in a reasonable time.

**12.4(4) *General anesthesia.*** General anesthesia is a condition caused by the administration of a drug or combination of drugs sufficient to produce a state of unconsciousness or dissociation and blocked response to a given pain or alarming stimulus. The following standards relating to general anesthesia apply:

- a.* Within 12 hours prior to the administration of a general anesthetic, the patient must receive a physical examination, with the results noted in the patient's medical records.
- b.* The patient under general anesthesia must be under observation for a length of time appropriate to the species for the patient's safe recovery.
- c.* The licensed veterinarian must provide a method of respiratory monitoring that may include observing the patient's chest movements, observing the rebreathing bag or using a respirometer.
- d.* The licensed veterinarian must provide a method of cardiac monitoring, which may include the use of a stethoscope or electrocardiograph monitor.

**811—12.5(169) Veterinary facilities.**

**12.5(1) *Facility standards.*** The following standards apply to all facilities used by a licensed veterinarian to provide veterinary services.

*a. Facilities for treatment or hospitalization.* In a facility where patients are examined and retained for treatment or hospitalization, the following must be provided:

- (1) An examination room, separate from the reception room or office, with sufficient size to accommodate the licensed veterinarian, assistant, patient and client.
- (2) Nonporous tabletops, countertops and floor coverings that can be adequately cleaned and disinfected.
- (3) The ability to house patients separately and maintain sanitary conditions.
- (4) Appropriate separation of patients with known or suspected infectious and contagious diseases from patients not known to have such diseases in a manner that reasonably guards against transmission of disease.
- (5) Provision for daily exercise of patients unless the primary enclosure is of sufficient size to provide exercise.
- (6) Exercise areas that are cleaned a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors.
- (7) A sanitary area for performing surgeries under sterile conditions. If sterile surgical procedures are performed on the premises, the licensed veterinarian must maintain the following at all times:
  1. Appropriate sterile surgical packs including drapes, sponges and instrumentation for use in each procedure.
  2. For each sterile surgical procedure, equipment sterilized and surgical packs properly prepared for sterilization sufficient to kill microorganisms.
  3. Clean attire, masks and gloves for use in any sterile procedure.
- (8) Oxygen and equipment necessary to administer oxygen to the types of patients treated in the facility.
- (9) Capability to provide diagnostic radiological images in the facility or through an outside facility.
- (10) Provision for laboratory and pharmaceutical services in the facility or through another commercial facility.

*b. Facilities for services.* Veterinary service facilities where patients are only examined or provided vaccinations must provide the following:

- (1) An examination room, separate from the reception room or office, with sufficient size to accommodate the licensed veterinarian, assistant, patient and client.

## VETERINARY MEDICINE BOARD[811](cont'd)

(2) Nonporous tabletops, countertops and floor coverings that can be adequately cleaned and disinfected.

(3) A secure and sanitary area for the storage of instruments, drugs and medications.

(4) Cooling/heating equipment for the storage of drugs, medications and immunization products.

(5) Capability to provide diagnostic radiological images in the facility or through an outside facility.

(6) Provision for laboratory and pharmaceutical services in the facility or through another commercial facility.

*c. Mobile clinics.* Mobile clinics are self-contained units for small animal, nonlivestock or nonpoultry patients and shall be equipped with the following:

(1) Hot and cold water.

(2) Nonporous tabletops, countertops and floor coverings that can be adequately cleaned and disinfected.

(3) An adequate power source for diagnostic equipment.

(4) A collecting tank for disposal of waste materials.

(5) Adequate lighting.

(6) Adequate heating, cooling and ventilation.

(7) Sterile instrumentation that meets the requirements of the level of surgery to be performed.

(8) Separate compartments for the transportation or holding of patients.

(9) A secure and sanitary area for the storage of instruments, drugs and medications.

(10) Cooling/heating equipment for the storage of drugs, medications and immunization products.

*d. House/farm call units.* House/farm call units are not self-contained units and must be equipped with or have access to all of the following:

(1) Water.

(2) Cooling/heating equipment for the storage of drugs, medications and immunization products.

(3) A secure and sanitary area for the storage of instruments, drugs and medications.

*e. Emergency veterinary hospitals.* "Emergency veterinary hospital" means an animal hospital that provides emergency treatment to an ill or injured patient. Any facility advertising as an emergency facility shall have a licensed veterinarian and auxiliary personnel on the premises during the hours of operation. Any facility that advertises using phrases similar or identical to "24-hour emergency veterinary hospital," "Emergency," "Open 24 hours" or "Day or night care" must have treatment services continuously available.

**12.5(2) Safety and sanitation standards.** A veterinary facility must have a safe and sanitary environment that:

*a.* Protects the health of the patients and guards against the transmission of infection.

*b.* Provides for proper routine disposal of waste materials in compliance with all applicable local, state, and federal laws and regulations and for proper disposal of hypodermic devices, sharps and biomedical waste. Hypodermic devices, sharps and biomedical waste shall be disposed of in accordance with applicable local, state and federal regulations.

*c.* Provides for proper sterilization or sanitation of all equipment used in diagnosis, treatment or surgery.

*d.* Ensures the maintenance of proper temperature and ventilation of the indoor facility.

*e.* Provides adequate lighting appropriate for the task being performed.

*f.* Includes legal and sanitary methods for the disposal or storage of deceased patients.

*g.* Meets the standards for radiological procedures as set by the Iowa department of health and human services.

**12.5(3) Resources.** A library of current journals or textbooks, or Internet access that provides readily accessible reference materials, shall be available.

These rules are intended to implement Iowa Code chapter 169.

**ARC 7568C****VETERINARY MEDICINE BOARD[811]****Notice of Intended Action****Proposing rulemaking related to collection procedures  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind Chapter 13, “Collection Procedures,” Iowa Administrative Code, and to adopt a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 169, 252J and 272D.

*Purpose and Summary*

This proposed rulemaking updates the Board’s collection procedure rules by removing outdated or redundant provisions that are covered by statute.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## VETERINARY MEDICINE BOARD[811](cont'd)

February 29, 2024  
10 a.m.

Second Floor Boardroom  
Wallace State Office Building  
Des Moines, Iowa

March 8, 2024  
10 a.m.

Second Floor Boardroom  
Wallace State Office Building  
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13  
COLLECTION PROCEDURES

**811—13.1(169,252J,272D) Licensing actions.** In addition to other reasons specified by statute or rule, the board will refuse to issue a credential or may revoke, suspend, or not renew any credential for which it has jurisdiction if the board is in receipt of a certificate of noncompliance from the child support recovery unit pursuant to the procedures set forth in Iowa Code chapter 252J or from the centralized collection unit of the department of revenue pursuant to the procedures set forth in Iowa Code chapter 272D.

An applicant or credential holder whose application is denied or whose credential is denied, suspended, or revoked because of receipt by the board of a certificate of noncompliance issued by the child support recovery unit or by the centralized collection unit of the department of revenue is subject to the provisions of rule 811—13.1(169,252J,272D). Procedures specified in 811—Chapter 10 for contesting board actions do not apply.

**811—13.2(169,252J,272D) Collection procedures.** The following procedures apply to actions taken by the board on a certificate of noncompliance pursuant to Iowa Code chapter 252J or 272D:

**13.2(1)** The notice mandated by Iowa Code section 252J.8 or 272D.8 will be served upon the applicant or credential holder by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the applicant or credential holder may accept service personally or through authorized counsel.

**13.2(2)** The effective date of revocation or suspension of a credential or the denial of the issuance or renewal of a credential, as specified in the notice mandated by Iowa Code section 252J.8 or 272D.8, is 60 days following service of the notice upon the credential holder or applicant.

**13.2(3)** Applicants and credential holders shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J or the centralized collection unit actions taken in connection with Iowa Code chapter 272D. Applicants and credential holders shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9 or 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit or by the centralized collection unit of the department of revenue.

## VETERINARY MEDICINE BOARD[811](cont'd)

**13.2(4)** All board fees for applications, credential renewals or reinstatements will be paid by the applicant or credential holder before a credential will be issued, renewed or reinstated after the board has denied the issuance or renewal of a credential or has suspended or revoked a credential pursuant to Iowa Code chapter 252J or 272D.

**13.2(5)** If an applicant or credential holder timely files a district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9 or Iowa Code sections 272D.8 and 272D.9, the board will continue with the intended action described in the notice upon receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For the purpose of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a credential, the board will count the number of days before the action was filed and the number of days after the action was disposed of by the court.

These rules are intended to implement Iowa Code chapters 169, 252J and 272D.

**ARC 7569C****VETERINARY MEDICINE BOARD[811]****Notice of Intended Action****Proposing rulemaking related to waiver of rules  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to rescind and adopt new Chapter 14, “Waiver of Rules,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 169.

*Purpose and Summary*

This proposed rulemaking updates the Board’s waiver rules by removing outdated or redundant provisions that are covered by statute.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

## VETERINARY MEDICINE BOARD[811](cont'd)

Colin Tadlock  
 Iowa Department of Agriculture and Land Stewardship  
 Wallace State Office Building  
 502 East 9th Street  
 Des Moines, Iowa 50319  
 Phone: 515.518.7609  
 Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 29, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa
March 8, 2024 10 a.m.	Second Floor Boardroom Wallace State Office Building Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 811—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14  
 WAIVER OF RULES

**811—14.1(17A,169) Definition.** For purposes of this chapter, “waiver” means action by the board that suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

**811—14.2(17A,169) Scope of chapter.** This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision supersedes this chapter with respect to any waiver from that rule.

**811—14.3(17A,169) Applicability.** The board may grant a waiver from a rule only if the board is authorized to do so by Iowa Code section 17A.9A(1).

**811—14.4(17A,169) Criteria for waiver.** In response to a petition completed pursuant to rule 811—14.6(17A,169), the board may issue an order waiving in whole or in part the requirements of a rule in accordance with Iowa Code section 17A.9A(2) “a” through “d.”



## VETERINARY MEDICINE BOARD[811](cont'd)

**811—14.5(17A,169) Filing of petition.** A petition for a waiver will only be considered by the board if it is submitted in writing to the board as follows:

**14.5(1) Credential application.** If the petition relates to a credential application, the petition is made in accordance with the filing requirements for the credential in question.

**14.5(2) Contested cases.** If the petition relates to a pending contested case, the petition is filed in the contested case proceeding using the caption of the contested case.

**14.5(3) Other.** If the petition does not relate to a credential application or a pending contested case, the petition is submitted to the board's secretary.

**811—14.6(17A,169) Content of petition.** A petition for waiver will only be considered by the board if it includes the following information where applicable and known to the requester:

1. The name, address, and telephone number of the entity or person for whom a waiver is being requested and the case number of any related contested case.

2. A description and citation of the specific rule from which a waiver is requested.

3. The specific waiver requested, including the precise scope and duration.

4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in rule 811—14.4(17A,169), a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver.

5. A history of any prior contacts between the board and the petitioner relating to the regulated activity or credential affected by the proposed waiver, including a description of each affected credential held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or credential within the last five years.

6. Any information known to the requester regarding the board's treatment of similar cases.

7. The name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of a waiver.

8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

**811—14.7(17A,169) Additional information.** Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's executive secretary, a committee of the board, or a quorum of the board.

**811—14.8(17A,169) Notice.** The board will acknowledge a petition upon receipt. The board will ensure that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is necessary by any provision of law and provide a written statement to the board attesting that notice has been provided.

**811—14.9(17A,169) Hearing procedures.** The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply to any petition for a waiver filed within a contested case and otherwise apply to agency proceedings for a waiver only when the board so provides by rule or order or is mandated to do so by statute.

**811—14.10(17A,169) Ruling.** An order granting or denying a waiver will be in writing and contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of

## VETERINARY MEDICINE BOARD[811](cont'd)

the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

**14.10(1) *Time for ruling.*** The board will grant or deny a petition for a waiver as soon as practicable but, in any event, within 120 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board will grant or deny the petition no later than the time at which the final decision in that contested case is issued.

**14.10(2) *When deemed denied.*** Failure of the board to grant or deny a petition within the applicable time period is deemed a denial of that petition by the board. However, the board remains responsible for issuing an order denying a waiver.

**14.10(3) *Service of order.*** Within seven days of its issuance, any order issued under this chapter will be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

**811—14.11(17A,169) *Public availability.*** All orders granting or denying a waiver petition will be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or needs to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

**811—14.12(17A,169) *Submission of waiver information.*** Within 60 days of granting or denying a waiver, the board will make a submission on the Internet site established pursuant to Iowa Code section 17A.9A(4) for the submission of waiver information.

**811—14.13(17A,169) *Cancellation of a waiver.*** A waiver issued by the board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver;
2. The alternative means for ensuring that the public health, safety, and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

**811—14.14(17A,169) *Violations.*** Violation of a condition in a waiver order is treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

**811—14.15(17A,169) *Defense.*** After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

**811—14.16(17A,169) *Judicial review.*** Judicial review of a board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code section 17A.9A and chapter 169.

**ARC 7570C****VETERINARY MEDICINE BOARD[811]****Notice of Intended Action****Proposing rulemaking related to contested cases  
and providing an opportunity for public comment**

The Board of Veterinary Medicine hereby proposes to adopt new Chapter 16, “Contested Cases,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is proposed under the authority provided in Iowa Code section 169.5.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 169 and 272C.

*Purpose and Summary*

This proposed rulemaking updates the Board’s contested case rules by removing outdated or redundant provisions that are covered by statute.

These rules were previously included in 811—Chapter 10.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 811—Chapter 14.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on March 29, 2024. Comments should be directed to:

Colin Tadlock  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Phone: 515.518.7609  
Email: [colin.tadlock@iowaagriculture.gov](mailto:colin.tadlock@iowaagriculture.gov)

*Public Hearing*

Public hearings at which persons may present their views orally or in writing will be held as follows:

## VETERINARY MEDICINE BOARD[811](cont'd)

February 29, 2024  
10 a.m.

Second Floor Boardroom  
Wallace State Office Building  
Des Moines, Iowa

March 8, 2024  
10 a.m.

Second Floor Boardroom  
Wallace State Office Building  
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 811—Chapter 16:

CHAPTER 16  
CONTESTED CASES

The board of veterinary medicine adopts, with the following exceptions and amendments, Uniform Rules on Agency Procedure relating to contested cases, which are published at [www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf) on the general assembly's website.

**811—16.1(17A) Scope and applicability.** In lieu of “(agency name)” insert “board of veterinary medicine”.

**811—16.2(17A) Definitions.** In lieu of “(agency name)” insert “board of veterinary medicine”.

“*Contested case*” means the same as defined in Iowa Code section 17A.2(5).

“*Presiding officer*” means the chairperson of the board or designee.

**811—16.3(17A) Time requirements.**

**16.3(2)** For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer will afford all parties an opportunity to be heard or to file written arguments.

**811—16.5(17A) Notice of hearing.** The board will issue an order, notice of hearing, and statement of charges following its determination of probable cause pursuant to Iowa Code section 17A.12(2). Delivery of the notice of hearing constitutes the commencement of the contested case proceeding.

**16.5(1) Notice.**

*a.* The date, time, and location of the hearing will be set by the board. The credential holder will be notified at least 30 days prior to the scheduled hearing.

*b.* Notification will be in writing delivered either by personal service as in civil actions or by certified mail with return receipt requested. When the credential holder cannot be located:

(1) An affidavit will be prepared outlining the measures taken to attempt service and will become a part of the record when a notice cannot be delivered by personal service or certified mail, return receipt requested.

## VETERINARY MEDICINE BOARD[811](cont'd)

(2) Notice of hearing will be published once each week for three consecutive weeks in a newspaper of general circulation, published or circulated in the county of last-known residence of the credential holder. The newspaper will be selected by the secretary or designee. The first notice of hearing will be published at least 30 days prior to the scheduled hearing.

**811—16.6(17A) Presiding officer.** Disciplinary hearings will be conducted by the board pursuant to Iowa Code section 272C.6. The chairperson of the board will designate the presiding officer in accordance with the provisions of Iowa Code section 17A.11.

**16.6(1)** For nondisciplinary proceedings, any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections, appeals, and licensing must file a written request within 20 days after service of a notice of hearing.

**16.6(2)** In lieu of “agency (or its designee)” insert “executive secretary”.

*c.* The board does not adopt X.6(2) “c.”

*i.* The request would not conform to the disciplinary hearing provision of Iowa Code section 272C.6.

**16.6(3)** The executive secretary will issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed.

**16.6(4)** The board does not adopt X.6(4).

**16.6(6)** In lieu of “agency heads and members of multimembered agency heads” insert “the board”.

**811—16.9(17A) Disqualification.**

**16.9(4)** If a party asserts disqualification on any appropriate ground, including those listed in subrule 16.9(1), the party must file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer or other person must withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer must enter an order to that effect.

**811—16.12(17A) Service and filing of pleadings and other papers.**

**16.12(3)** *Filing—when required.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding must be filed with the board.

**811—16.15(17A) Motions.**

**16.15(5)** The board does not adopt X.15(5).

**811—16.17(17A) Continuances.** The executive secretary has the authority to grant a continuance after consultation, if needed, with the chairperson of the board.

A request for continuance of a contested case matter must be submitted in writing to the board not later than seven days prior to the scheduled date of the hearing. Exceptions may be granted at the discretion of the executive secretary only in situations involving extenuating, extraordinary, or emergency circumstances.

**811—16.19(17A) Intervention.** The board does not adopt X.19.

**811—16.22(17A) Default.**

**16.22(8)** The board does not adopt X.22(8).

**16.22(10)** The board does not adopt X.22(10).

**811—16.23(17A) Ex parte communication.**

## VETERINARY MEDICINE BOARD[811](cont'd)

**16.23(6)** In lieu of “executive director” insert “executive secretary”.

**16.23(9)** Promptly after being assigned to serve as presiding officer on a hearing panel, as a member of a full board hearing, on an intra-agency appeal, or other basis, a presiding officer must disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

**16.23(10)** In lieu of “(agency to designate person to whom violations should be reported)” insert “the board’s executive secretary”.

**811—16.24(17A) Recording costs.** In lieu of “(agency name)” insert “board”.

**811—16.25(17A) Interlocutory appeals.** The board does not adopt X.25.

**811—16.26(17A) Final decision.** When the board presides over reception of the evidence at the hearing, its decision is a final decision.

**16.26(1)** When a panel of specialists presides over the reception of evidence at the hearing, the findings of fact will be considered by the board at the earliest feasible time. The decision of the board is a final decision.

**16.26(2)** A final decision in a contested case proceeding must be in writing and include findings of fact and conclusions of law, separately stated.

*a.* Findings of fact must be accompanied by a concise and explicit statement of underlying facts supporting the findings.

*b.* The decision must include an explanation of why the relevant evidence in the record supports each material finding of fact.

*c.* Conclusions of law must be supported by cited authority or by a reasoned opinion.

**16.26(3)** The decision or order must be promptly delivered to the parties in the manner provided by Iowa Code section 17A.12.

**16.26(4)** The final decision is a public record pursuant to Iowa Code section 272C.6(4).

**811—16.27(17A) Appeals.**

**16.27(1)** *Appeal by party.* Any adversely affected party may appeal a final decision of the board to the district court within 30 days after issuance, in accordance with Iowa Code section 17A.19.

**16.27(2)** *Review.* The board may initiate review of the decision or order on its own motion at any time within 30 days following the issuance of such a decision.

**16.27(3)** *Notice of appeal.* In lieu of “a proposed decision” insert “decision or order”, and in lieu of “(agency name)” insert “board”.

**16.27(4)** *Requests to present additional evidence.* In lieu of “14 days (or other time period designated by the agency)” insert “15 days”. In lieu of “(board, commission, director)” insert “board”.

**16.27(5)** *Scheduling.* In lieu of “(agency name)” insert “board”.

**16.27(6)** *Briefs and arguments.* In lieu of “(board, commission, director)” insert “board”.

**811—16.28(17A) Applications for rehearing.**

**16.28(3)** *Time of filing.* In lieu of “(agency name)” insert “board”.

**16.28(4)** *Notice to other parties.* In lieu of “(agency name)” insert “board”.

**811—16.29(17A) Stays of agency actions.** The board does not adopt X.29.

**811—16.30(17A) No factual dispute contested cases.** If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached,

## VETERINARY MEDICINE BOARD[811](cont'd)

a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

**811—16.31(272C) Disciplinary hearing—fees and costs.**

**16.31(1) Definitions.** As used in this rule in relation to a formal disciplinary action filed by the board against a credential holder:

“*Deposition*” means the testimony of a person taken pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

“*Expenses*” means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

“*Medical examination fees*” means actual costs incurred by the board in a physical, mental, chemical abuse, or other impairment-related examination or evaluation of a credential holder when the examination or evaluation is conducted pursuant to an order of the board.

“*Record*” means the proceedings of the hearing including, but not limited to, the transcript and any documentary evidence admitted or offered at the hearing.

“*Transcript*” means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

“*Witness fees*” means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purpose of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72, as applicable.

**16.31(2) Disciplinary hearing fee.** The board may charge a fee not to exceed the amount authorized in Iowa Code section 272C.6 for conducting a disciplinary hearing that results in disciplinary action taken against the credential holder by the board. An order assessing a fee must be included as part of the board’s final decision. The order must direct the credential holder to deliver payment directly to the department of agriculture and land stewardship as provided in subrule 16.31(6).

**16.31(3) Recovery of related hearing costs.** The board may also recover from the credential holder the costs for transcripts, witness fees and expenses, depositions, and medical examination fees, if disciplinary action is taken. The board may assess these costs in the manner it deems most equitable in accordance with the following:

*a. Transcript costs.* The board may assess the transcript costs against the credential holder pursuant to Iowa Code section 272C.6(6) or against the requesting party pursuant to Iowa Code section 17A.12(7).

(1) The cost of the transcript includes the transcript of the original contested case hearing before the board, as well as transcripts of any other formal proceedings before the board that occur after the notice of the contested case hearing is filed.

(2) In the event of an appeal to the full board from a proposed decision, the appealing party must timely request and pay for the transcript necessary for use in the board appeal process.

*b. Witness fees and expenses.* The parties in a contested case are responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing. In addition, the board may assess a credential holder the witness fees and expenses incurred by witnesses called to testify on behalf of the state of Iowa, provided that the costs are calculated as follows:

(1) The costs for lay witnesses will be determined in accordance with Iowa Code section 622.69. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(2) The costs for expert witnesses will be determined in accordance with Iowa Code section 622.72. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

## VETERINARY MEDICINE BOARD[811](cont'd)

(3) The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences of failure to make such payment are applicable with regard to witnesses who are subpoenaed by either party to testify at the hearing.

(4) The board may assess as costs the meal and lodging expenses necessarily incurred by witnesses testifying at the request of the state of Iowa. Meal and lodging costs shall not exceed the reimbursement employees of the state of Iowa receive for these expenses under the department of revenue guidelines currently in effect.

*c. Deposition costs.* Deposition costs for purposes of allocating costs against a credential holder include only those deposition costs incurred by the state of Iowa. The credential holder is directly responsible for the payment of deposition costs incurred by the credential holder.

(1) The costs for depositions include the cost of transcripts, the daily charge of the court reporter for attending and transcribing the deposition, and all mileage and travel time charges of the court reporter for traveling to and from the deposition that are charged in the ordinary course of business.

(2) If the deposition is of an expert witness, the deposition costs include a reasonable fee for an expert witness. This fee must not exceed the expert's customary hourly or daily fee, and must include the time reasonably and necessarily spent in connection with the deposition, including the time spent in travel to and from the deposition, but excluding time spent in preparation for the deposition.

*d. Medical examination fees.* All costs of physical or mental examinations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation of a pending complaint or as a sanction following a contested case must be paid directly by the credential holder.

**16.31(4) Certification of reimbursable costs.** Within ten days after conclusion of a contested case hearing and before issuance of any final decision assessing costs, the secretary must certify any reimbursable costs to the board. The secretary must calculate the specific costs, certify the costs calculated, and file the certification as part of the record in the contested case. A copy of the certification must be served on each party of record at the time of the filing.

**16.31(5) Assessment of fees and costs.** A final decision of the board imposing disciplinary action against a credential holder must include the amount of any fee assessed. If the board also assesses costs against the credential holder, the final decision must include a statement of costs delineating each category of costs and the amount assessed. The board must specify the time period in which the fees and costs must be paid by the credential holder.

*a.* A party must file an objection to any fees or costs imposed in a final decision in order to exhaust administrative remedies. An objection must be filed in the form of an application for rehearing pursuant to Iowa Code section 17A.16(2).

*b.* The application must be resolved by the board consistent with the procedures for ruling on an application for rehearing. Any dispute regarding the calculations of any fees or costs to be assessed may be resolved by the board upon receipt of the parties' written objections.

**16.31(6) Payment of fees and costs.** Payment for fees and costs assessed pursuant to this rule must be made in the form of a check or money order made payable to the state of Iowa and delivered by the credential holder to the department of agriculture and land stewardship.

**16.31(7) Failure to make payment.** Failure of a credential holder to pay any fees and costs within the time specified in the board's decision constitutes a violation of an order of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 17A, 169, and 272C.

## TREASURER OF STATE

### Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Roby Smith, Superintendent of Credit Unions Katie Averill, Superintendent of Banking James



TREASURER OF STATE[781](cont'd)

Johnson, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for January is 6.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

- 74A.2 Unpaid Warrants ..... Maximum 6.0%
- 74A.4 Special Assessments ..... Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective January 10, 2024, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days .....	Minimum .05%
32-89 days .....	Minimum .05%
90-179 days .....	Minimum 1.85%
180-364 days .....	Minimum 1.45%
One year to 397 days .....	Minimum 1.70%
More than 397 days .....	Minimum 1.20%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Roby Smith, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

February 1, 2023 — February 28, 2023	5.50%
March 1, 2023 — March 31, 2023	5.50%
April 1, 2023 — April 30, 2023	5.75%
May 1, 2023 — May 31, 2023	5.75%
June 1, 2023 — June 30, 2023	5.50%
July 1, 2023 — July 31, 2023	5.50%
August 1, 2023 — August 31, 2023	5.75%

## USURY(cont'd)

September 1, 2023 — September 30, 2023	6.00%
October 1, 2023 — October 31, 2023	6.25%
November 1, 2023 — November 30, 2023	6.50%
December 1, 2023 — December 31, 2023	6.75%
January 1, 2024 — January 31, 2024	6.50%
February 1, 2024 — February 29, 2024	6.00%

ARC 7571C

## STATE PUBLIC DEFENDER[493]

Adopted and Filed

## Rulemaking related to claims for indigent defense services

The State Public Defender hereby amends Chapter 12, “Claims for Indigent Defense Services,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 13B.4(8).

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code sections 815.7(6), 815.7(7) and 815.7(7A) as amended by 2023 Iowa Acts, Senate File 562, and section 815.7A as enacted by 2023 Iowa Acts, Senate File 562.

*Purpose and Summary*

The purpose of this rulemaking is to remove portions of the current administrative rules that became obsolete, outdated, inconsistent, and incompatible with the new statutory enactments in 2023 Iowa Acts, Senate File 562. The legislation increased the hourly rate for payment of claims from the Indigent Defense Fund for attorney and guardian ad litem fees and allowed payment for associated travel time in situations where payment had not been allowed prior to the legislative change.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 29, 2023, as **ARC 7126C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the State Public Defender on January 3, 2024.

*Fiscal Impact*

The estimated annual cost of the increase in the hourly rate of the fees for attorneys and guardians ad litem will be approximately \$2,600,000. The estimated annual cost of the increase in travel time allowed will be approximately \$1,500,000.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Public Defender for a waiver of the discretionary provisions, if any, pursuant to 493—Chapter 6.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

STATE PUBLIC DEFENDER[493](cont'd)

*Effective Date*

This rulemaking will become effective on February 28, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind subrule 12.4(1) and adopt the following **new** subrule in lieu thereof:

**12.4(1)** Unless the attorney has a contract that provides for a different manner or rate of payment, reasonable compensation for the payment of all claims for cases in which the attorney has been appointed shall be calculated on the basis of the hourly rate specified in Iowa Code section 815.7 applicable to the type of case and for the fiscal year during which the appointment was made for attorney or guardian ad litem time, and on the basis of the hourly rate of \$25 per hour for paralegal time to the extent paralegal time is payable under these rules.

ITEM 2. Amend subrule 12.5(4) as follows:

**12.5(4) Travel time.** Time spent by an attorney or guardian ad litem traveling is only payable at the full hourly rate provided in subrule 12.4(1) when the travel is reasonable and necessary to represent the indigent client and the attorney or guardian ad litem is traveling:

*a. to j.* No change.

Otherwise, travel time for an attorney or guardian ad litem is only payable at the rate and in the manner provided in Iowa Code section 815.7A as enacted by 2023 Iowa Acts, Senate File 562. For all uncontested hearings, the attorney or guardian ad litem must file an application for a remote hearing to be entitled to travel time. If the court denies the application, the attorney or guardian ad litem must submit a copy of the application and the denial order with the claim for payment of travel time. If the client wishes to have an uncontested hearing in person, and the attorney or guardian ad litem has no other reason to request an in-person hearing other than to be paid for travel time to attend the hearing in person in view of the client's request, the request for hearing shall be sent to the state public defender at [claims@spd.state.ia.us](mailto:claims@spd.state.ia.us). No application is required to be filed for contested hearings, but the travel time must be clearly identified as being for a contested hearing in the description of the travel on the claim. Travel time payable at any hourly rate counts toward the maximum daily hours allowed pursuant to subrule 12.5(1). No amount is payable for travel time at any hourly rate if the time is otherwise being paid at the full hourly rate provided in subrule 12.4(1).

ITEM 3. Reserve **493—Chapter 15**.

[Filed 1/3/24, effective 2/28/24]

[Published 1/24/24]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/24/24.