



# IOWA ADMINISTRATIVE BULLETIN

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Pages 1497 to 1566

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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]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

### CITATION of Administrative Rules

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

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)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

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 Rule Making 2016

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
19	Friday, February 26, 2016	March 16, 2016
20	Friday, March 11, 2016	March 30, 2016
21	Friday, March 25, 2016	April 13, 2016

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator's office.

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, March 4, 2016, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Supplemental Agenda to be published in the March 2, 2016, Iowa Administrative Bulletin.

**ALCOHOLIC BEVERAGES DIVISION[185]**

COMMERCE DEPARTMENT[181]"umbrella"

Filling and selling of beer in a container other than the original container by Class "C" beer permit holders, 4.1, 4.6 Filed **ARC 2382C**..... 2/3/16

**EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"

Early childhood education—elementary endorsements, 13.26 Notice **ARC 2412C**..... 2/17/16

Professional school counselor endorsement—practicum and internship hours, 13.28, 27.3 Filed **ARC 2397C**..... 2/17/16

Substitute authorization, 22.2 Notice **ARC 2411C**..... 2/17/16

Early childhood paraeducator area of concentration, 24.4(1) Notice **ARC 2410C**..... 2/17/16

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

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Fundamentals of land surveying examination application process; board verification of education and experience of candidates for engineering licensure, 3.2(2), 4.1(2)"e" Filed **ARC 2388C**..... 2/3/16

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

Mission of commission—membership, 100.1 Filed **ARC 2383C**..... 2/3/16

Operations of commission, 101.2, 101.5(2), 101.7(1) Filed **ARC 2384C**..... 2/3/16

Local emergency planning committee, 103.1(1), 103.2, 103.3(2), 103.4, 103.7 Filed **ARC 2385C**..... 2/3/16

Required reports and records, amendments to ch 104 Filed **ARC 2386C**..... 2/3/16

**HUMAN SERVICES DEPARTMENT[441]**

Habilitation and brain injury and intellectual disability waiver programs—prevocational and supported employment services, amendments to chs 77 to 79, 83 Amended Notice **ARC 2380C**..... 2/3/16

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Contested case hearings—subpoenas, 10.14 Filed **ARC 2404C**..... 2/17/16

Residential care facilities—training requirements for certified medication aides and medication managers, 57.19(3), 62.15(2), 63.18(3) Notice **ARC 2395C**..... 2/3/16

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Authorized methods of delivery of notices of cancellation, nonrenewal or termination, 4.24, 20.80, 30.9, 35.9, 39.33, 40.26 Filed **ARC 2415C**..... 2/17/16

Corporate governance annual disclosure, ch 111 Filed **ARC 2377C**..... 2/3/16

**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

Contribution rates; death and disability benefits; Section 125 plans; termination of employment; qualified domestic relations orders; alternate payees, amendments to chs 4 to 6, 8, 9, 11, 13, 14, 16, 17, 26 Filed **ARC 2402C**..... 2/17/16

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Alterations—residential elevators installed in public buildings, escalators, 71.10(3), 72.13(6), 73.8(7) Filed **ARC 2396C**..... 2/17/16

Boilers and pressure vessels—adoption of current industry standards by reference, 90.6(1), 91.1 Filed **ARC 2403C**..... 2/17/16

Boilers and pressure vessels—incident reporting requirements, 90.11, 91.1(6), 91.20 Notice **ARC 2419C**..... 2/17/16

Hazardous chemical inventory, amend 130.10(3), 140.8(3); rescind 130.11, 130.12, 140.9 Notice **ARC 2394C**..... 2/3/16

Employer requirements relating to non-English speaking employees, 160.1, 160.3, 160.4, 160.7(1), 160.8, 160.9, 160.10(1) Notice **ARC 2389C**..... 2/3/16

**MANAGEMENT DEPARTMENT[541]**

Contract compliance, rescind ch 4 Notice **ARC 2400C** ..... 2/17/16

**MEDICINE BOARD[653]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Standards of practice—prescribing epinephrine auto-injectors in the name of an authorized facility, 13.12 Filed **ARC 2387C** ..... 2/3/16

**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Special nonresident deer and turkey licenses, 15.26 Filed **ARC 2398C** ..... 2/17/16

Waterfowl and coot hunting seasons, 91.1, 91.3, 91.6 Notice **ARC 2409C** ..... 2/17/16

**NATURAL RESOURCES DEPARTMENT[561]**

Special deer and turkey hunting licenses for nonresident disabled veterans or disabled members of the armed forces, 12.2 to 12.18 Filed **ARC 2379C** ..... 2/3/16

**PHARMACY BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Pharmacist-intern application for registration—acceptance of individual tax identification number, 4.6(1) Filed **ARC 2405C** ..... 2/17/16

Authorization of registrants to administer a controlled substances collection program, amendments to chs 6 to 8, 10, 17, 23 Filed **ARC 2408C** ..... 2/17/16

Pharmacy practice—prescribing epinephrine auto-injectors in the name of a facility, 6.10(1), 8.19 Filed **ARC 2414C** ..... 2/17/16

Reporting of continuous quality improvement (CQI) program event, 8.26(5) Filed **ARC 2413C** ..... 2/17/16

Temporary designation of controlled substances, 10.38 Filed **ARC 2407C** ..... 2/17/16

Compounded drug products—office use, 20.2, 20.15 Notice **ARC 2418C** ..... 2/17/16

Patient med pak record keeping, 22.5(8) Filed **ARC 2406C** ..... 2/17/16

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Minimum standards for appropriate supervision of a physician assistant by a physician, 327.8 Notice **ARC 2417C** ..... 2/17/16

**PUBLIC HEALTH DEPARTMENT[641]**

Immunization registry information system (IRIS)—refugee health screening, 7.1, 7.12(5) Filed **ARC 2390C** ..... 2/3/16

Driving policy and documented training for EMS providers, 132.8 Filed **ARC 2391C** ..... 2/3/16

**REVENUE DEPARTMENT[701]**

Innocent spouse relief from income tax liability, 38.15 Filed **ARC 2393C** ..... 2/3/16

**SECRETARY OF STATE[721]**

Safe at home program, ch 6 Notice **ARC 2416C** ..... 2/17/16

**STATE PUBLIC DEFENDER[493]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Claims of contract attorneys and other professionals, 1.3(2), 11.3, 11.7(2), 11.9, 12.2, 12.5(5), 12.8(1), 13.2 Filed **ARC 2378C** ..... 2/3/16

**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]**

Confidential records—exception relating to security procedures or emergency preparedness, 2.13(2) Notice **ARC 2381C** ..... 2/3/16

**TRANSPORTATION DEPARTMENT[761]**

Farm-to-market review board, 101.3(1), 101.4 Filed **ARC 2392C** ..... 2/3/16

Adoption by reference of federal motor carrier safety and hazardous materials regulations, 520.1(1) Notice **ARC 2401C** ..... 2/17/16

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

Honor guard services, 14.4(11) Notice **ARC 2399C** ..... 2/17/16

**VOTER REGISTRATION COMMISSION[821]**

Online voter registration, 2.4, 2.8(2), 8.1, 11.6 Filed Emergency After Notice **ARC 2376C** ..... 2/3/16

**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 Mark Chelgren  
819 Hutchinson  
Ottumwa, Iowa 52501

Senator Mark Costello  
37265 Rains Avenue  
Imogene, Iowa 51645

Senator Thomas Courtney  
2609 Clearview  
Burlington, Iowa 52601

Senator Wally Horn  
101 Stoney Point Road, SW  
Cedar Rapids, Iowa 52404

Senator Pam Jochum  
2368 Jackson Street  
Dubuque, Iowa 52001

Jack Ewing  
**Legal Counsel**  
Capitol  
Des Moines, Iowa 50319  
Telephone (515)281-6048  
Fax (515)281-8451

Representative Lisa Heddens  
2401 Westwind Drive  
Ames, Iowa 50010

Representative Megan Jones  
4470 Highway 71  
Sioux Rapids, Iowa 50585

Representative Rick Olson  
3012 East 31st Court  
Des Moines, Iowa 50317

Representative Dawn Pettengill  
P.O. Box A  
Mt. Auburn, Iowa 52313

Representative Guy Vander Linden  
1610 Carbonado Road  
Oskaloosa, Iowa 52577

Colin Smith  
**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 18  
Des Moines, Iowa 50319  
Telephone (515)281-5211

**EDUCATIONAL EXAMINERS BOARD[282]**

Early childhood education—elementary endorsements, 13.26 IAB 2/17/16 <b>ARC 2412C</b>	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	March 9, 2016 1 p.m.
Substitute authorization, 22.2 IAB 2/17/16 <b>ARC 2411C</b>	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	March 9, 2016 1 p.m.
Early childhood paraeducator area of concentration, 24.4(1) IAB 2/17/16 <b>ARC 2410C</b>	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	March 9, 2016 1 p.m.

**LABOR SERVICES DIVISION[875]**

Boilers and pressure vessels—incident reporting requirements, 90.11, 91.1(6), 91.20 IAB 2/17/16 <b>ARC 2419C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	March 9, 2016 1 p.m. (If requested)
Hazardous chemical inventory, amend 130.10(3), 140.8(3); rescind 130.11, 130.12, 140.9 IAB 2/3/16 <b>ARC 2394C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	February 24, 2016 2:30 p.m. (If requested)
Employer requirements relating to non-English speaking employees, amendments to ch 160 IAB 2/3/16 <b>ARC 2389C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	February 24, 2016 1:30 p.m. (If requested)

**NATURAL RESOURCE COMMISSION[571]**

Waterfowl and coot hunting seasons, 91.1, 91.3, 91.6 IAB 2/17/16 <b>ARC 2409C</b>	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 8, 2016 2 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Minimum standards for appropriate supervision of a physician assistant by a physician, 327.8 IAB 2/17/16 <b>ARC 2417C</b>	Fifth Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 9, 2016 9 to 11 a.m.
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**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]**

Confidential records—exception relating to security procedures or emergency preparedness, 2.13(2) IAB 2/3/16 <b>ARC 2381C</b>	ICN Director's Conference Room Grimes State Office Bldg. Des Moines, Iowa	February 23, 2016 10 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Federal motor carrier safety and hazardous materials regulations, 520.1(1) IAB 2/17/16 <b>ARC 2401C</b>	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	March 10, 2016 10 a.m. (If requested)
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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.

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## ARC 2412C

## EDUCATIONAL EXAMINERS BOARD[282]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

An endorsement revision work group comprised of early childhood educators, Department of Education and Board of Educational Examiners consultants, and higher education faculty from two regents institutions and two private institutions has been working for approximately 18 months on revising the coursework requirements for early childhood education to reflect national standards and the changing needs of Iowa’s children. The length of time dedicated to this process reflects the group’s desire to wait for national standards revisions before moving forward. The proposed amendment outlines the following recommended revisions to the early childhood endorsement:

- Update the requirements for endorsement 100 (birth-grade 3 inclusive) to reflect national standards for both regular education and special education students in early childhood inclusive settings.
- Update the requirements for endorsement 103 (PK-K) to reflect national standards in early childhood education, which include a minimum of 18 semester hours of coursework.
- Require that candidates for endorsement 103 also have the K-6 elementary classroom teacher endorsement 102 (endorsement 103 cannot be offered stand alone).
- Eliminate endorsement 106, which will become redundant with the adoption of the preceding recommendation. Institutes of higher education (IHE) programs that still offer endorsement 106 can instead offer the updated endorsement 103 with endorsement 102, or offer endorsement 100.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, March 11, 2016. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, March 9, 2016, at 1 p.m. in Room 3 SW, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, at the above address, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

This amendment is subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Amend rule 282—13.26(272) as follows:

**282—13.26(272) Requirements for elementary endorsements.**

**13.26(1) *Teacher—prekindergarten-kindergarten.***

*a. Authorization.* The holder of this endorsement is authorized to teach at the prekindergarten-kindergarten level. Applicants for this endorsement must also hold the teacher—elementary classroom endorsement set forth in subrule 13.26(5).

*b. Content.* Coursework must total a minimum of 18 semester hours and shall include the following:

~~(1) Human growth and development: infancy and early childhood, unless completed as part of the professional education core.~~

~~(2) Curriculum development and methodology for young children.~~

~~(3) Child-family-school-community relationships (community agencies).~~

~~(4) Guidance of young children three to six years of age.~~

~~(5) Organization of prekindergarten-kindergarten programs.~~

~~(6) Child and family nutrition.~~

~~(7) Language development and learning.~~

~~(8) Kindergarten: programs and curriculum development.~~

(1) Child development and learning to include young children's characteristics and needs, with an emphasis on cognitive, language, physical, social, and emotional development, both typical and atypical, the multiple interacting influences on early development, and the creation of environments that are healthy, respectful, supportive, and challenging for each and every child.

(2) Building family and community relationships to include understanding that successful early childhood education depends upon reciprocal and respectful partnerships with families, communities, and agencies, that these partnerships have complex and diverse characteristics, and that all families should be involved in their children's development and learning.

(3) Assessment in early childhood to include child observation, documentation, and data collection, the development of appropriate goals, the benefits and uses of assessment for curriculum and instructional strategies, the use of technology when appropriate for assessment and adaptations, and building assessment partnerships with families to positively influence the development of each child.

(4) Developmentally effective approaches to include understanding how positive relationships and supportive interactions are the foundation of working with young children and families; knowing and understanding a wide array of developmentally appropriate approaches, including play and creativity, instructional strategies, and tools to connect with children and families; and reflecting on the teacher's own practice to promote positive outcomes for each child.

(5) Content knowledge to build a meaningful curriculum through the use of academic disciplines, including language and literacy, the arts (music, drama, dance, and visual arts), mathematics, science, social studies, physical activity, and health, for designing, implementing, and evaluating inquiry-based experiences that promote positive development and learning for each child.

(6) Collaboration and professionalism to include involvement in the early childhood field, knowledge about ethical and early childhood professional standards, engagement in continuous collaborative learning to inform practice, reflective and critical perspectives on early childhood education, and informed advocacy for young children and the profession.

(7) Field experiences and opportunities to observe and practice in a variety of early childhood settings, which include, at a minimum, 40 hours of observation and practice in a variety of preschool settings such as urban, rural, socioeconomic status, cultural diversity, program types, and program sponsorship.

(8) Historical, philosophical, and social foundations of early childhood education.

(9) Student teaching in a prekindergarten setting.

**13.26(2) *Teacher—prekindergarten birth through grade three, inclusive settings.***

*a. Authorization.* The holder of this endorsement is authorized to teach children from birth through grade three in inclusive settings.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*b. Content.*

~~(1) Child growth and development with emphasis on cognitive, language, physical, social, and emotional development, both typical and atypical, for infants and toddlers, preprimary, and primary school children (grades one through three), unless combined as part of the professional education core.~~

~~(2) Historical, philosophical, and social foundations of early childhood education.~~

~~(3) Developmentally appropriate curriculum with emphasis on integrated multicultural and nonsexist content including language, mathematics, science, social studies, health, safety, nutrition, visual and expressive arts, social skills, higher-thinking skills, and developmentally appropriate methodology, including adaptations for individual needs, for infants and toddlers, preprimary, and primary school children.~~

~~(4) Characteristics of play and creativity, and their contributions to the cognitive, language, physical, social and emotional development and learning of infants and toddlers, preprimary, and primary school children.~~

~~(5) Classroom organization and individual interactions to create positive learning environments for infants and toddlers, preprimary, and primary school children based on child development theory emphasizing guidance techniques.~~

~~(6) Observation and application of developmentally appropriate assessments for infants and toddlers, preprimary, and primary school children recognizing, referring, and making adaptations for children who are at risk or who have exceptional educational needs and talents.~~

~~(7) Home-school-community relationships and interactions designed to promote and support parent, family and community involvement, and interagency collaboration.~~

~~(8) Family systems, cultural diversity, and factors which place families at risk.~~

~~(9) Child and family health and nutrition.~~

~~(10) Advocacy, legislation, and public policy as they affect children and families.~~

~~(11) Administration of child care programs to include staff and program development and supervision and evaluation of support staff.~~

~~(12) Pre-student teaching field experience with three age levels in infant and toddler, preprimary, and primary programs, with no less than 100 clock hours, and in different settings, such as rural and urban, socioeconomic status, cultural diversity, program types, and program sponsorship.~~

~~(13) Student teaching experiences with two different age levels, one before kindergarten and one from kindergarten through grade three.~~

(1) Promoting child development and learning and individual learning differences.

1. Understand the nature of child growth and development for infants and toddlers (birth through age 2), pre-primary (age 3 through age 5) and primary school children (age 6 through age 8), both typical and atypical, in areas of cognition, language development, physical motor, social-emotional, mental health, aesthetics, and adaptive behavior and how these impact development and learning in the first years of life, including the etiology, characteristics, and classifications of common disabilities in infants and young children and specific implications for development and learning.

2. Recognize that children are best understood in the contexts of family, culture and society and that cultural and linguistic diversity, stress, risk factors, biological and environmental factors, family strengths, and trauma influence development and learning at all stages including pre-, peri, and post-natal development and learning. Communicate the importance of responsive care to a child's development of identity and sense of self.

3. Use developmental knowledge to create learning environments and classroom procedures that promote positive social interaction, active engagement, high expectations for learning, mutual respect, and self-regulation through individually appropriate expectations and positive guidance techniques for each child to meet the child's optimum potential regardless of proficiency. Implement and evaluate preventative and reductive strategies to address challenging behaviors. Use motivational and instructional interventions to teach individuals with exceptionalities how to adapt to different environments. Know how to intervene safely and appropriately with individuals in crisis.

4. Use both child-initiated and teacher-facilitated instructional methods, including strategies such as small and large group projects, play, systematic instruction, group discussion and cooperative decision

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

making. Organize space, time, materials, peers, and adults to maximize progress in natural and structured environments. Embed learning opportunities in everyday routines, relationships, activities, and places. Understand the impact of social and physical environments on development and learning.

5. Engage in intentional practices and implement learning experiences that value diversity and demonstrate understanding that bias and discrimination impact development. Understand how language, culture, and family background influence and support the learning of each child.

(2) Building family and community relationships.

1. Build family and community relationships to include understanding that successful early childhood education depends upon reciprocal and respectful partnerships with families, communities, and agencies, that these partnerships have complex and diverse characteristics, and that all families should be involved in their children's development and learning.

2. Understand diverse family and community characteristics and how language, culture, and family background influence and support children's learning, and apply that knowledge to develop, implement, and evaluate learning experience and strategies that respect and reflect the diversity of children and their families.

3. Understand how to apply theories and knowledge of dynamic roles and relationships within and between families, schools, and communities. Recognize how to adapt consistently to the expressed and observed strengths and needs of the family, including two-way communication, and how to support families' choices and priorities in the development of goals and intervention strategies.

4. Understand how to coordinate with all (caregivers, professionals, and agencies) who provide care and learning opportunities for each child by developing a community of support for children and families through interagency collaboration to include agreements, referrals, and consultation.

(3) Observing, documenting, and assessing to support young children and families.

1. Use technically sound formal and informal assessments that minimize bias and evaluation results to adapt and guide instruction. Demonstrate a range of appropriate assessment and evaluation strategies (e.g., family interview, observation, documentation, assessment instrument) to support individual strengths, interests, and needs.

2. Design curricula, assessments, and teaching and intervention strategies that align with learner and program goals, including the development of individualized family service plans (IFSPs) and individualized education plans (IEPs). Assist families in identifying resources, priorities, and concerns in relation to the child's development. Understand and utilize assessment partnerships with families and with professional colleagues to build effective learning environments. Understand the role of the families in the assessment process and support the choices they make (e.g., observer, participant). Participate as a team member to integrate assessment results in the development and implementation of individualized plans.

3. Understand and utilize observation, documentation, and other appropriate assessment tools and approaches, including the use of technology in documentation, assessment and data collection. Implement authentic assessment based on observation of spontaneous play. Demonstrate knowledge of alignment of assessment with curriculum, content standards, and local, state, and federal requirements. Assess progress in the developmental domains, play, and temperament.

4. Understand and utilize responsible assessments to promote positive outcomes for each child, including the use of assistive technology for children with disabilities. Use a variety of materials and contexts to maintain the interest of infants and young children in the assessment process.

5. Implement current educational, legal, and ethical guidelines when using assessment practices to support children's individual strengths, interests, and needs (e.g., cultural, linguistic, ability diversity).

(4) Using developmentally and individually effective approaches to connect with children and families.

1. Understand positive relationships and supportive interactions as the foundation of the teacher's work with young children. Reflect on the teacher's own practice to promote positive outcomes for each child and family.

2. Develop, implement, and evaluate individualized plans, including IFSPs and IEPs, as a team leader with families and other professionals. Demonstrate appropriate and effective supports for

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

children and families transitioning into and out of programs or classrooms. Seek and use additional resources and agencies outside the program/school when needed to effectively facilitate the learning and social/emotional development of each child.

3. Plan, develop, implement, and evaluate integrated learning experiences for home-, center- and school-based environments for infants, toddlers, preprimary and primary children, their families, and other care providers based on knowledge of individual children, the family, and the community. Select, develop, and evaluate developmentally and functionally appropriate materials, equipment, and environments. Develop adaptations and accommodations for infants, toddlers, preprimary, and primary children to meet their individual needs. Use a broad repertoire of developmentally and individually appropriate teaching/learning approaches and effective strategies and tools for early education, including appropriate uses of technology. Facilitate child-initiated development and learning.

4. Consider an individual's abilities, interests, learning environments, and cultural and linguistic factors in the selection, development, and adaptation of learning experiences for individuals with exceptionalities. Use teacher-scaffolded and initiated instruction to complement child-initiated learning. Link development, learning experiences, and instruction to promote educational transitions. Use individual and group guidance and problem-solving techniques to develop supportive relationships with and among children. Use strategies to teach social skills and conflict resolution.

5. Implement basic health, nutrition, and safety management procedures including the design of physically and psychologically safe and healthy indoor and outdoor environments to promote development and learning. Recognize signs of emotional distress, physical and mental abuse and neglect in young children and understand mandatory reporting procedures. Demonstrate proficiency in infant-child cardiopulmonary resuscitation, emergency procedures and first aid.

6. Understand principles of administration, organization, and operation of programs for children from birth to age 8 and their families, including staff and program development, supervision, evaluation of staff, and continuing improvement of programs and services. Employ adult learning principles in consulting and training family members and service providers.

7. Demonstrate the ability to collaborate with general educators and other colleagues to create safe, inclusive, culturally responsive learning environments to engage individuals with exceptionalities and diverse abilities in meaningful learning activities and social interactions.

(5) Using content knowledge to build a meaningful curriculum.

1. Develop and implement appropriate current research-supported learning experiences with a focus on the developmental domains, play, temperament, language and literacy to include first (home) and second language acquisition, mathematics, science, the arts (music, visual art, and drama), physical activity, health and safety, social studies, social skills, higher-thinking skills, and developmentally and individually appropriate methodology. Methods courses are required for the following areas: literacy, mathematics, social studies, science, physical education and wellness, and visual and performing arts.

2. Use the Iowa Early Learning Standards and the Iowa Core with information from ongoing child observations and assessments to plan, implement, and evaluate appropriate instruction that improves academic and developmental progress of each child, including those with IFSPs/IEPs.

3. Understand the central concepts, structures of the discipline, and tools of inquiry of content areas taught, and demonstrate the ability to organize this knowledge, integrate cross disciplinary skills, and develop meaningful learning progressions for individuals with exceptionalities (diverse abilities).

4. Modify general and specialized curricula to make them accessible to individuals with exceptionalities (diverse abilities). Develop adaptations and accommodations for infants, toddlers, preprimary, and primary children to meet their individual needs.

(6) Professional responsibilities.

1. Demonstrate awareness of early childhood program criteria including the following: National Association for the Education of Young Children (NAEYC), Iowa Early Learning Standards, Head Start Performance Standards, and Iowa Quality Preschool Program Standards (IQPPS).

2. Collaborate with supervisors, mentors, and colleagues to enhance professional growth within and across disciplines to inform practice, including the use of data for decision making, and understand

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

how to design and implement a professional development plan based on student achievement, self, peer, and supervisory evaluations and recommended practices.

3. Understand the significance of lifelong learning and participate in professional activities and learning communities. Participate in activities of professional organizations relevant to early childhood regular education, special education, and early intervention.

4. Use relevant national and state professional guidelines (national, state, or local), state curriculum standards, and current trends for content and outcomes and to inform and improve practices for young children and their families.

5. Adhere to state and national professional and ethical principles, practices, and codes.

6. Advocate for developmentally and individually appropriate practice, demonstrate awareness of issues that affect the lives of each child, and demonstrate necessary communication skills.

7. Understand historical, philosophical and foundational knowledge and how current issues and the legal bases of services influence professional practice in early childhood, early intervention, early childhood special education, and general and regular education in the K-3 age groups. Understand trends and issues in early childhood education, early childhood special education, and early intervention.

8. Provide guidance and direction to paraeducators, tutors, and volunteers.

(7) Early childhood field experiences.

1. Pre-student teaching field experiences, which must comprise a minimum of 100 clock hours, to include at least 20 hours of working with each age group (infants and toddlers, preprimary, and primary).

2. Experiences working in at least three settings that offer early childhood education, such as child care centers and family child care homes, school-based preschool, community agencies, or home visiting programs.

3. Experiences working with children who have a range of abilities and disabilities and who reflect diverse family systems and other differentiating factors, such as urban and rural, socioeconomic status, and cultural and linguistic diversity.

4. Completion of supervised student teaching experience in at least two different settings including homes, state-accredited centers, or classrooms which include both children with and without disabilities in two of three age levels: infant and toddler, preprimary, and primary.

**13.26(3) to 13.26(5)** No change.

**ARC 2411C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 22, “Authorizations,” Iowa Administrative Code.

The proposed amendment would allow the Board to issue the substitute authorization on the paraeducator certificate, which will clarify the limitations of a paraeducator who applies for a substitute authorization and remove the requirement for a separate renewal. The proposed amendment would also lengthen the substitute authorization to five years to mirror other license types.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, March 11, 2016. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, March 9, 2016, at 1 p.m. in Room 3 SW, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, at the above address, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

This amendment is subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

Amend rule 282—22.2(272) as follows:

**282—22.2(272) Substitute authorization.** A substitute authorization allows an individual to substitute in grades PK-12 for no more than 5 consecutive days and no more than 10 days in a 30-day period in one job assignment for a regularly assigned teacher who is absent, except in the driver’s education classroom. A school district administrator may file a written request with the board for an extension of the 10-day limit in one job assignment on the basis of documented need and benefit to the instructional program. The licensure committee will review the request and provide a written decision either approving or denying the request. An individual who holds a paraeducator certificate without a bachelor’s degree and completes the substitute authorization program is authorized to substitute only in the special education classroom in which the individual paraeducator is employed. For these individuals, the authorization will appear on the paraeducator certificate and will not include separate renewal requirements.

**22.2(1) Application process.** Any person interested in the substitute authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at <http://www.boee.iowa.gov/> or from institutions or agencies offering approved courses or contact hours.

a. No change.

b. *Validity.* The substitute authorization shall be valid for ~~three~~ five years.

c. No change.

**22.2(2) and 22.2(3)** No change.

**ARC 2410C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 24, “Paraeducator Certificates,” Iowa Administrative Code.

A committee of paraeducator preparation program staff members, Department of Education staff, and Board of Educational Examiners staff met over several months to examine possible changes to the

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

early childhood paraeducator area of concentration. The proposed amendment, which is the result of the committee's work, would replace the current early childhood paraeducator area of concentration.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, March 11, 2016. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, March 9, 2016, at 1 p.m. in Room 3 SW, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, at the above address, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

This amendment is subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

Amend subrule 24.4(1) as follows:

**24.4(1) Early childhood—prekindergarten through grade 3.** The paraeducator shall successfully complete the following list of competencies ~~so that, under the direction and supervision of a qualified classroom teacher, the paraeducator will be able to:~~

- ~~a. Reinforce skills, strategies, and activities involving individuals or small groups.~~
- ~~b. Participate as a member of the team responsible for developing service plans and educational objectives for parents and their children.~~
- ~~c. Listen to and communicate with parents in order to gather information for the service delivery team.~~
- ~~d. Demonstrate knowledge of services provided by health care providers, social services, education agencies, and other support systems available to support parents and provide them with the strategies required to gain access to these services.~~
- ~~e. Demonstrate effective strategies and techniques to stimulate cognitive, physical, social, and language development in the student.~~
- ~~f. Gather information as instructed by the classroom teacher about the performance of individual children and their behaviors, including observing, recording, and charting, and share information with professional colleagues.~~
- ~~g. Communicate and work effectively with parents and other primary caregivers.~~

a. Foundations. Under the supervision of a licensed education professional, the paraeducator will:

- (1) Know and understand young children's typical and atypical developmental stages and their needs at each stage.
- (2) Recognize multiple influences on young children's development and learning.
- (3) Recognize developmentally appropriate practices for interactions with and the education of young children.

b. Learning environment. Under the supervision of a licensed education professional, the paraeducator will:

- (1) Describe the elements of environments that support children's learning and well-being.
- (2) Demonstrate skills, strategies, and activities involving an individual child or small groups of children to reinforce instruction from a licensed teacher.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(3) Set up environments that are safe, inclusive, and responsive to children's developmental strengths, interests and needs.

c. Content and instruction. Under the supervision of a licensed education professional, the paraeducator will:

(1) Recognize effective strategies and techniques to stimulate cognitive, physical, social, emotional, and language development for each child in a developmentally appropriate way.

(2) Demonstrate knowledge and understanding of the Iowa Early Learning Standards by describing what young children know and do in order to provide experiences and interactions to promote learning.

(3) Gather information, as instructed by the classroom teacher, about an individual child's development, learning and behaviors including observing, recording, and charting.

d. Emotional and behavioral competencies. Under the supervision of a licensed education professional, the paraeducator will:

(1) Gather information, as instructed by the classroom teacher, to identify children's skills and provide appropriate levels of support needed for the children to access, participate and engage in activities.

(2) Implement teacher-designed intervention plans to promote positive social relationships, interactions and behaviors that are age- and developmentally appropriate.

e. Professional relationships. Under the supervision of a licensed education professional, the paraeducator will:

(1) Demonstrate the ability to collaborate with an educational team to systematically and regularly exchange information to support problem solving, planning, and the implementing of instruction and individualized interventions.

(2) Demonstrate the ability to establish relationships with all children and their families that are respectful, supportive and sensitive.

(3) Demonstrate a collaborative relationship with the teacher to support children's learning.

(4) Demonstrate knowledge of community services and agencies available to assist families.

f. Ethical and professional practice. Under the supervision of a licensed education professional, the paraeducator will:

(1) Demonstrate knowledge of Iowa Early Learning Standards and the preschool program standards being implemented, which may include the Iowa Quality Preschool Program Standards, Head Start Program Performance Standards and National Association for the Education of Young Children (NAEYC) Program Standards and Accreditation Criteria.

(2) Reserved.

**ARC 2419C**

## **LABOR SERVICES DIVISION[875]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby gives Notice of Intended Action to amend Chapter 90, “Administration of the Boiler and Pressure Vessel Program,” and Chapter 91, “General Requirements for All Objects,” Iowa Administrative Code.

This notice includes several changes to reporting requirements for boilers and unfired steam pressure vessels and organizes reporting requirements in one rule.

Rule 875—90.11(89) currently requires owners of boilers and pressure vessels to report explosions to the Division of Labor. However, boiler incidents other than explosions can damage equipment and

## LABOR SERVICES DIVISION[875](cont'd)

can be evidence that the equipment needs to be repaired or replaced. Thus, this proposal would expand the required reporting to include certain injuries and illnesses.

Contractors who perform certain alterations and repairs on boilers and unfired steam pressure vessels are already required to complete reports and submit them to the National Board of Boiler and Pressure Vessel Inspectors. This proposal would require that contractors file those same reports with the Iowa Labor Commissioner.

The proposal would move existing reporting requirements concerning controls and safety devices to the same rule as the reporting requirements listed above.

The purposes of these amendments are to protect the health and safety of the public and implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on March 8, 2016, a public hearing will be held on March 9, 2016, at 1 p.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than March 9, 2016, to the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov).

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

These amendments are intended to implement Iowa Code chapter 89.

The following amendments are proposed.

ITEM 1. Rescind rule 875—90.11(89) and adopt the following **new** rule in lieu thereof:

**875—90.11(89) Reporting requirements.**

**90.11(1) Control and safety device reports.** Documentation required by this subrule shall be kept on site and shall be available for inspection.

*a.* The requirements of this subrule do not apply to:

- (1) An object within the scope of 875—Chapter 95;
- (2) An object within the scope of 875—Chapter 96;
- (3) A hot water supply boiler covered by ASME Section IV, Part HLW; or
- (4) A boiler with a fuel input rating greater than or equal to 12,500,000 Btu per hour, falling within the scope of NFPA 85, Boiler and Combustion Systems Hazards Code.

*b.* The installer shall complete a Manufacturer’s/Installing Contractor’s Report for ASME CSD-1 (CSD-1 report) for each newly installed or reinstalled object.

*c.* A person who installs a new burner, new gas train, or new controller on an object shall complete a CSD-1 report.

*d.* A person who replaces a part or component of an object shall complete the relevant portions of the CSD-1 report unless the replacement satisfies the design specifications. A copy of an invoice containing the same information as the relevant portions of the CSD-1 report is an acceptable alternative.

**90.11(2) Reporting repairs and alterations.** If the National Board Inspection Code requires that an R-1 Report of Repair or an R-2 Report of Alteration be filed with the National Board, a copy of the National Board form must be simultaneously filed with the labor commissioner.

**90.11(3) Reporting explosions and other incidents.**

*a.* The following definitions apply to this subrule.

“*Incident*” means the explosion of a covered object or other failure of a component of a covered object causing injury or acute illness.

“*Injury*” means a personal injury requiring professional medical care or causing disability exceeding one day.

*b.* The owner or user of a covered object shall notify the commissioner of an incident. A special inspector investigating an incident shall notify the owner or user of this reporting requirement.

## LABOR SERVICES DIVISION[875](cont'd)

*c.* Incident reports shall be made by calling (515)281-3647 or (515)281-6533. If the incident occurs during normal division operating hours, notification shall occur before close of business on that day. If the incident occurs when the division office is closed, the notification shall occur no later than close of business on the next division business day. Division hours are 8 a.m. to 4:30 p.m., Monday through Friday, except state holidays.

*d.* At the request of the commissioner, a person who submits a report pursuant to this subrule shall also submit a written report that includes the state identification number of the object, name of the owner of the object, and description of the incident.

*e.* The removal of any part of the damaged object from the premises is forbidden until permission to do so is granted by the state inspector or special inspector who investigated the incident.

*f.* When an incident involves the failure or destruction of any part of the object, the use of the object is forbidden until it has been made safe and it has passed an inspection by the state inspector or special inspector who investigated the incident.

ITEM 2. Amend subrule 91.1(6) as follows:

**91.1(6)** *Control and safety device code adopted by reference.* Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (2012) is adopted by reference, and reinstallations and installations after October 31, 2013, shall comply with it. Reporting requirements concerning CSD-1 are set forth at rule 875—90.11(89).

ITEM 3. Rescind and reserve rule **875—91.20(89)**.

**ARC 2400C**

**MANAGEMENT DEPARTMENT[541]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 8.6, the Department of Management hereby gives Notice of Intended Action to rescind Chapter 4, “Contract Compliance,” Iowa Administrative Code.

2015 Iowa Acts, House File 510, division V, moved the responsibilities set forth in Iowa Code sections 19B.6, 19B.7 and 19B.8 from the Department of Management to the Department of Administrative Services. As a result, the rescission of 541—Chapter 4 is proposed.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions or on small business.

A waiver provision is not included.

Any interested person may make written suggestions or comments or may request a public hearing on the proposed amendment on or before March 8, 2016. Such written comments or requests for a public hearing should be directed to the Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code section 19B.7.

The following amendment is proposed.

Rescind and reserve **541—Chapter 4**.

**ARC 2409C****NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.38, 481A.39, and 481A.48, the Natural Resource Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 91, “Waterfowl and Coot Hunting Seasons,” Iowa Administrative Code.

Chapter 91 contains the regulations for hunting waterfowl and coots and includes season dates, bag limits, possession limits, shooting hours, and areas open to hunting. The proposed amendments adjust the season dates to comply with what the Department of Natural Resources (Department) anticipates the 2016-2017 federal regulations will be, based upon meetings with the United States Fish and Wildlife Service (USFWS) this year at the Mississippi Flyway Council and review of the proposed regulations contained in 80 Fed. Reg. 77,088-77,122 (Dec. 11, 2015). The proposed amendments also ensure that the seasons open on different weekends and that an experimental special September teal season (all species) is continued for the third year. The federal regulations will likely authorize up to 16 days for the special teal season. However, in response to hunter feedback requesting that ducks have a two-week period of calm and hunter inactivity between the teal and regular duck seasons, the Commission is proposing a 9-day teal season in the north and south zones and a 16-day teal season in the Missouri River zone. This proposal will provide ducks a respite after the teal season in the south zone and an opportunity for the youth waterfowl hunt to occur prior to the regular duck season in all three zones and will allow the opening and closing dates in each zone to be staggered.

Additionally, every five years the USFWS allows states to make changes to their waterfowl hunting zone boundaries. Iowa’s changes must be submitted no later than May 1, 2016, and shall be implemented in the fall 2017 season and last through the spring of 2021. The proposed amendments expand the existing Missouri River zone south along I-29 to the Missouri border. Except for this southern expansion, the north and south zones remain the same. Because of the need to have the expanded Missouri River zone adopted in Iowa rule by May 1, 2016, the Commission must begin the rule-making process now rather than wait until USFWS finalizes its regulations.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 8, 2016. Written comments may be directed to Orrin Jones, Wildlife Biologist, Department of Natural Resources, Clear Lake Fish and Wildlife Station, 1203 N. Shore Drive, Clear Lake, Iowa 50428, or by e-mail at [Orrin.Jones@dnr.iowa.gov](mailto:Orrin.Jones@dnr.iowa.gov). Persons who wish to convey their comments orally may contact Orrin Jones by telephone at (641)357-3517 or by visiting the Clear Lake Fish and Wildlife Station, located at 1203 N. Shore Drive, Clear Lake, Iowa, during regular business hours.

There will be a public hearing on March 8, 2016, at 2 p.m. in the Third Floor Conference Room of the Wallace State Office Building, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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 Department and request specific accommodations.

After analysis and review of this rule making, there will not be an impact on jobs in the state.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

The following amendments are proposed.

## NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 1. Amend subrules 91.1(1) to 91.1(4) as follows:

**91.1(1) *Zone boundaries.*** ~~The~~ Effective beginning fall 2017, the north duck hunting zone is that part of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east to State Highway 37, southeast to State Highway 183, northeast to State Highway 141, east to U.S. Highway 30, and along U.S. Highway 30 to the Iowa-Illinois border. The Missouri River duck hunting zone is that part of Iowa west of Interstate 29 and ~~north of State Highway 175~~ south to the Iowa-Missouri border. The south duck hunting zone is the remainder of the state.

**91.1(2) *Season dates - north zone.*** Special September teal season: September ~~5~~ 3 through September ~~20~~ 11. For all ducks: ~~October 3~~ September 24 through October ~~18~~ 2 and October ~~24~~ 15 through December ~~6~~ 4.

**91.1(3) *Season dates - south zone.*** Special September teal season: September ~~5~~ 3 through September ~~20~~ 11. For all ducks: October ~~3~~ 1 through October ~~7~~ 5 and October ~~17~~ 22 through December ~~10~~ 15.

**91.1(4) *Season dates - Missouri River zone.*** Special September teal season: September ~~5~~ 3 through September ~~20~~ 18. For all ducks: October ~~3~~ 8 through October ~~7~~ 9 and October ~~24~~ 22 through December ~~17~~ 18.

ITEM 2. Amend subrules 91.3(1) to 91.3(5) as follows:

**91.3(1) *Zone boundaries.*** ~~The~~ Effective beginning fall 2017, the north goose hunting zone is that part of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 175, east to State Highway 37, southeast to State Highway 183, northeast to State Highway 141, east to U.S. Highway 30, and along U.S. Highway 30 to the Iowa-Illinois border. The Missouri River goose hunting zone is that part of Iowa west of Interstate 29 and ~~north of State Highway 175~~ south to the Iowa-Missouri border. The south goose hunting zone is the remainder of the state.

**91.3(2) *Season dates - north zone.*** Dark geese (Canada geese, white-fronted geese, brant and any other geese that are not light geese): September ~~26~~ 24 through October 9 and October 15 through January ~~1, 2016~~ 4, 2017. Light geese (white and blue-phase snow geese and Ross' geese): September ~~26~~ 24 through October 9 and October 15 through January ~~10, 2016~~ 13, 2017.

**91.3(3) *Season dates - south zone.*** Dark geese (Canada geese, white-fronted geese, brant and any other geese that are not light geese): October ~~3~~ 1 through October 16 and October 22 through January ~~8, 2016~~ 11, 2017. Light geese (white and blue-phase snow geese and Ross' geese): October ~~3~~ 1 through October 16 and October 22 through January ~~15, 2016~~ 18, 2017.

**91.3(4) *Season dates - Missouri River zone.*** Dark geese (Canada geese, white-fronted geese, brant and any other geese that are not light geese): October ~~10~~ 8 through October 16 and October 22 through January ~~15, 2016~~ 18, 2017. Light geese (white and blue-phase snow geese and Ross' geese): October ~~10~~ 8 through October 16 and October 22 through January ~~15, 2016~~ 18, 2017.

**91.3(5) *Bag limit.*** The daily bag limit for dark geese (Canada geese, white-fronted geese, brant and any other geese that are not light geese) is 5 and may include no more than 2 Canada geese from September ~~26~~ 24 through October 31 and no more than 3 Canada geese from November 1 through the end of the season. The daily bag limit for light geese (white and blue-phase snow geese and Ross' geese) is 20.

ITEM 3. Amend subrules 91.3(8) to 91.3(11) as follows:

**91.3(8) *Light goose conservation order season.*** Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January ~~16, 2016~~ 19, 2017, through April 15, ~~2016~~ 2017.

a. to e. No change.

**91.3(9) *Cedar Rapids/Iowa City goose hunting zone.***

a. *Season dates.* September ~~5~~ 3 through September ~~13~~ 11.

b. to d. No change.

**91.3(10) *Des Moines goose hunting zone.***

a. *Season dates.* September ~~5~~ 3 through September ~~13~~ 11.

## NATURAL RESOURCE COMMISSION[571](cont'd)

*b. to d.* No change.

**91.3(11)** Cedar Falls/Waterloo goose hunting zone.

*a.* Season dates. September ~~5~~ 3 through September ~~13~~ 11.

*b. to d.* No change.

ITEM 4. Amend rule 571—91.6(481A) as follows:

**571—91.6(481A) Youth waterfowl hunt.** A special youth waterfowl hunt will be held on September ~~26~~ 17 and ~~27~~ 18 in the north duck hunting zone, ~~October 10~~ September 24 and ~~11~~ 25 in the south duck hunting zone, and October ~~17~~ 1 and ~~18~~ 2 in the Missouri River duck hunting zone. Youth hunters must be residents of Iowa as defined in Iowa Code section 483A.1A and less than 16 years old. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 571—91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

**ARC 2418C**

**PHARMACY BOARD[657]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 20, “Compounding Practices,” Iowa Administrative Code.

The amendments were approved at the January 13, 2016, regular meeting of the Board of Pharmacy.

The proposed amendments define the term “office use” as it relates to compounded drug products that are distributed to a qualified practitioner for administration to the practitioner’s patient in the course of the practitioner’s professional practice. The amendments also clarify that a practitioner receiving a compounded product for office use is not restricted to administration of the product to the practitioner’s patient within the brick-and-mortar confines of the practitioner’s office. If the practitioner’s practice is not confined by office walls, the practitioner may administer to a patient a product distributed to the practitioner for office use if the administration occurs in the course of the practitioner’s professional practice.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on March 8, 2016. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

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

These amendments are intended to implement Iowa Code sections 124.303, 124.306, 124.308, 126.9, 126.10, 155A.2, 155A.13, 155A.28, and 155A.35.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “Office use” in rule **657—20.2(124,126,155A)**:

“Office use” means that a compounded product has been prepared and distributed to a practitioner for administration to a patient by the practitioner in the course of the practitioner’s professional practice.

## PHARMACY BOARD[657](cont'd)

A compounded product distributed to a practitioner for “office use” shall not require a patient-specific prescription and may not be further distributed to another practitioner or dispensed to a patient for self-administration.

ITEM 2. Amend rule 657—20.15(124,126,155A) as follows:

**657—20.15(124,126,155A) Compounding for office use.**

**20.15(1) Human compounded preparations.** Only an FDA-registered outsourcing facility properly licensed in Iowa may distribute to a practitioner for office use human compounded preparations without a patient-specific prescription.

**20.15(2) Veterinary compounded preparations.** Veterinary compounded preparations may be sold to a practitioner for office use if compounded by an Iowa-licensed pharmacy and sold directly to the practitioner by the compounding pharmacy.

**20.15(3) Office ~~administration~~ use.** Compounded preparations distributed for office use pursuant to subrule 20.15(1) or 20.15(2) and in accordance with the labeling requirements of subrule 20.15(4) do not require a patient-specific prescription but do require that the compounded preparation be administered to ~~an individual~~ a patient in the course of the practitioner’s office professional practice. Compounded preparations distributed for office use pursuant to this rule shall not be further distributed to other practitioners or dispensed to patients for administration outside of the office a patient for self-administration.

**20.15(4) Labeling.** Compounded preparations for office use, in addition to the labeling requirements specified in rule 657—20.19(124,126,155A), shall include on the prescription label the practitioner’s name in place of the patient’s name. The label shall state “For Office Use Only—Not for Resale.” If the sterility or integrity of the compounded preparation cannot be maintained after the initial opening of the container, the label shall state “Single-Dose Only.”

**ARC 2417C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 148C.3, the Board of Physician Assistants hereby gives Notice of Intended Action to amend Chapter 327, “Practice of Physician Assistants,” Iowa Administrative Code.

Proposed rule 645—327.8(147,148,148C,86GA,SF505) establishes minimum standards for appropriate supervision of a physician assistant by a physician. The rule was jointly approved by the Board of Medicine and the Board of Physician Assistants in accordance with 2015 Iowa Acts, Senate File 505, division XXXI, section 113.

Any interested person may make written comments on the proposed amendments no later than March 9, 2016, addressed to Sarah Reisetter, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail [sarah.reisetter@idph.iowa.gov](mailto:sarah.reisetter@idph.iowa.gov).

A public hearing will be held on March 9, 2016, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

After analysis and review of this rule making, the Board of Physician Assistants is concerned that the rule making may have a negative impact on jobs. Further analysis is in progress at this time.

These amendments are intended to implement Iowa Code chapters 147, 148, 148C and 272C and 2015 Iowa Acts, Senate File 505, division XXXI, section 113.

The following amendments are proposed.

ITEM 1. Adopt the following new rule 645—327.8(147,148,148C,86GA,SF505):

**645—327.8(147,148,148C,86GA,SF505) Specific minimum standards for appropriate supervision of a physician assistant by a physician.** This rule establishing the minimum standards for appropriate supervision of a physician assistant by a physician in the state of Iowa is hereby jointly adopted by the board of medicine and the board of physician assistants in accordance with 2015 Iowa Acts, Senate File 505, division XXXI, section 113.

**327.8(1) Minimum standards.** The following are minimum standards for appropriate supervision of a physician assistant by a physician in the state of Iowa:

*a. Review of requirements.* Before a physician can supervise a physician assistant practicing in Iowa, both the supervising physician and the physician assistant shall review all of the requirements of physician assistant licensure, practice, supervision, and delegation of medical services as set forth in Iowa Code section 148.13, Iowa Code chapter 148C, this chapter, 653—Chapter 21, and 645—Chapters 326, 328 and 329.

*b. Face-to-face meetings.* The supervising physician and the physician assistant shall meet face-to-face a minimum of twice annually. If the physician assistant is practicing at a remote site, at least one of the two meetings shall be at the remote site. The face-to-face meetings are for the purpose of discussing topics deemed appropriate by the physician or the physician assistant, including supervision requirements, assessment of education, training, skills, and experience, review of delegated services, and discussions of quarterly and annual reviews.

*c. Assessment of education, training, skills, and experience.* The supervising physician and the physician assistant shall each ensure that the other party has the appropriate education, training, skills, and relevant experience necessary to successfully collaborate on patient care delivered by the team.

*d. Communication.* The supervising physician and the physician assistant shall communicate and consult on medical problems, complications, emergencies, and patient referrals as indicated by the clinical condition of the patient.

*e. Quarterly review.* There shall be a documented quarterly review of a representative sample of the physician assistant's patient charts encompassing the scope of the physician assistant's practice.

*f. Annual review.* The supervising physician shall annually review the physician assistant's clinical judgment, skills, and performance. The review shall be documented and shall contain feedback and recommendations as appropriate.

*g. Delegated services.* The medical services and medical tasks delegated to and provided by the physician assistant shall be in compliance with subrule 327.1(1). All delegated medical services shall be within the scope of practice of the supervising physician and the physician assistant. The supervising physician and the physician assistant shall have the education, training, skills, and relevant experience to perform the delegated services prior to delegation.

*h. Timely consultation.* The supervising physician shall be available for timely consultation with the physician assistant, either in person or by telephonic or other electronic means.

*i. Alternate supervision.* If the supervising physician will not be available for any reason, an alternate supervising physician will be available to ensure continuity of supervision. The physician will notify the alternate supervising physician that the alternate supervising physician is to be available for a timely consult and will notify the physician assistant of the means by which to reach the alternate supervising physician. The physician assistant shall not practice if supervision is not available.

*j. Failure to supervise.* Failure to adequately direct and supervise a physician assistant or failure to comply with the minimum standards of supervision in accordance with this chapter, Iowa Code chapter 148C, Iowa Code section 148.13, 653—Chapter 21, and 645—Chapters 326, 328 and 329 may be grounds for disciplinary action for both the physician and the physician assistant.

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

**327.8(2) Amendment.** Rule 645—327.8(147,148,148C,86GA,SF505) may only be amended by agreement of the board of medicine and the board of physician assistants through a joint rule-making process.

**327.8(3) Waiver or variance prohibited.** Rule 645—327.8(147,148,148C,86GA,SF505) is not subject to waiver or variance pursuant to 653—Chapter 3 or 645—Chapter 18, Iowa Code section 17A.9A, or any other provision of law.

ITEM 2. Amend **645—Chapter 327**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 147.107 and chapters 148C and 272C and 2015 Iowa Acts, Senate File 505, division XXXI, section 113.

**ARC 2416C**

## SECRETARY OF STATE[721]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 9E.3 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to adopt new Chapter 6, “Safe at Home Program,” Iowa Administrative Code.

This new chapter facilitates the administration of the Safe at Home Program, an address confidentiality program, in accordance with Iowa Code chapter 9E. The rules in proposed Chapter 6 describe the manner and process for program participant certification renewal and recertification, cancellation of program certification, the manner and process for changing program participant voter registration information, and the manner and process for cancellation of program participant absentee ballot voting through the Safe at Home Program.

Public comments must be received by March 8, 2016. Written suggestions or comments should be directed to Eric Gookin, Election Administrator, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319. Persons who want to convey views orally should contact the Secretary of State’s office by telephone at (515)281-7550 or in person at the Secretary of State’s office on the first floor of the Lucas State Office Building.

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

These rules are intended to implement Iowa Code section 9E.3.

The following amendment is proposed.

Adopt the following **new** 721—Chapter 6:

### CHAPTER 6 SAFE AT HOME PROGRAM

**721—6.1(9E) Definitions.** For purpose of this chapter, the terms defined in this rule have the meanings given them.

“*Address*” means a residential street address, school address, or work address of an individual, as specified on the individual’s application to be a program participant.

“*Applicant*” means an adult, a parent or guardian acting on behalf of an eligible minor, or a guardian acting on behalf of an incapacitated person as defined in Iowa Code section 633.701.

“*Designated address*” means the mailing address assigned to a program participant by the secretary.

“*Domestic abuse*” means the same as defined in Iowa Code section 236.2.

“*Domestic abuse assault*” means the same as defined in Iowa Code section 708.2A.

“*Eligible person*” means a person who is all of the following:

## SECRETARY OF STATE[721](cont'd)

1. A resident of this state.
2. An adult, a minor, or an incapacitated person as defined in Iowa Code section 633.701.
3. A victim of domestic abuse, domestic abuse assault, sexual abuse, stalking, or human trafficking as evidenced by the filing of a petition pursuant to Iowa Code section 236.3 or a criminal complaint or information pursuant to Iowa Code section 708.2A, 708.11, or 710A.2, or any violation contained in Iowa Code chapter 709.

For purposes of this definition, a person determined to be a sexually violent predator pursuant to Iowa Code section 229A.7 or a similar law of another state is not an eligible person.

*“Human trafficking”* means a crime described in Iowa Code section 710A.2.

*“Mail”* means first-class letters and flats delivered via the United States Postal Service, including priority, express, and certified mail, and excluding packages, parcels, and periodicals, and catalogues, unless they are clearly identifiable as pharmaceuticals or clearly indicate that they are sent by a state or county government agency.

*“Program”* means the address confidentiality program established in Iowa Code chapter 9E.

*“Program participant”* means an individual certified by the secretary as a program participant under Iowa Code section 9E.3.

*“Safe at home card”* means the official participation card that is issued by the secretary of state to each program participant, that must state the program participant’s name, designated address, and certification expiration date, and that must include a space for the signature of the program participant.

*“Safe at home program”* means the program authorized by Iowa Code chapter 9E.

*“Secretary”* means the secretary of state.

*“Sexual abuse”* means a violation of any provision of Iowa Code chapter 709.

*“Stalking”* means the same as defined in Iowa Code section 708.11.

**721—6.2(9E) Failure to notify secretary of changes in information; cancellation.** This rule facilitates the administration of the safe at home program in accordance with Iowa Code section 9E.4. This rule describes the manner and process for cancellation of certification to the program.

**6.2(1) Warning by the secretary.**

a. The secretary must contact the program participant to request that the program participant comply with Iowa Code section 9E.4 if:

- (1) The program participant’s legal name or contact information changes, unless the program participant provides the secretary with prior written notice of the name change or contact information;
- (2) Mail forwarded by the secretary to the program participant’s address is returned as undeliverable by the United States Postal Service; or
- (3) The program participant does not accept service of process or is unavailable for delivery of service of process as described in Iowa Code section 9E.5(4).

b. The notice must state that if the program participant fails to comply within ten business days, the program participant’s certification shall be canceled and the former program participant must return any safe at home cards in the participant’s possession.

**6.2(2) Participant no longer eligible.** If the secretary learns that the program participant is no longer eligible, the secretary must provide the program participant with the opportunity to submit a withdrawal request in accordance with Iowa Code section 9E.3(3).

**6.2(3) Pending-cancellation status.** After the secretary has provided notice as required by subrule 6.2(1) or 6.2(2), the program participant is in pending-cancellation status. While the program participant is in this status, the secretary must hold the program participant’s mail and must not forward it to the program participant. Pending-cancellation status ends after ten business days or upon the program participant’s compliance with Iowa Code section 9E.4. This subrule does not prevent the secretary from forwarding correspondence marked “service of process” pursuant to Iowa Code section 9E.5(4).

**6.2(4) Cancellation.**

a. If the program participant’s pending-cancellation status expires, the secretary shall cancel the certification of the program participant.

## SECRETARY OF STATE[721](cont'd)

b. If a program participant or applicant provides false information when applying for certification renewal or on a change of information notice, the secretary shall cancel the certification of the program participant.

c. If a program participant relocates outside the state of Iowa, the secretary shall cancel the certification of the program participant.

**6.2(5) Cancellation of program certification without recourse.** The secretary shall cancel a program participant's certification if the program participant or applicant is determined to be a sexually violent predator pursuant to Iowa Code section 229A.7 or a similar law of another state.

**6.2(6) Return of mail.** If the certification of the program participant is canceled, mail addressed to the program participant must be returned to sender.

**721—6.3(9E) Renewal of certification; recertification.** This rule facilitates the administration of the safe at home program in accordance with Iowa Code section 9E.3(3). This rule describes the manner and process for renewal of program participant certification and for recertification.

**6.3(1) Renewal notification.** At least 30 days before the expiration of a program participant's certification, the secretary shall inform the program participant of the option of renewing certification in the safe at home program by sending an application to renew certification (renewal application) by first-class mail to the program participant's mailing address. The notice must also provide instructions to the program participant on what actions to take upon expiration of the certification, including the return of any safe at home cards and notification to public and private persons of the program participant's actual address, and that the designated address is no longer the address of the program participant. If the secretary has not received a renewal application within 10 days before the expiration of the program participant's certification, the secretary must mail a notice to the program participant reminding the program participant of the option to renew.

**6.3(2) Renewal process.** Along with the renewal application sent 30 days prior to expiration, the secretary may include a voter registration form so that the program participant may register to vote if the program participant has not already done so.

a. *Application.* The secretary shall renew the certification of a program participant when the secretary receives a complete renewal application from that program participant. The completed renewal application must contain the same information required in the certification application as specified in Iowa Code section 9E.3(1).

b. *Duties of applicant.* The program participant must provide all the information required by Iowa Code section 9E.3(3) and date and sign the renewal application.

c. *Completed renewal application to be signed.* The program participant must sign the completed renewal application and submit it and any additional materials in person, by mail, by facsimile, or by electronic mail to the secretary.

d. *Missing information.* If the completed renewal application does not meet the requirements of this subrule, the secretary shall contact the program participant or applicant to obtain the missing information.

e. *Effective date.* If submitted on or before the expiration date of the certification, a properly completed renewal application is effective on the day it is reviewed and certified by the secretary.

f. *Duties of the secretary and program participants.* The secretary must send a new safe at home card(s), which shall have an updated expiration date, within 10 business days of renewing a program participant's certification. The program participant must immediately sign the new safe at home card(s) upon receipt. The program participant must return any expired cards to the secretary by first-class mail so that they may be properly destroyed.

g. *Penalties.* A person who falsely attests in a renewal application or who knowingly provides false information upon making an application for certification renewal is subject to cancellation of program certification.

**6.3(3) Recertification of former participants.** Former program participants who have left the program through the withdrawal or cancellation process may reapply for certification in the program.

## SECRETARY OF STATE[721](cont'd)

*a. Application.* The secretary may recertify a former program participant when the secretary receives an application from that former program participant. The application for recertification must contain the same information required in the certification application as specified in Iowa Code section 9E.3(1).

*b. Duties of applicant.* The applicant must provide all the information required by Iowa Code section 9E.3(1) and date and sign the application.

*c. Completed application to be signed.* The applicant must sign the completed application and submit it and any additional materials in person, by mail, by facsimile, or by electronic mail to the secretary.

*d. Missing information.* If the completed application does not meet the requirements of this subrule, the secretary shall contact the program participant or applicant to obtain the missing information.

*e. Explanation statement.* An applicant whose program participation was canceled under rule 721—6.2(9E) may be required to submit an explanation of the action that resulted in cancellation.

*f. Effective date.* A properly completed application is effective on the day it is reviewed and certified by the secretary.

*g. Duties of the secretary and program participants.* The secretary must send a new safe at home card(s), which shall have current expiration date and information, within ten business days of recertifying a former program participant. The program participant must immediately sign the safe at home card(s) upon receipt.

*h. Penalties.* A person who falsely attests in an application or who knowingly provides false information upon making an application for recertification is subject to denial or cancellation of program certification.

**721—6.4(9E) Cancellation of voter registration in the statewide voter registration database.** This rule facilitates the administration of the safe at home program in accordance with Iowa Code section 9E.6(1). This rule describes the manner and process for canceling a program participant's voter registration in the statewide voter registration database.

**6.4(1) Voluntary cancellation of voter registration.** The secretary shall cancel the program participant's voter registration record in the statewide voter registration database upon the program participant's written and signed request to the secretary to register to vote through the program.

**6.4(2) Exclusion of program participant information in the statewide voter registration system.** In accordance with Iowa Code section 9E.6(1), the name, address, and telephone number of a program participant shall not be listed in the statewide voter registration system even if the program participant does not submit a request to the secretary to register to vote through the program.

**721—6.5(9E) Change of voter registration through the program.** This rule facilitates the administration of the safe at home program in accordance with Iowa Code section 9E.6(1). This rule describes the manner and process for program participant change of voter registration through the program.

**6.5(1) Change of address within the county of the preregistered address.** If the program participant relocates within the county in which the program participant has already registered with the program, the program participant must submit an updated voter registration form to the secretary.

**6.5(2) Change of address to an Iowa county outside the county of the preregistered address.**

*a.* If the program participant relocates outside the county in which the program participant has already registered with the program, the program participant must submit an updated voter registration form to the secretary.

*b.* The secretary shall make the necessary changes in the registration records without any actions by the participant.

**6.5(3) Change of name.** If the program participant changes the program participant's name but does not move outside the county in which the program participant is registered, the secretary shall update the program participant's previous registration to reflect this change in accordance with Iowa Code section

SECRETARY OF STATE[721](cont'd)

48A.27(2)“a”(1). The participant shall submit a signed, written notice to the secretary in person, by mail, by facsimile, or by electronic mail. For purposes of this subrule, a change of information form shall constitute a signed, written notice.

**6.5(4) *Other changes.*** If the program participant’s circumstances change so as to render inaccurate the information previously submitted with the program participant’s voter registration, the program participant shall contact the secretary to update the voter registration information. A program participant may request changes to the program participant’s voter registration record at any time by submitting a signed, written notice to the secretary in person, by mail, by facsimile, or by electronic mail in accordance with Iowa Code section 48A.27(2)“a”(1).

**721—6.6(9E) Cancellation of absentee ballot voting through the program.** This rule facilitates the administration of the safe at home program in accordance with Iowa Code section 9E.6(2). This rule describes the manner and process for program participant cancellation of absentee ballot voting through the program.

**6.6(1) *Voluntary cancellation of voter registration.*** The secretary shall cancel the program participant’s voter registration and absentee ballot application with the program upon the written and signed request of the participant.

**6.6(2) *Involuntary cancellation of voter registration.*** The secretary shall cancel the program participant’s voter registration and absentee ballot application with the program upon one of the following:

*a.* The death of the program participant, as evidenced in accordance with the standards set forth in Iowa Code section 48A.30.

*b.* Notification of the program participant’s relocation to another county.

*c.* The receipt of notice from the clerk of the district court, the United States Attorney, or the state registrar that the program participant has been convicted of a felony as defined in Iowa Code section 701.7 or convicted of an offense classified as a felony under federal law in accordance with the procedure set forth in Iowa Code section 48A.30(1)“d.”

*d.* The receipt of notice from the district court or the state registrar that the program participant has been declared a person who is incompetent to vote under state law.

*e.* The inactivity of the program participant’s voter registration record pursuant to Iowa Code section 48A.29 for two successive general elections.

*f.* The withdrawal of a program participant from the program.

*g.* The cancellation of a program participant’s certification in the program.

**6.6(3) *Cancellation of active absentee ballots issued through the program.***

*a.* The secretary shall notify the local county auditor, and the local county auditor shall have the authority to challenge or cancel the active absentee ballot issued through the safe at home program if one of the following occur:

(1) The death of the program participant, as evidenced in accordance with the standards set forth in Iowa Code section 48A.30.

(2) Notification of the program participant’s relocation to another county.

(3) The receipt of notice from the clerk of the district court, the United States Attorney, or the state registrar that the program participant has been convicted of a felony as defined in Iowa Code section 701.7 or convicted of an offense classified as a felony under federal law in accordance with the procedure set forth in Iowa Code section 48A.30(1)“d.”

(4) The receipt of notice from the district court or the state registrar that the program participant has been declared a person who is incompetent to vote under state law.

(5) The withdrawal of a program participant from the program.

(6) The cancellation of a program participant’s certification in the program.

*b.* The local county auditor shall have the authority to challenge or cancel the active absentee ballot issued through the safe at home program.

SECRETARY OF STATE[721](cont'd)

**6.6(4) Confirmation of voter registration cancellation.** The secretary shall confirm cancellation of absentee ballot voting within ten business days by sending notice of cancellation to the program participant's mailing address.

These rules are intended to implement Iowa Code chapter 9E.

## ARC 2401C

### TRANSPORTATION DEPARTMENT[761]

#### Notice of Intended Action

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.449 and 321.450, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and, after adoption, the final regulations are published in the FR. Each year, a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year.

To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The amendments to the FMCSR and the HMR that have become final and effective since the 2014 edition of the CFR are listed below. The parts affected are followed by FR citations.

#### Amendments to the FMCSR and Federal HMR

##### Parts 385, 390-392, 395 and 397 (FR Vol. 79, No. 191, Pages 59450-59458, 10-02-14)

This final rule amends FMCSA's regulations by making technical corrections throughout 49 CFR, Subtitle B, Chapter III. FMCSA is making minor changes to correct errors and omissions, ensure conformity with Office of the Federal Register style guidelines, update references, and improve clarity and consistency of certain regulatory provisions. This rule does not make any substantive changes to the affected regulations. Effective date: October 2, 2014.

##### Part 390 (FR Vol. 79, No. 204, Pages 63057-63059, 10-22-14)

This final rule adopts, as final, certain amendments to the FMCSRs required by the Reliable Home Heating Act. Currently, the FMCSRs include a provision which enables motor carriers providing direct assistance in responding to an emergency declared by a governor to do so without having to comply with certain federal safety regulations. However, the duration of the relief is limited to 30 days unless FMCSA extends the exemption. This final rule amends the emergency relief provision in the FMCSRs so that the safety requirements in 49 CFR Parts 390-399 will not apply if a governor declares a state of

## TRANSPORTATION DEPARTMENT[761](cont'd)

emergency caused by a shortage of residential heating fuel; determines at the end of the 30-day exemption period currently authorized by the regulations that the emergency shortage has not ended; and extends the declaration of emergency for up to two additional 30-day periods. Effective date: October 22, 2014.

Parts 392 and 396 (FR Vol. 79, No. 243, Pages 75437-75449, 12-18-14)

This final rule rescinds the requirement that commercial motor vehicle (CMV) drivers operating in interstate commerce, except drivers of passenger-carrying CMVs, submit, and motor carriers retain, driver-vehicle inspection reports when the driver has neither found nor been made aware of any vehicle defects or deficiencies. This rule also harmonizes the pre- and post-trip inspection lists. It responds in part to the President's January 2011 Regulatory Review and Reform initiative, removing a significant information collection burden without adversely impacting safety. FMCSA also makes a technical change to 49 CFR Section 396.11 to eliminate redundant language. Effective date: December 18, 2014.

Parts 171, 172, 173, 178, and 180 (FR Vol. 80, No. 5, Pages 1075-1169, 01-08-15)

This final rule amends the HMRS to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the HMRS with recent changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, the United Nations Recommendations on the Transport of Dangerous Goods and subsequently address three petitions for rule making. Effective date: January 1, 2015.

Parts 171, 172 and 173 (FR Vol. 80, No. 34, Pages 9217-9218, 02-20-15)

This final rule extends for modes of transportation other than air the mandatory compliance date of a final rule published on August 6, 2014, under Docket No. HM-224F from February 6, 2015, until August 7, 2015. This extension is made in response to formal comments received from multiple stakeholders outlining challenges faced by the regulated community in fully implementing the provisions of the final rule by the February 6, 2015, mandatory compliance date. The compliance date for the final rule published August 6, 2014, at 79 FR 46012, is extended until August 7, 2015.

Part 385 (FR Vol. 80, No. 64, Pages 18146-18158, 04-03-15)

This final rule specifies inflation adjustments to civil penalty amounts assessed to those who violate the FMCSRs and HMRS. Some of these adjustments are required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. Most of the civil penalties were last adjusted for inflation in 2007, and some have not been changed since 2003. Other changes to the civil penalties were mandated by Congress in the Moving Ahead for Progress in the 21st Century Act. This final rule ensures that FMCSA's civil penalties are consistent with the applicable statutes. Effective date: June 2, 2015.

Part 391 (FR Vol. 80, No. 78, Pages 22789-22825, 04-23-15)

This final rule amends the FMCSRs to require certified medical examiners performing physical examinations of CMV drivers to use a newly developed Medical Examination Report Form, MCSA-5875, in place of the current form and to use Form MCSA-5876 for the Medical Examiner's Certificate; and report results of all CMV drivers' physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination. The reporting of results includes all CMV drivers who are required to be medically certified to operate in interstate commerce, not only those who hold or apply for commercial learner's permits (CLP) or commercial driver's licenses (CDL), and results of any examinations performed in accordance with the FMCSRs with any applicable state variances (which will be valid for intrastate operations only). For holders of CLP/CDLs (interstate and intrastate), FMCSA will electronically transmit driver identification, examination results, and restriction information from examinations performed from the national registry to the state driver's licensing

## TRANSPORTATION DEPARTMENT[761](cont'd)

agencies. FMCSA will also transmit medical variance information for all CMV drivers electronically to the state driver's licensing agencies. Effective date: June 22, 2015.

Part 390 (FR Vol. 80, No. 101, Pages 30164-30180, 05-27-15)

This final rule adopts regulations governing the lease and interchange of passenger-carrying CMVs to identify the motor carrier operating a passenger-carrying CMV that is responsible for compliance with the FMCSRs and ensure that a lessor surrenders control of the CMV for the full term of the lease or temporary exchange of CMVs and drivers. This action is necessary to ensure that unsafe passenger carriers cannot evade FMCSA oversight and enforcement by entering into a questionable lease arrangement to operate under the authority of another carrier that exercises no actual control over those operations. This rule will enable the FMCSA, the National Transportation Safety Board, and federal and state partners to identify motor carriers transporting passengers in interstate commerce and correctly assign responsibility to these entities for regulatory violations during inspections, compliance investigations, and crash investigations. It also provides the general public with the means to identify the responsible motor carrier at the time transportation services are provided. Effective date: July 27, 2015. Compliance date: Motor carriers of passengers operating CMVs under a lease or interchange agreement are subject to this rule on or after January 1, 2017.

Part 385 (FR Vol. 80, No. 117, Pages 34839-34841, 06-18-15)

This final rule amends hazardous materials safety permit rules to update the current incorporation by reference of the "North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR Part 173.403." Currently the rules reference the April 1, 2014, edition of the out-of-service criteria and, through this final rule, FMCSA incorporates the April 1, 2015, edition. Effective date: June 18, 2015.

Part 391 (FR Vol. 80, No. 119, Pages 35577-35596, 06-22-15)

This final rule makes corrections to a rule that appeared in the Federal Register on April 23, 2015 (80 FR 22790). In that rule, FMCSA amended the FMCSRs to require certified medical examiners performing physical examinations of CMV drivers to use a newly developed Medical Examination Report Form, MCSA-5875, in place of the current form and to use Form MCSA-5876 for the Medical Examiner's Certificate; and report results of all CMV drivers' physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination. That final rule was a follow-on rule to the medical certification requirements as part of the CDL final rule, published on December 1, 2008, and the National Registry of Certified Medical Examiners final rule, published on April 20, 2012. Effective date: June 22, 2015.

Parts 107 and 171 (FR Vol. 80, No. 175, Pages 54418-54440, 09-10-15)

This final rule adopts regulations to include the standard operating procedures and criteria used to evaluate applications for special permits and approvals. This rule making addresses issues identified in the Hazardous Materials Transportation Safety Improvement Act of 2012 related to the Office of Hazardous Materials Safety's Approvals and Permits Division. In addition, this rule making also provides clarity regarding what conditions need to be satisfied to promote special permit application completeness. An application that contains the required information reduces processing delays by reducing the number of applications rejected due to incompleteness. Through public notice and comment, this final rule is required to establish standard operating procedures to support the administration of the special permit and approval programs, and objective criteria to support the evaluation of special permit and approval applications. These amendments do not change previously established policies, to include but not be limited to any inspection activities subsequent to issuance, modification or renewal of a special permit and approval. Effective date: November 9, 2015.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways.

TRANSPORTATION DEPARTMENT[761](cont'd)

Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; e-mail address: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).
5. Be received by the Office of Policy and Legislative Services no later than March 8, 2016.

A meeting to hear requested oral presentations is scheduled for Thursday, March 10, 2016, at 10 a.m. at the Iowa Department of Transportation’s Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by March 21, 2016.

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

These amendments are intended to implement Iowa Code sections 321.449 and 321.450.

Proposed rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. *Motor carrier safety regulations.* The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, 2014 2015).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. *Hazardous materials regulations.* The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, 2014 2015).

## 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 Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking Ronald L. Hansen, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for February is 4.25%.

#### 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

TREASURER OF STATE(cont'd)

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 February 13, 2016, 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 .05%
180-364 days .....	Minimum .05%
One year to 397 days .....	Minimum .05%
More than 397 days .....	Minimum .30%

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 Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

**ARC 2399C**

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 35A.13, the Iowa Department of Veterans Affairs hereby gives Notice of Intended Action to amend Chapter 14, “Veterans Trust Fund,” Iowa Administrative Code.

The rules in Chapter 14 describe eligibility and procedures for the Veterans Trust Fund. Because of the increased popularity of and need for Honor Guard services, the proposed amendment increases the amount available for Honor Guard reimbursement from \$500 to \$1000.

Any interested person may make written suggestions or comments on the proposed amendment on or before March 8, 2016. Such written materials should be directed to Executive Director, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. #3465, 7105 NW 70th Avenue, Johnston, Iowa 50131; by telephone (515)727-3443; or by fax (515)727-3713.

The Department of Veterans Affairs does not intend to grant waivers under the provisions of these rules other than as may be allowed under the Department’s general rules regarding waivers.

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

This amendment is intended to implement Iowa Code section 35A.13.

The following amendment is proposed.

Amend subrule 14.4(11) as follows:

**14.4(11) Honor guard services.**

*a.* The commission may reimburse veterans organizations for providing military funeral honors as follows:

## VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

- (1) If a single veterans organization provides basic honors, \$25.
- (2) If a single veterans organization provides full honors, \$50.
- (3) If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, \$50. The organizations may request that the commission split the reimbursement.
- (4) If two or more veterans organizations participate in providing basic honors, \$25. Payment shall be to one veterans organization, as determined by the commission.
  - b.* Notwithstanding paragraph 14.4(11)“*a*,” the commission shall not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing military funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing military funeral honors at the reimbursement rate of one funeral per day, the department shall reimburse the organization for the provision of military funeral honors at any additional funerals on that day.
  - c.* The maximum amount of aid payable in a calendar year under this subrule to a veterans organization is ~~\$500~~ \$1000.
  - d.* Veterans service organizations that are not currently providing honor guard services may apply for a \$500, up-front grant, for the use of creating a new honor guard within their organization. Applicants must present the commission with an estimated cost for purchasing uniforms and firearms for providing military honors and an estimated number of members who will be available to perform honor guard services. Organizations should also provide information regarding how they plan to pay for additional expenses that may occur outside of trust fund assistance. Applicants will be eligible for reimbursements under paragraphs 14.4(11)“*a*” to “*c*” 12 months after the receipt of their original \$500 grant.

## ARC 2397C

## EDUCATIONAL EXAMINERS BOARD[282]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby amends Chapter 13, “Issuance of Teacher Licenses and Endorsements,” and Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

The amendments change the number of practicum and internship hours required for a licensee to add the K-8 and 5-12 professional school counselor endorsement to both an Iowa teaching license and an Iowa professional service license. Currently, Iowa requires 500 hours at the K-8 level and 500 hours at the 5-12 level. This equates to approximately 12.5 weeks for each endorsement or 25 weeks for both. This significantly exceeds the required 100-hour practicum and 600-hour internship required by the Council for Accreditation of Counseling and Related Educational Programs (CACREP), which sets the national standards for counseling. These amendments bring Iowa’s standards into alignment with national standards and cease the imposition of an undue hardship on individuals seeking both endorsements.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2237C** on November 11, 2015. A public hearing was held on December 2, 2015, with written comments accepted until December 4, 2015. No one attended the hearing. The Board received two supportive written comments from counselor preparation programs. These amendments are identical to those published under Notice of Intended Action.

There is an agencywide waiver provision available in 282—Chapter 6.

The Board of Educational Examiners adopted these amendments on January 14, 2016.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

These amendments will become effective March 23, 2016.

The following amendments are adopted.

ITEM 1. Amend subparagraph **13.28(26)“c”(12)** as follows:

(12) Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with elementary and middle school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group counseling, developmental classroom guidance, and consultation. The candidate will complete a preservice supervised practicum of a minimum of 100 hours, and at least 40 of these hours must be direct service. Candidates will complete a supervised internship for a minimum of 600 hours, and at least 240 of these hours must be direct service. For candidates seeking both the K-8 and 5-12 professional school counselor endorsements, a minimum of 100 hours of the practicum or internship experiences listed above must be completed at each of the desired endorsement levels.

ITEM 2. Amend subparagraph **13.28(27)“c”(2)** as follows:

(2) The teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with middle and secondary school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group work, developmental classroom guidance, and consultation. The candidate will complete a preservice supervised practicum and an internship that meet the requirements set forth in 13.28(26)“c”(12).

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ITEM 3. Amend subparagraph 27.3(1)“c”(2) as follows:

~~(2) The teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with elementary and middle school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group counseling, developmental classroom guidance, and consultation. The candidate will complete a preservice supervised practicum and an internship that meet the requirements set forth in 282—subparagraph 13.28(26)“c”(12).~~

ITEM 4. Amend subparagraph 27.3(2)“c”(2) as follows:

~~(2) The teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with middle and secondary school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group work, developmental classroom guidance, and consultation. The candidate will complete a preservice supervised practicum and an internship that meet the requirements set forth in 282—subparagraph 13.28(26)“c”(12).~~

[Filed 1/22/16, effective 3/23/16]

[Published 2/17/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/17/16.

**ARC 2404C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 10A.801, the Department of Inspections and Appeals hereby amends Chapter 10, “Contested Case Hearings,” Iowa Administrative Code.

The adopted amendment updates the procedures related to subpoenas in contested case proceedings before the Administrative Hearings Division. Iowa Code section 17A.13 and existing rule 481—10.14(10A,17A) require that these procedures be consistent with the Iowa Rules of Civil Procedure, but confusion has arisen as to how those court rules should be applied in the context of a subpoena in an administrative proceeding. To provide clarity to parties and those who receive a subpoena from the Division, this amendment adds the relevant requirements from Iowa Rule of Civil Procedure 1.1701, modified as necessary to reflect the distinction between court and administrative proceedings. This amendment is not intended to be a substantive change to the legal standards governing subpoenas in contested case proceedings. The amendment also makes several technical corrections arising from changes in technology and the ordinary practices of the Division in issuing subpoenas.

The Department does not believe that the amendment imposes any financial hardship on any regulated entity, body, or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 23, 2015, as **ARC 2321C**. No comments were received during the public comment period. Two changes have been made by the Department to the amendment to clarify provisions dealing with depositions and to further clarify that a proceeding is not a court action.

The first change adds “or deposition” to the introductory paragraph of 10.14(3)“a” to clarify that the mileage and witness fees apply to both in-person hearings and depositions, which is consistent with the requirements of Iowa Code sections 17A.13 and 622.104.

The second change replaces “court” with “proceeding” in paragraph 10.14(3)“b.” This change is purely technical as the word should have been removed in the Notice of Intended Action but was simply overlooked.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

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

This amendment is intended to implement Iowa Code sections 10A.801 and 17A.13.

This amendment shall become effective March 23, 2016.

The following amendment is adopted.

Amend rule 481—10.14(10A,17A) as follows:

**481—10.14(10A,17A) Subpoenas.****10.14(1) Issuance.**

a. Pursuant to Iowa Code subsection 17A.13(1), the division shall issue an agency subpoena to a party on request unless otherwise excluded pursuant to this rule. A request for a subpoena shall be in writing. The request may be made in person, or by mail, facsimile (fax), or electronic mail (e-mail), or other electronic means approved by the division. 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 if it is being conducted in a location other than the Wallace State Office Building, and the method of recording any deposition. A request for a subpoena shall be received by the division at least seven calendar days before the scheduled hearing. The request shall include the name, address, e-mail address, and telephone number of the requesting party.

b. The division shall provide the subpoena to the requesting party by regular mail, fax, ~~or electronic mail~~ e-mail, or other electronic means or allow for pickup during the department's regular business hours. ~~Parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.~~

c. When authorized by law, an administrative law judge (ALJ) may issue a subpoena on the ALJ's own motion.

d. When there is reasonable ground to believe a subpoena is requested for the purpose of harassment, or that the subpoena requests irrelevant evidence or is untimely, the ~~ALJ~~ division may refuse to issue the subpoena. ~~The ALJ may require the requesting party to provide a statement of testimony expected to be elicited from the subpoenaed witness and a showing of relevancy.~~ If the ~~ALJ~~ division refuses to issue a subpoena, the ~~ALJ~~ division shall provide a written statement of the ground for refusal. A party to whom a refusal is issued may obtain a prompt hearing ~~before an ALJ~~ regarding the refusal by filing with the division and serving on all parties a written request ~~with the division~~ for a hearing, including a statement of testimony, documents, or other items expected to be elicited from the subpoenaed witness and a showing of relevancy to the proceeding.

e. The issuance of a subpoena by the division does not constitute a ruling by the ALJ that the subpoenaed witness may testify at the hearing or that a subpoenaed document may be admitted into evidence. A party seeking to call a subpoenaed witness to testify or seeking to introduce a subpoenaed document at a hearing must comply with any applicable requirement in statute, administrative rule, or ALJ order regarding the submission of witness or exhibit lists and the disclosure of proposed exhibits to opposing parties.

**10.14(2) Form and contents.**

a. Requirements. Any subpoena issued after the commencement of a contested case or other proceeding conducted by the division shall be issued on a form approved by the division and must:

(1) State that the subpoena is issued by the administrative hearings division of the department of inspections and appeals;

(2) State the title of the proceeding and its case number;

(3) Command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person's possession, custody or control; or permit the inspection of premises; and

(4) Include a guidance document for subpoenaed persons that has been approved by the division and that shall include the text of subrules 10.14(4) and 10.14(5).

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b. Command to attend a deposition; notice of the recording method. A subpoena commanding attendance at a deposition must state the method for recording the testimony.

c. Combining or separating a command to produce or to permit inspection; specifying the form for electronically stored information. A command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.

d. Command to produce; included obligations. A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding party to permit inspection, copying, testing, or sampling of the materials.

**10.14(3) Service of subpoenas.**

a. The requesting party is responsible for arranging service of a subpoena prior to the hearing or deposition at which the testimony is commanded or the time at which the requested documents must be produced. The party is responsible for any cost associated with serving a subpoena and for the payment of witness fees and mileage expenses. If requested, pursuant to Iowa Code section 622.69, the witness fee is \$10 for a full day's attendance and is \$5 for attendance less than a full day, and mileage shall be paid for each mile actually traveled to participate in an in-person hearing or deposition at the rate established by the supreme court for witnesses in court proceedings, except that:

(1) No peace officer who receives a regular salary, or any other public official shall in any case receive fees as a witness for testifying in regard to any matter coming to the officer's or official's knowledge in the discharge of the officer's or official's official duties in a telephone hearing or an in-person hearing held in the county of the officer's or official's residence, except police officers who are called as witnesses when not on duty. An officer is on duty when paid by the officer's employing agency regardless whether the officer would regularly be on duty at the time of the hearing.

(2) A volunteer fire fighter, as defined in Iowa Code section 85.61, who is subpoenaed to appear as a witness in connection with a matter regarding an event or transaction which the fire fighter perceived or investigated in the course of duty as a volunteer fire fighter shall receive a fee only as provided for under Iowa Code section 622.71A.

b. Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person and, if the subpoena requires that person's attendance and, if demanded, tendering the fees for one day's attendance and traveling fees to and from the proceeding. If the subpoena commands the production of documents, electronically stored information, or tangible things, then before it is served, a notice must be served on each party. For purposes of this rule, an employee of a state or local governmental agency is not a party merely because the agency is a party and may serve a subpoena unless the employee is also a named party in the proceeding or otherwise ineligible to serve a subpoena.

c. Permissible place of service. A subpoena may be served any place within the state of Iowa.

d. Proof of service. Proving service, when necessary, requires filing with the division a statement showing the date and manner of service and the names of persons served. The server must certify the statement in accordance with Iowa Code section 622.1.

**~~10.14(2)~~ 10.14(4) Motion to quash or modify Protecting a person subject to a subpoena.**

a. ~~Avoiding undue burden or expense; sanctions.~~ A subpoena may be quashed or modified upon motion for any lawful ground in accordance with the Iowa Rules of Civil Procedure. A party or attorney responsible for serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The administrative law judge must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

b. Command to produce materials or permit inspection.

(1) Appearance not required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition or hearing.

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(2) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

c. Attendance. Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

d. Quashing or modifying a subpoena.

(1) When required. On timely motion, the administrative law judge must quash or modify a subpoena that:

1. Fails to allow a reasonable time to comply;

2. Requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend a hearing anywhere within the state in which the person is served with a subpoena;

3. Requires disclosure of privileged or other protected matter, if no exception or waiver applies;

or

4. Subjects a person to undue burden.

(2) When permitted. To protect a person subject to or affected by a subpoena, the administrative law judge may, on motion, quash or modify the subpoena if it requires:

1. Disclosing a trade secret or other confidential research, development, or commercial information;

2. Disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

3. A person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend a hearing.

(3) Specifying conditions as an alternative. In the circumstances described in subparagraph 10.14(4) "d"(2), the administrative law judge, instead of quashing or modifying a subpoena, may order appearance or production under specified conditions if the serving party:

1. Shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

2. Ensures that the subpoenaed person will be reasonably compensated.

b- (4) A motion to quash or modify a subpoena shall be filed with the division and served on all parties of record pursuant to rule 481—10.12(17A), except that a motion filed by or on behalf of a person who is neither a party nor a party's officer may be filed with the division and served only on the agency with a request for the division to provide a copy of the motion to all non-agency parties. The division may require a person requesting the division to provide the motion to a non-agency party to provide an additional paper copy of the motion and any attached exhibits for the division to provide to the non-agency party.

e- (5) The motion may be set for argument at the discretion of the ALJ administrative law judge. The administrative law judge may limit the participation of a person who is not a party, or the representative of such a person, to the extent necessary to protect any confidential information related to the proceeding.

10.14(5) Duties in responding to a subpoena.

a. Producing documents or electronically stored information. These procedures apply to producing documents or electronically stored information:

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

(1) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) Form for producing electronically stored information not specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) Electronically stored information produced in only one form. The person responding need not produce the same electronically stored information in more than one form.

(4) Inaccessible electronically stored information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the administrative law judge may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Iowa Rule of Civil Procedure 1.504(1)(b). The administrative law judge may specify conditions for the discovery.

b. Claiming privilege or protection.

(1) Information withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. Expressly make the claim; and

2. Describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) Information produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

This rule is intended to implement Iowa Code sections 10A.104(6) and 17A.13.

[Filed 1/28/16, effective 3/23/16]

[Published 2/17/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/17/16.

**ARC 2415C**

**INSURANCE DIVISION[191]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8 and chapter 505B, the Insurance Division (the Division) hereby amends Chapter 4, "Agency Procedure for Rule Making and Waiver of Rules," Chapter 20, "Property and Casualty Insurance," Chapter 30, "Life Insurance Policies," Chapter 35, "Accident and Health Insurance," Chapter 39, "Long-Term Care Insurance," and Chapter 40, "Health Maintenance Organizations," Iowa Administrative Code.

Iowa Code chapter 505B, which became effective on July 1, 2014, authorizes insurers and policyholders to consent to the delivery of notices or documents by electronic means. Amendments to Iowa Code chapter 505B were enacted by 2015 Iowa Acts, House File 504, and became effective July 1, 2015. The amendments to Iowa Code chapter 505B prohibit the use of electronic means to provide required notices of cancellation, nonrenewal or termination. However, the amendments to Iowa Code

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chapter 505B contemplate that the Iowa Insurance Commissioner may approve an insurance company's proposed electronic means of delivery of a notice or document.

The purpose of these amendments is to clarify the authorized methods of delivery for notices of cancellation, nonrenewal or termination and to recognize acceptable proof of receipt for such notices, so as to implement the various policyholder protections intended by Iowa Code chapter 505B as amended by 2015 Iowa Acts, House File 504; chapter 508; and sections 509B.5, 513B.5, 514B.17, 514B.17A, 514D.3, 514G.111, 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 by rules 191—39.22(514G), 191—40.10(514B), and 191—92.6(508). The amendments prescribe the manner in which an insurance company may seek the Commissioner's approval of a proposed electronic means of delivery.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 5, 2015, as **ARC 2078C**. Written comments were accepted through September 4, 2015, and a public hearing was held on September 3, 2015, at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa. Several comments were received. The following list summarizes the changes made to the proposed amendments in response to public comment and Division review.

1. A definition of "Intended recipient" was added to paragraph 4.24(2)"a." The term "intended recipient" replaces other proposed language in paragraph 4.24(2)"d," and the term is referenced in new paragraph 4.24(2)"f."

2. Clarifying changes were made to proposed paragraph 4.24(2)"d," language was added in a new paragraph 4.24(2)"f," and proposed paragraph 4.24(2)"f" was relettered as paragraph 4.24(2)"g." In addition, clarifying changes were made to relettered paragraph 4.24(2)"g."

3. Language was simplified in subrules 20.80(3), 30.9(3), 35.9(3), 39.33(3), and 40.26(3).

4. All references to 2015 Iowa Acts, House File 504, have been updated to Iowa Code references. As a result, the amendment in Item 4 of the Notice to add the House File reference to an implementation sentence is no longer necessary and has been removed. Subsequent items have been renumbered accordingly.

The Insurance Division's waiver provisions in 191—Chapter 4 apply to this rule making.

These amendments will impose no fiscal impact to the State.

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

These amendments are intended to implement Iowa Code chapter 505B.

These amendments shall become effective March 23, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 191—4.24(17A) as follows:

**191—4.24(17A) Criteria for waiver or variance.**

**4.24(1) *Criteria for order for waiver or variance.*** In response to a petition completed pursuant to rule 191—4.26(17A), except for a petition seeking a waiver order issued pursuant to subrule 4.24(2), the insurance 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:

~~1.~~ a. Application of the rule would impose an undue hardship on the person for whom the waiver is requested;

~~2.~~ b. Waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

~~3.~~ c. Provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law;

~~4.~~ 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; and

~~5.~~ e. If the rule implements Iowa Code chapter 502, or is being applied in conjunction with implementation of Iowa Code chapter 502, a waiver may be granted only if the waiver is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of Iowa Code chapter 502.

## INSURANCE DIVISION[191](cont'd)

4.24(2) Criteria for waiver or variance related to approval of a manner of electronic delivery of notices of cancellation, nonrenewal or termination. This subrule is intended to implement Iowa Code sections 17A.9 and 505B.1.

a. For purposes of Iowa Code chapter 505B and this subrule, the following definitions shall apply:

“Commissioner” means the Iowa insurance commissioner or insurance division.

“Intended recipient” means the person to whom notice is required to be delivered, including but not limited to notices listed in the definition of “notice of cancellation, nonrenewal or termination” in this paragraph and in 191—paragraphs 20.80(1)“b,” 30.9(1)“b,” 35.9(1)“b,” 39.33(1)“b,” and 40.26(1)“b.”

“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 chapters 505B, 508, 509B, 513B, 514, 514B, 514D, 514G, 515, 515D, 518, 518A and 519, “notice of cancellation, nonrenewal or termination” includes but is not limited to the following:

- An insurance company’s notice of cancellation, nonrenewal, suspension, exclusion, intention not to renew, failure to renew, termination, replacement, rescission, forfeiture or lapse in an annuity policy, a life insurance policy, a long-term care insurance policy, or an insurance policy other than life;

- An insurance company’s rescission or discontinuance of an accident and health insurance policy;

- An insurance company’s notice of cancellation of personal lines policies or contracts;

- A health maintenance organization’s notice to an enrollee of cancellation or rescission of membership;

- An employer’s or group policyholder’s notice to an employee or member of the termination or substantial modification of the continuation of an employer group accident or health policy; or

- A carrier’s or organized delivery system’s advance notice to affected small employers, participants, and beneficiaries of its decision to discontinue offering a particular type of health insurance coverage.

b. This subrule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance in Iowa, health maintenance organizations, employers, group policyholders, carriers and organized delivery systems and to all requirements by statute or rule related to notices of cancellation, nonrenewal or termination. This subrule shall apply when an insurance company, health maintenance organization, employer, group policyholder, carrier or organized delivery system seeks the commissioner’s approval of a manner for delivering by electronic means required notices of cancellation, nonrenewal or termination, as described in Iowa Code section 505B.1.

c. The commissioner, by order pursuant to this chapter, may approve a request for approval of a manner for delivering notices of cancellation, nonrenewal or termination by an electronic means if the commissioner has jurisdiction to enforce the statute or rule requiring the notice and if the requested approval is consistent with Iowa Code section 505B.1 and with this chapter.

d. In response to a petition submitted pursuant to rule 191—4.26(17A) and related statutes and rules, the commissioner may issue an order approving an insurer’s proposed manner for delivering notices of cancellation, nonrenewal or termination by an electronic means rather than mail, if the commissioner finds, based on clear and convincing evidence, all of the following:

(1) The proposed manner allows the commissioner, the insurer and the intended recipient to verify receipt by the intended recipient;

(2) The proposed manner provides for consent, by the intended recipient, to have notices or documents delivered by electronic means, in compliance with Iowa Code chapter 505B; and

(3) The proposed manner provides that the insurance company shall maintain adequate records of notices, receipts and consents. The records shall be available for review upon request by the commissioner and the intended recipient and shall be maintained for a period of five years from the date of cancellation, nonrenewal or termination.

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e. Such an order would constitute approval by the commissioner to satisfy Iowa Code chapter 505B.

f. Although any proposed manner that complies with the above requirements may be approved, the following system is provided as an example, for purposes of guidance, of an insurer's system of verifiable receipt that will be approved by the commissioner, if the system includes all of the following aspects:

(1) The system provides that the intended recipients shall give written consent to the insurer of delivery of required notices of cancellation, nonrenewal and termination by electronic means, in compliance with Iowa Code section 505B.1.

(2) The system provides that, when an insurer is required to provide notices of cancellation, nonrenewal and termination, the insurer shall provide to the intended recipients a link to the required notice by electronic mail.

(3) The system provides that the insurer provide intended recipients with user names and passwords to log in to the insurer's notice system Web site.

(4) The system provides that the link required by subparagraph 4.24(2) "f"(2) shall be to a secure Web site that requires the intended recipients' user names and passwords for the intended recipients to access insurer's notice system Web site and the contents of the notices.

(5) The system provides that, when the intended recipients log in to the insurer's notice system Web site, either the insurer's notice to the intended recipients or the intended recipients' online inboxes will be the first thing automatically displayed.

(6) The system provides a procedure whereby, if the intended recipients do not log in to the intended recipients' accounts within seven days after the insurer sent the link to the intended recipients by e-mail, the insurer shall mail paper copies of the notices to the intended recipients' last-known physical addresses.

(7) The system provides for adequate maintenance of records by the insurer as required by subparagraph 4.24(2) "d"(3).

g. The commissioner may, upon proper request by an insurance company pursuant to rule 191—1.3(22,502,505) or another applicable rule, maintain the confidentiality of information in any document or materials submitted in support of a request for approval under this rule:

(1) If release of the specific information would disclose trade secrets protected by law pursuant to Iowa Code section 22.7(3) and rule 191—1.3(22,502,505); or

(2) If the specific information otherwise must be withheld from public inspection pursuant to Iowa Code chapter 22 or rule 191—1.3(22,502,505).

Only such information that requires confidentiality pursuant to Iowa Code section 22.7 and rule 191—1.3(22,502,505) may be withheld from public inspection, and any reasonably separable portion of a record shall be provided to any person requesting such record after deletion of the portions which are withheld pursuant to Iowa Code section 22.7 and rule 191—1.3(22,502,505).

ITEM 2. Amend rule 191—20.80(505B,515,515D,518,518A,519) as follows:

**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 and or termination by an insurer. ~~Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) "b," delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).~~

b. Definitions. As used in Iowa Code section 505B.1 and this rule:

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“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)** No change.

**20.80(3)** ~~Delivery and receipt.~~ 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, ~~either deliver the notice to the named insured person to whom notice is required to be provided either in person or by mail the notice through the U.S. Postal Service to the last-known address of the named insured 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.~~ Electronic transmissions do not currently 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. ~~However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.~~

This rule is intended to implement Iowa Code chapter 505B.

ITEM 3. Amend rule 191—30.9(505,508) as follows:

**191—30.9(505,508) Notice of cancellation, forfeiture, lapse, nonrenewal or termination of life insurance and annuities.**

**30.9(1) Purpose and definitions.**

*a. Purpose.* The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, ~~forfeiture, lapse,~~ nonrenewal ~~and or~~ termination by an insurer or insurance producer required for contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25, so as to require reasonable procedures for providing notice to policyholders of the consequences of cancellation, ~~forfeiture, lapse,~~ nonrenewal or termination of life insurance and annuity contracts. ~~In universal life contracts, specific advance notice is required by rule 191—92.6(508).~~ The Uniform Electronic Transactions Act, in Iowa Code section 554D.110(4) “b,” provides that a requirement under a law to send, communicate, or transmit a record by first-class mail postage prepaid may be varied by agreement to the extent permitted by the other law. Notification regulation should effectively require reasonable advance notice to life insurance and annuity policyholders that insurance coverage will cease or be placed under a nonforfeiture benefit on a date certain. ~~Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).~~

*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;

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2. Notice of an insurance company's decision or intention not to renew a policy; and  
 3. For purposes of notices of cancellation, nonrenewal or termination of contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25, "notice of cancellation, nonrenewal or termination" includes but is not limited to the following:

- An insurance company's notice of cancellation, nonrenewal or termination of life insurance or annuities;
- Notice of replacement of life insurance, for which specific notice is required to be provided by the insurance producer pursuant to rule 191—16.24(507B); and
- Notice of termination of universal life contracts, for which specific advance notice is required to be provided by the insurance company pursuant to rule 191—92.6(508).

**30.9(2)** No change.

**30.9(3)** ~~Delivery and receipt.~~ For any notice of cancellation, ~~forfeiture, lapse,~~ nonrenewal or termination by an insurer in contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25 to be effective, an insurer must, within the time frame established by law, or such reasonable time in advance and as governed by contract, ~~either deliver the notice to the named insured person to whom notice is required to be provided either in person or by mail the notice through the U.S. Postal Service to the last-known address of the named insured person to whom notice is required to be provided.~~ For replacements of life insurance, specific notice is required to be provided by the insurance producer pursuant to rule 191—16.24(507B). For universal life contracts, specific advance notice of termination is required to be provided by the insurance company pursuant to rule 191—92.6(508). The use of U.S. Postal Service Intelligent Mail® fulfills any requirement for the contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25 and for notices required by rule 191—16.24(507B) or 191—92.6(508) for certified mail or certificate of mailing as proof of mailing.

**30.9(4)** ~~Electronic transmissions.~~ ~~Electronic transmissions do not currently~~ Notwithstanding the requirements of subrule 30.9(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 for cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the requirements of Iowa Code section 505B.1 or 508.25, rule 191—16.24(507B) or 191—92.6(508), or this rule ~~or of rule 191—92.6(508).~~ However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

ITEM 4. Amend rule 191—35.9(509B,513B,514D) as follows:

**191—35.9(509B,513B,514D) Notice of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination of accident and health insurance.**

**35.9(1)** *Purpose and definitions.*

*a. Purpose.* The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, ~~rescission, discontinuance and nonrenewal or termination~~ by an insurer, issuer, employer, group policyholder, carrier or organized delivery system, so as to implement the various policyholder protections intended by Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A and chapter 505B. ~~Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) "b," delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).~~

*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 termination of an insurance policy at the end of a term or before the termination date;
2. Notice of a decision or intention not to renew a policy; and
3. For purposes of notices required by Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A and chapter 505B, "notice of cancellation, nonrenewal or termination" includes but is not limited to the following:

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- An employer's or group policyholder's notification to employees or members of the termination or substantial modification of the continuation of an employer group accident or health policy pursuant to Iowa Code section 509B.5;
- A carrier's or organized delivery system's advance notice to all affected small employers, participants, and beneficiaries of its decision to discontinue offering a particular type of small group health insurance plan pursuant to Iowa Code section 513B.5(1) "e"(2);
- An insurance company's notice of termination of an individual accident and sickness policy, pursuant to rules promulgated pursuant to Iowa Code section 514D.3;
- An insurance company's notice of forfeiture, suspension, cancellation, or intention not to renew, pursuant to Iowa Code section 515.125; or
- An insurance company's notice of cancellation of personal lines policies or contracts pursuant to Iowa Code section 515.129A.

**35.9(2)** No change.

**35.9(3)** ~~Delivery and receipt.~~ For any notice of cancellation, ~~rescission, discontinuance nonrenewal~~ or termination by an insurer under Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A, ~~employer, group policyholder, carrier or organized delivery system to be effective, an insurer, employer, group policyholder, carrier or organized delivery system must, within the time frame established by law, either deliver the notice to the named insured person to whom notice is required to be provided either in person or by mail the notice through the U.S. Postal Service to the last-known address of the named insured 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.

**35.9(4)** ~~Electronic transmissions.~~ ~~Electronic transmissions do not currently~~ Notwithstanding the requirements of subrule 35.9(3), if an insurer, issuer, employer, group policyholder, carrier or organized delivery system 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 509B.5, 513B.5, and 514D.3, 515.125 and 515.129A and chapter 505B. However, ~~additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.~~

This rule is intended to implement Iowa Code ~~chapter~~ chapters 505B, 509B, 513B, 514D, and 515.

ITEM 5. Amend rule 191—39.33(514G) as follows:

**191—39.33(514G) Notice of cancellation, ~~forfeiture, lapse nonrenewal~~ or termination of long-term care insurance.**

**39.33(1) Purpose and definitions.**

*a. Purpose.* The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, ~~forfeiture, lapse and nonrenewal~~ or termination by an insurer, so as to implement the various policyholder protections intended by Iowa Code section 514G.111 and rule 191—39.22(514G). Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) "b," delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

*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 section 514G.111 and rule 191—39.22(514G), at a minimum, an insurance company's notice of lapse or termination of a long-term care insurance policy.

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**39.33(2)** No change.

**39.33(3)** *Delivery and receipt.* For any notice of cancellation, ~~forfeiture, lapse nonrenewal~~ or termination by an insurer under Iowa Code section 514G.111 and rule 191—39.22(514G) to be effective, an insurer must, within the time frame established by law, ~~either~~ deliver the notice to the ~~named insured~~ person to whom notice is required to be provided either in person or by mail ~~the notice~~ through the U.S. Postal Service to the last-known address of the ~~named insured~~ person to whom notice is required to be provided. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in Iowa Code section 514G.111 and rule 191—39.22(514G) for certified mail or certificate of mailing as proof of mailing.

**39.33(4)** *Electronic transmissions.* ~~Electronic transmissions currently fail to~~ Notwithstanding the requirements of subrule 39.33(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 section 514G.111 and rule 191—39.22(514G). ~~However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.~~

This rule is intended to implement Iowa Code chapter 505B.

ITEM 6. Amend rule 191—40.26(514B) as follows:

**191—40.26(514B) Notice of cancellation, rescission, ~~discontinuance~~ nonrenewal or termination of enrollment.**

**40.26(1)** *Purpose and definitions.*

*a. Purpose.* The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination by a health maintenance organization, so as to implement the various consumer protections intended by Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B). ~~Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).~~

*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 514B.17 and 514B.17A and rule 191—40.10(514B), “notice of cancellation, nonrenewal or termination” includes but is not limited to a health maintenance organization’s notice to an enrollee of cancellation or rescission of membership.

**40.26(2)** No change.

**40.26(3)** *Delivery and receipt.* For any notice of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination by a health maintenance organization under Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B) to be effective, a health maintenance organization must, within the time frame established by law, ~~either~~ deliver the notice to the ~~named insured~~ person to whom notice is required to be provided either in person or by mail ~~the notice~~ through the U.S. Postal Service to the last-known address of the ~~named insured~~ person to whom notice is required to be provided. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B) for certified mail or certificate of mailing as proof of mailing.

**40.26(4)** *Electronic transmissions.* ~~Electronic transmissions do not currently~~ Notwithstanding the requirements of subrule 40.26(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

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514B.17 and 514B.17A and rule 191—40.10(514B). However, additional communication of notices by electronic means may be provided by an insurer as a service to the named insured.

This rule is intended to implement Iowa Code chapter 505B.

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[Published 2/17/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/17/16.

## ARC 2402C

### IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 5, "Employees," Chapter 6, "Covered Wages," Chapter 8, "Service Purchases," Chapter 9, "Refunds," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 13, "Disability for Regular and Special Service Members," Chapter 14, "Death Benefits and Beneficiaries," Chapter 16, "Domestic Relations Orders and Other Assignments," Chapter 17, "Public Records and Fair Information Practices," and Chapter 26, "Appeals and Contested Cases—Proceedings," Iowa Administrative Code.

These amendments: implement contribution rates for regular and special service members beginning July 1, 2016; clarify an existing rule and adopt a new rule regarding leased employees; require certification by employers that their Section 125 plans meet all Internal Revenue Code requirements; clarify that members who retire under Option 1 may increase the lump sum death benefit with a service purchase, which will be balanced out by a reduced monthly benefit amount; conform the language of a rule with the statute and remove unclear language regarding reinstatement following an involuntary termination and the taking of a refund; include the available percentages from which a member must select to be payable to the member's contingent annuitant when a member retires under Option 4 or 6; clarify reemployment/income monitoring and move offset language to a new rule detailing the offsets taken in the case of special service disability payments received by a member for the same illness or injury and how they are calculated; clarify acceptable proof of death for beneficiary payments; clarify preretirement death benefits payable to inactive members' beneficiaries for deaths occurring before June 30, 2012, and adopt a new rule for deaths occurring after June 30, 2012; remove language regarding opposite gender spouse from the definition of "Qualified domestic relations order"; conform IPERS with Internal Revenue Service reporting requirements for distributions to non-spouse successor alternate payees; clarify procedures when a post-divorce beneficiary designation is updated by a member; clarify proof of death requirements when an alternate payee predeceases a member; clarify procedures regarding refund payments made when a qualified domestic relations order (QDRO) is involved and the alternate payee has not returned a completed application by the deadline; clarify that payment of an alternate payee's benefit under a QDRO will follow the payroll schedule; remove the written signature requirement in answering an open records request; and update terms to be consistent with IPERS' practice in appeals.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 23, 2015, as **ARC 2331C**. A public hearing was held on January 12, 2016, at 9 a.m. in Conference Room G, IPERS, 7401 Register Drive, Des Moines, Iowa. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

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

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15.

These amendments will become effective March 23, 2016.

The following amendments are adopted.

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 1. Amend paragraph **4.6(1)“b”** as follows:

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016
Combined rate	14.45%	14.88%	14.88%	14.88%	<u>14.88%</u>
Employer	8.67%	8.93%	8.93%	8.93%	8.93%
Employee	5.78%	5.95%	5.95%	5.95%	<u>5.95%</u>

ITEM 2. Amend subrule 4.6(2) as follows:

**4.6(2)** Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2011	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016
Combined rate	<del>19.66%</del>	19.80%	19.76%	19.76%	19.76%	<u>19.26%</u>
Employer	<del>9.83%</del>	9.90%	9.88%	9.88%	9.88%	<u>9.63%</u>
Employee	<del>9.83%</del>	9.90%	9.88%	9.88%	9.88%	<u>9.63%</u>

ITEM 3. Amend subrule 4.6(3) as follows:

**4.6(3)** Contribution rates for protection occupations are as follows.

	Effective July 1, 2011	Effective July 1, 2012	Effective July 1, 2013	Effective July 1, 2014	Effective July 1, 2015	Effective July 1, 2016
Combined rate	<del>16.62%</del>	17.11%	16.90%	16.90%	16.40%	<u>16.40%</u>
Employer	<del>9.97%</del>	10.27%	10.14%	10.14%	9.84%	<u>9.84%</u>
Employee	<del>6.65%</del>	6.84%	6.76%	6.76%	6.56%	<u>6.56%</u>

ITEM 4. Amend subrule 5.2(46) as follows:

**5.2(46)** Persons who are employed by professional employment organizations, temporary staffing agencies, and similar noncovered employers and are leased to covered employers shall not be covered. ~~Notwithstanding the foregoing, persons who are employed by a covered employer and leased to a noncovered employer shall be covered.~~

ITEM 5. Renumber subrules **5.2(47)** to **5.2(49)** as **5.2(48)** to **5.2(50)**.

ITEM 6. Adopt the following **new** subrule 5.2(47):

**5.2(47)** Persons who are employed by a covered employer and leased to a noncovered employer shall be covered.

ITEM 7. Amend subrule 6.5(1) as follows:

**6.5(1) Section 125 plans.** For purposes of this rule, a Section 125 plan means an employer-sponsored fringe benefit plan that is subject to Section 125 of the federal Internal Revenue Code (IRC). Some of the common names for this type of plan are cafeteria plan, flexible benefits plan, flex plan, and flexible spending arrangement.

a. Effective January 1, 2017, employers must annually certify to IPERS, on a form approved by the system, that their Section 125 plans meet all IRC requirements.

b. If an employer does not certify its Section 125 plan's compliance with the IRC, all employer contributions to fringe benefit plans will be excluded from IPERS coverage.

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 8. Amend subparagraph **8.1(2)“g”(2)** as follows:

(2) Final service purchase cost quote at retirement. On or before the date that a member's first benefit payment is issued, a member who is vested by service may request a final service purchase cost quote by completing and submitting an application for retirement/disability benefit indicating the member's desire to receive a final service purchase cost quote. ~~Once~~ After the completed application has been submitted, IPERS shall generate a final service purchase cost quote once all of the member's wages are submitted to IPERS, which may be after the member's first month of entitlement. The final cost quote shall be calculated as follows:

1. IPERS will calculate the cost by capturing the baseline benefit attributes at the member's first month of entitlement without any service purchase quarterly credits including: average salary, years of service, the Option 2 benefit amount, current member investment amount and the calculated present-day reserve value. The present-day reserve value is a lump sum value calculated with actuarial tables provided by the system's actuary which represents the lump sum value sufficient to pay the monthly benefits over the member's expected life span. With each potential purchasable service credit, IPERS will recalculate the Option 2 benefit amount. A new present-day reserve value will also be calculated. The cost of each purchasable quarter of service credit will be the difference between the new reserve amount and the previous one.

2. The retired member will have six months from the date in which IPERS generates the final service purchase cost quote to purchase additional service.

3. If the retired member purchases service within the six-month deadline, the increase in the retirement benefit shall be made effective with the month of the service purchase payment.

4. Retired members who do not indicate their desire for a final service purchase cost quote on or before the date their first payment is issued or do not complete the purchase within the six-month deadline indicated on the final service purchase cost quote shall not be eligible to purchase additional credit.

5. Retired members who selected Option 1 upon retirement may request the lump sum death benefit to be increased to take into account the additional contributions from making a service purchase. If the member requests an increase in the death benefit, the monthly benefit will be reduced to take into account the increased death benefit.

ITEM 9. Amend rule 495—9.5(97B) as follows:

~~**495—9.5(97B) Reinstatement following an employment dispute**~~ **Termination of employment—refund option.** ~~If an involuntarily terminated employee takes a refund and is later reinstated in covered employment as a remedy for an employment dispute, the member may reinstate membership service credit for the period covered by the refund by repaying the amount of the refund plus interest within 90 days after the date of the order or agreement requiring reinstatement. If a member is involuntarily terminated from covered employment, has been issued payment for a refund, and is retroactively reinstated in covered employment as a remedy for an employment dispute, the member may receive credit for membership service for the period covered by the refund payment upon repayment to the system, within 90 days after the date of the order or agreement requiring reinstatement, of the amount of the refund plus interest that would have accrued, as determined by the system. A reinstatement following an employment dispute shall not constitute a violation of Iowa Code section 97B.53(4), even if the reinstatement occurs less than 30 days after the date of termination. Accordingly, the reinstatement described above or, if later, a buy-back, shall be permitted but is not required. However, if the employee is retroactively reinstated and the previously reported termination is expunged, the reemployment shall be treated as falling within the scope of Iowa Code section 97B.53(4) and a previously paid refund shall be repaid with interest.~~

ITEM 10. Amend paragraph **11.1(1)“b”** as follows:

b. Option selected, and

(1) If Option 1 is selected, the death benefit amount.

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

(2) If Option 4 or 6 is selected, the contingent annuitant's name, social security number, proof of date of birth, and relationship to member. The member must designate the survivor benefit percentage, which shall be limited to one of the following:

1. One hundred percent of the member's benefit amount.
  2. Seventy-five percent of the member's benefit amount.
  3. Fifty percent of the member's benefit amount.
  4. Twenty-five percent of the member's benefit amount.
- (3) If Option 1, 2, or 5 is selected, a list of beneficiaries.

ITEM 11. Amend subrule 13.2(13) as follows:

**13.2(13) Reemployment/income monitoring.** A member who retires under Iowa Code section 97B.50A and this rule shall be required to supply a copy of a complete set of the member's state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year. IPERS may suspend the benefits of any such member if such records are not timely provided.

Only wages and self-employment income shall be counted in determining a member's reemployment comparison amount, as adjusted for health care coverage for the member and member's dependents.

~~For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS shall convert any lump sum workers' compensation award, disability insurance payments, or similar lump sum awards for the same illnesses or injuries to an actuarial equivalent, as determined by IPERS.~~

ITEM 12. Adopt the following **new** subrule 13.2(14):

**13.2(14) Offset to allowance.** A member who retires under Iowa Code section 97B.50A shall have benefits reduced by other disability-related payments the member receives for the same disability, including, but not limited to benefits from:

- a. Social security.
- b. Long-term disability insurance.
- c. Workers' compensation.
- d. Unemployment insurance.
- e. Employer-paid disability plans, programs, or policies.
- f. Other laws.

For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS shall convert any lump sum workers' compensation award, disability insurance payments, or similar lump sum awards for the same illnesses or injuries to an actuarial equivalent, as determined by IPERS. IPERS shall convert any monthly, weekly, or other stated period workers' compensation award, disability insurance payments, or other awards for the same illnesses or injuries, dollar-for-dollar, to the same monthly, weekly, or other stated period, as determined by IPERS.

ITEM 13. Amend rule 495—14.4(97B) as follows:

**495—14.4(97B) Applications for death benefits.** Before death benefit payments can be made, application in writing must be submitted to IPERS with a copy of the member's death certificate, or if a death certificate cannot be obtained, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, bureau of health statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access together with information establishing the claimant's right to payment. A named beneficiary must complete an IPERS application for death benefits based on the deceased member's account. If the claimant's claim is based on dissolution of marriage that revoked the IPERS beneficiary designation, the claim must be processed pursuant to rule 495—14.17(97B).

ITEM 14. Amend paragraph **14.12(2)“k”** as follows:

k. Inactive members with less than 16 quarters of service credit. For deaths occurring after June 30, 2004, and before July 1, 2012, preretirement death benefits shall be provided solely under Iowa Code section 97B.52(1)“a,” and shall only be payable in lump sum amounts for inactive members who have less than 16 quarters of service credit. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 15. Adopt the following **new** paragraph **14.12(2)“f”**:

*f.* Inactive members not vested by service. For deaths occurring after June 30, 2012, preretirement death benefits shall be provided solely under Iowa Code section 97B.52(1) “a,” and shall only be payable in lump sum amounts for inactive members who are not vested by service. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).

ITEM 16. Amend subrule **16.2(1)**, definition of “Qualified domestic relations order,” as follows:

“*Qualified domestic relations order*” or “*QDRO*” means a domestic relations order that divides the marital property of ~~opposite gender~~ former spouses and assigns to ~~an opposite gender~~ a former spouse alternate payee the right to receive all or a portion of the benefits payable with respect to a member under IPERS and meets the requirements of this rule.

ITEM 17. Amend paragraph **16.2(2)“a”** as follows:

*a. Mandatory provisions.* A domestic relations order is a QDRO if such order:

(1) Clearly specifies the member’s name and last-known mailing address, member identification number or social security number, and the names and last-known mailing addresses and social security numbers of alternate payees. This information shall be provided to IPERS on IPERS’ Confidential Information form;

(2) Clearly specifies a fixed dollar amount or a percentage, but not both, of the member’s benefits to be paid by IPERS to the alternate payee or the manner in which the fixed dollar amount or percentage is to be determined, provided that no such method shall require IPERS to perform present value calculations of the member’s accrued benefit;

(3) Clearly specifies the period to which such order applies;

(4) Clearly specifies that the order applies to IPERS;

(5) Clearly specifies that the order is for purposes of making a property division; ~~and~~

(6) ~~Is clearly signed by the judge and filed with the clerk of court. IPERS will consider an order duly signed if it carries an original signature, a stamp bearing the judge’s signature, electronic clerk of court stamp and judge’s signature page via the electronic data management system (EDMS), or is conformed in accordance with local court rules. Conforms IPERS with IRS reporting requirements for distributions to non-spouse successor alternate payees. The taxable portion and basis will be prorated to each respective recipient if the payee is the alternate payee. If the payee is a successor alternate payee, the taxable portion and basis will be borne by the member, pursuant to IRC Pub. L. 99-514, 100 Stat. 2085, enacted October 22, 1986; and~~

(7) Is clearly signed by the judge and filed with the clerk of court. IPERS will consider an order duly signed if it carries an original signature, a stamp bearing the judge’s signature, an electronic clerk-of-court stamp and judge’s signature page via the electronic data management system (EDMS) or is conformed in accordance with local court rules.

ITEM 18. Amend paragraph **16.2(3)“c”** as follows:

~~*c.* If a QDRO directs the member to name the alternate payee under the order as a designated beneficiary, and the member fails to do so Upon acceptable proof from a member that a preretirement divorce is final, a member may submit a new enrollment/beneficiary designation form to IPERS. IPERS will place the new designation in the member’s record. However, if a domestic relations order is later received and qualified by IPERS, the provisions of the QDRO awarding the alternate payee a share of the member’s death benefits shall be deemed, except as revoked or modified in a subsequent QDRO, to operate as a beneficiary designation, and shall be given first priority by IPERS in the determination and payment of such member’s death benefits. Death benefits remaining after payments are made as required by the QDRO, to the extent possible, shall then be made according to the terms of the member’s most recent beneficiary designation. If a QDRO does not require contain a form of benefit paragraph requiring the member to select an a specific IPERS option at retirement, the member is allowed to select any option at retirement, including an option that does not provide for payment of postretirement death benefits. Once a divorce is final postretirement, a member may submit a new enrollment/beneficiary designation form to IPERS if the member has retired under Option 1, 2 or 5, unless otherwise specified in a QDRO.~~

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 19. Amend paragraph **16.2(3)“d”** as follows:

*d.* If an alternate payee has been awarded a share of the member's benefits and dies before the member, the alternate payee's entire account value share shall be restored to the member unless otherwise specified in the order and in the manner required under this rule. In order for the alternate payee's entire share to be restored to the member, IPERS requires proof of death of the alternate payee in the form of a death certificate. If a death certificate cannot be obtained, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, bureau of health statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

ITEM 20. Amend paragraph **16.2(3)“j”** as follows:

*j.* IPERS has no duty or responsibility to search for alternate payees. Alternate payees must notify IPERS of any change in their mailing addresses. IPERS shall mail the alternate payee an application once an application for a distribution has been received from the member and considered a complete application by IPERS. The application mailed by IPERS to the alternate payee states that, if the alternate payee does not return the application to IPERS within 60 days after the application is mailed by IPERS, the amounts otherwise payable to the alternate payee shall be paid to the member or the member's beneficiary(ies). If the member applied for a refund, and the alternate payee's application is not received within the 60 days, the alternate payee's share of the member's lump sum refund shall be paid to the member. The alternate payee's only recourse shall be with the member. IPERS shall have no liability to the alternate payee or the member with respect to payment of the alternate payee's share to the member. If the member applies for a monthly pension payment, unless and until a valid application for the alternate payee's share of the monthly pension payments is received and accepted by IPERS, IPERS shall have no liability to the alternate payee with respect to payment of monthly amounts, nor will any retroactive payment be made if and when an application is received and accepted. All monthly payments in this case shall be prospective.

ITEM 21. Adopt the following new paragraph **16.2(3)“r”**:

*r.* If an alternate payee's completed application is received and processed before the payroll has been processed in any given month, the alternate payee will receive a payment for that current month. If an alternate payee's completed application is received and processed in the current month, but after the payroll has been processed, the alternate payee's payment will commence with the payroll in the following month.

ITEM 22. Amend subrule 17.4(4) as follows:

**17.4(4) Request denied.** When the custodian denies a request for access to a confidential record, in whole or in part, the custodian shall notify the requester in writing. The denial shall ~~be signed by the custodian of the record and shall~~ include:

- a.* The name and title of the person responsible for the denial; and
- b.* A citation to the statute or other provision of law which prohibits disclosure of the record; or
- c.* A citation to the statute vesting discretion in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to the requester.

ITEM 23. Amend subrule 26.3(1) as follows:

**26.3(1)** A party who wishes to appeal a decision by IPERS, other than a disability claim pursuant to Iowa Code section 97B.50A, shall, within 30 days after notification was mailed to the party's last-known address, file with IPERS a notice of appeal in writing setting forth:

- a.* The name, address, and social security member identification number of the applicant appellant;
- b. to e.* No change.

[Filed 1/27/16, effective 3/23/16]

[Published 2/17/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/17/16.

**ARC 2396C****LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board (Board) hereby amends Chapter 71, "Administration of the Conveyance Safety Program," Chapter 72, "Conveyances Installed On or After January 1, 1975," and Chapter 73, "Conveyances Installed Prior to January 1, 1975," Iowa Administrative Code.

These amendments change the safety standards for alterations of residential elevators installed in public buildings and for alterations of escalators.

The current Iowa safety standards for alterations of escalators can make modernization of escalators unnecessarily difficult and expensive. These amendments make the more flexible American Society of Mechanical Engineers (ASME) standards applicable in Iowa.

The changes relating to residential elevators installed in public buildings facilitate the child entrapment rules adopted in **ARC 1972C** (IAB 4/29/15).

The purposes of these amendments are to protect the health and safety of the public, ease an existing restriction on escalator alterations, and implement legislative intent.

Notice of Intended Action was published in the November 25, 2015, Iowa Administrative Bulletin as **ARC 2264C**. No public comment was received on the proposed amendments. These amendments are identical to the amendments published under Notice of Intended Action.

No variance procedures are included in this rule making. Applicable variance procedures are set forth in 875—Chapter 66.

After analysis and review of this rule making, no adverse impact on jobs is expected.

These amendments are intended to implement Iowa Code chapter 89A.

These amendments shall become effective on March 23, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 71.10(3) as follows:

**71.10(3)** ~~With the exception of replacing brushes on or adding brushes to escalators, all alterations~~ Alterations of conveyances other than escalators and elevators shall require that the entire conveyance be brought into compliance with the current code.

ITEM 2. Adopt the following **new** subrule 72.13(6):

**72.13(6)** *Alterations of handicapped restricted use elevators.* A component of a handicapped restricted use elevator being altered shall comply with the portions of ASME A17.1, section 5.3, applicable to the component. The edition of ASME A17.1 adopted by reference in rule 875—72.1(89A) shall be applied.

ITEM 3. Adopt the following **new** subrule 73.8(7):

**73.8(7)** *Alterations of handicapped restricted use elevators.* A component of a handicapped restricted use elevator being altered shall comply with the portions of ASME A17.1, section 5.3, applicable to the component. The edition of ASME A17.1 adopted by reference in rule 875—72.1(89A) shall be applied.

[Filed 1/21/16, effective 3/23/16]

[Published 2/17/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/17/16.

**ARC 2403C****LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby amends Chapter 90, "Administration of the Boiler and Pressure Vessel Program," and Chapter 91, "General Requirements for All Objects," Iowa Administrative Code.

The Boiler and Pressure Vessel Board adopts by reference current versions of codes published by the American Society of Mechanical Engineers, National Fire Protection Association, and National Board of Boiler and Pressure Vessel Inspectors. Adopting rules that are consistent with current industry standards allows installation of the most current technologies in Iowa.

The purposes of these amendments are to make the rules more current, protect the safety of the public, and implement legislative intent.

Notice of Intended Action was published in the November 25, 2015, Iowa Administrative Bulletin as **ARC 2251C**. No public comment was received on the proposed amendments. These amendments are identical to the amendments published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code chapter 89.

These amendments shall become effective on April 1, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 90.6(1) as follows:

**90.6(1) General.** All boilers and unfired steam pressure vessels covered by Iowa Code chapter 89 shall be inspected according to the requirements of the National Board Inspection Code (~~2013~~) (2015), which is hereby adopted by reference. A division inspector or special inspector must perform the inspections.

ITEM 2. Amend subrule 91.1(1) as follows:

**91.1(1) ASME boiler and pressure vessel codes adopted by reference.** The ASME Boiler and Pressure Vessel Code (~~2013~~) (2015) is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code (~~2013~~) (2015) except for objects that meet one of the following criteria:

- a. An object with an ASME stamp and National Board Registration that establish compliance with an earlier version of the ASME Boiler and Pressure Vessel Code;
- b. An object within the scope of 875—Chapter 95;
- c. Rescinded IAB 10/5/11, effective 11/9/11.
- d. A miniature boiler installed before March 31, 1967;
- e. A power boiler or unfired steam pressure vessel installed before July 4, 1951; or
- f. A steam heating boiler, hot water heating boiler, or hot water supply boiler installed before July 1, 1960.

ITEM 3. Amend subrules 91.1(3) and 91.1(4) as follows:

**91.1(3) Inspection code adopted by reference.** The National Board Inspection Code (~~2013~~) (2015) is adopted by reference, and reinstallations, installations, alterations, and repairs after ~~May 20, 2015~~ April 1, 2016, shall comply with it.

**91.1(4) Electric code adopted by reference.** The National Electrical Code (~~2011~~) (2014) is adopted by reference, and reinstallations and installations after ~~May 20, 2015~~ April 1, 2016, shall comply with it.

ITEM 4. Amend subrule 91.1(7) as follows:

**91.1(7) Mechanical code adopted by reference.** Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) (~~2012~~) (2015) are adopted by reference, and installations and reinstallations after ~~May 20, 2015~~ April 1, 2016, shall comply with them.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 5. Amend subrules 91.1(9) to 91.1(11) as follows:

**91.1(9)** *Fuel gas code adopted by reference.* National Fire Protection Association National Fuel Gas Code, NFPA 54 ~~(2012)~~ (2015), is adopted by reference, and installations and reinstallations after ~~May 20, 2015~~ April 1, 2016, shall comply with it.

**91.1(10)** *Liquefied petroleum gas code adopted by reference.* National Fire Protection Association Liquefied Petroleum Gas Code, NFPA 58 ~~(2011)~~ (2014), is adopted by reference, and installations and reinstallations after ~~October 10, 2012~~ April 1, 2016, shall comply with it.

**91.1(11)** *Boiler and combustion systems hazards code adopted by reference.* National Fire Protection Association Boiler and Combustion Systems Hazards Code, NFPA 85 ~~(2011)~~ (2015), is adopted by reference, and installations and reinstallations after ~~October 10, 2012~~ April 1, 2016, shall comply with it.

[Filed 1/28/16, effective 4/1/16]

[Published 2/17/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/17/16.

**ARC 2398C**

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

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6)“a” and 483A.24(5)“g,” the Natural Resource Commission (Commission) hereby amends Chapter 15, “General License Requirements,” Iowa Administrative Code.

The Department of Natural Resources (Department) currently issues special nonresident deer and turkey hunting licenses pursuant to 561—Chapter 12, “Special Nonresident Deer and Turkey Licenses.” The Department has amended 561—Chapter 12 (**ARC 2379C**, IAB 2/3/16) to provide the opportunity for nonresident disabled members of the armed forces or veterans to buy hunting licenses in Iowa at resident prices pursuant to the program created in Iowa Code sections 483A.24(3) to 483A.24(5). Specifically, 25 of the 75 special nonresident deer tags, 25 of the 75 special nonresident turkey tags, and small-game hunting licenses will be allocated to qualifying nonresident members of the armed forces or veterans who participate in hunts conducted by organizations that provide hunting experiences for the severely wounded. The application process and program parameters are outlined in 561—Chapter 12.

The purpose of new rule 571—15.26(483A) is to provide the opportunity for the Commission to receive public input, review and approval of the provisions in Chapter 12. The statute divides the responsibility for implementing and developing license applications from the responsibility for rule making. The Department and the Commission have mutually agreed to consolidate the program requirements in 561—Chapter 12.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 9, 2015, as **ARC 2300C**. A public hearing was held on December 29, 2015. No one attended the hearing, and no comments were received during the public comment period. Accordingly, no changes from the Notice have been made.

This amendment will have no impact on jobs in the state.

This amendment is intended to implement Iowa Code sections 483A.24(3) to 483A.24(5).

This amendment shall become effective March 23, 2016.

The following amendment is adopted.

NATURAL RESOURCE COMMISSION[571](cont'd)

Adopt the following new rule 571—15.26(483A):

**571—15.26(483A) Special nonresident deer and turkey licenses.** The commission hereby authorizes the director to issue special nonresident deer and turkey licenses pursuant to the provisions of 561—Chapter 12.

[Filed 1/22/16, effective 3/23/16]

[Published 2/17/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/17/16.

**ARC 2405C**

## **PHARMACY BOARD[657]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 155A.6, the Board of Pharmacy hereby amends Chapter 4, "Pharmacist-Interns," Iowa Administrative Code.

The amendment changes the elements required for registration as a pharmacist-intern to indicate that the Board will accept either a social security number or an individual tax identification number (ITIN). The ITIN enables a foreign student and the student's dependents to be identified and to file tax returns when the student or dependents are not eligible for a social security number. The individuals identified using an ITIN may be employed or be in receipt of scholarship or fellowship funding. The Board's amendment recognizes the ITIN as a valid element of identification when a social security number is not obtainable.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the December 9, 2015, Iowa Administrative Bulletin as **ARC 2301C**. The Board received numerous written comments regarding the proposed amendment; all commenters expressed support for the amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the January 13, 2016, meeting of the Board of Pharmacy.

After analysis and review of this rule making, no substantial impact on jobs has been found. Changing the identification requirements for registration as a pharmacist-intern to accept either social security number or individual tax identification number (ITIN) enables a foreign student and the student's dependents to be identified and file tax returns when the student or dependents are not eligible for a social security number. The individuals identified using an ITIN may be employed or be in receipt of scholarship or fellowship funding. The Board's acceptance of the ITIN in lieu of a social security number does not create or eliminate the job; the Board's action recognizes the ITIN as a valid means of identification.

This amendment is intended to implement Iowa Code section 155A.6.

This amendment will become effective on March 23, 2016.

The following amendment is adopted.

Amend subrule 4.6(1) as follows:

**4.6(1) Application for registration—required information.** Application for registration as a pharmacist-intern shall be on forms provided by the board, and all requested information shall be provided on or with such application. The application shall require that the applicant provide, at a minimum, the following: name; address; telephone number; date of birth; social security number or individual tax identification number (ITIN); and name and location of college of pharmacy and

## PHARMACY BOARD[657](cont'd)

anticipated month and year of graduation. The college of pharmacy shall certify the applicant's eligibility to practice as a pharmacist-intern.

[Filed 1/28/16, effective 3/23/16]

[Published 2/17/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/17/16.

**ARC 2408C****PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 6, "General Pharmacy Practice," Chapter 7, "Hospital Pharmacy Practice," Chapter 8, "Universal Practice Standards," Chapter 10, "Controlled Substances," Chapter 17, "Wholesale Drug Licenses," and Chapter 23, "Long-term Care Pharmacy Practice," Iowa Administrative Code.

The amendments incorporate into Board rules updated federal regulations, finalized in October 2014, authorizing certain registrants to voluntarily administer an authorized collection program to collect unwanted controlled substances from patients for the purpose of disposal. The amendments also rescind rules that are in conflict with federal regulations and that would otherwise prohibit such collection activities.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the December 9, 2015, Iowa Administrative Bulletin as **ARC 2285C**. The Board received one written comment regarding the proposed amendments. The single comment received expressed support for the amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the January 13, 2016, meeting of the Board of Pharmacy.

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

These amendments are intended to implement Iowa Code section 124.301.

These amendments will become effective on March 23, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 657—6.7(124,155A), introductory paragraph, as follows:

**657—6.7(124,155A) Security.** While on duty, each pharmacist shall be responsible for the security of the prescription department, ~~including~~ and of the provisions for effective control against theft of, diversion of, or unauthorized access to prescription drugs, including those collected through an authorized collection program, records for such drugs and authorized collection program activities, and patient records as provided in 657—~~Chapter~~ Chapters 10 and 21 and federal regulations for authorized controlled substance collection programs, which can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

ITEM 2. Amend rule 657—7.6(124,155A) as follows:

**657—7.6(124,155A) Security.** The pharmacy shall be located in an area or areas that facilitate the provision of services to patients and shall be integrated with the facility's communication and transportation systems. The following conditions must be met to ensure appropriate control over drugs and chemicals in and under the control of the pharmacy:

**7.6(1) to 7.6(5)** No change.

**7.6(6) Authorized collection program.** Receptacles that are located in the hospital for the authorized collection of controlled substances shall be secured pursuant to 657—Chapter 10 and federal regulations for disposal of controlled substances. Federal regulations regarding disposal of controlled substances can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

## PHARMACY BOARD[657](cont'd)

ITEM 3. Adopt the following **new** subrule 8.5(9):

**8.5(9) Authorized collection program.** A pharmacy that is registered with the United States Department of Justice, Drug Enforcement Administration, to administer an authorized collection program shall provide adequate space, equipment, and supplies for such collection program pursuant to 657—Chapter 10 and federal regulations for authorized collection programs, which can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

ITEM 4. Amend rule 657—10.1(124) as follows:

**657—10.1(124) ~~Who shall register~~ Purpose and definitions.** Any person or business located in Iowa that manufactures, distributes, dispenses, prescribes, imports or exports, conducts research or instructional activities, or conducts chemical analysis with controlled substances in the state of Iowa, or that proposes to engage in such activities with controlled substances in the state, shall obtain and maintain a registration issued by the board unless exempt from registration pursuant to rule 657—10.6(124). A person or business required to be registered shall not engage in any activity for which registration is required until the application for registration is granted and the board has issued a certificate of registration to such person or business.

**10.1(1) Who shall register.** Manufacturers, distributors, reverse distributors, importers and exporters, individual practitioners (M.D., D.O., D.D.S., D.V.M., D.P.M., O.D., P.A., resident physician, advanced registered nurse practitioner), pharmacies, hospitals and animal shelters, care facilities, researchers and dog trainers, analytical laboratories, and teaching institutions shall register on forms provided by the board office. To be eligible to register, individual practitioners must hold a current, active license in good standing, issued by the appropriate Iowa professional licensing board, to practice their profession in Iowa.

**10.1(2) Definitions.** For the purpose of this chapter, the following definitions shall apply:

“Authorized collection program” means a program administered by a registrant that has modified its registration with DEA to collect controlled substances for the purpose of disposal. Federal regulations for such programs can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/). Modification to the registrant’s Iowa controlled substances Act registration shall not be required.

“DEA” means the United States Department of Justice, Drug Enforcement Administration.

ITEM 5. Amend rule 657—10.6(124) as follows:

**657—10.6(124) Separate registrations for separate locations; exemption from registration.** A separate registration is required for each principal place of business or professional practice location where controlled substances are manufactured, distributed, imported, exported, ~~or dispensed,~~ or collected for the purpose of disposal unless the person or business is exempt from registration pursuant to Iowa Code subsection 124.302(3), ~~or this rule,~~ or federal regulations.

**10.6(1) to 10.6(5)** No change.

ITEM 6. Amend subrule 10.15(1) as follows:

**10.15(1) Physical security.** Physical security controls shall be commensurate with the schedules and quantity of controlled substances in the possession of the registrant in normal business operation. A registrant shall periodically review and adjust security measures based on rescheduling of substances or changes in the quantity of substances in the possession of the registrant.

*a.* and *b.* No change.

*c.* Controlled substances collected via an authorized collection program for the purpose of disposal shall be stored pursuant to federal regulations, which can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

ITEM 7. Amend rule 657—10.18(124) as follows:

**657—10.18(124) Disposal of registrant stock.** Any persons legally authorized to possess controlled substances in the course of their professional practice or the conduct of their business shall dispose of

## PHARMACY BOARD[657](cont'd)

such drugs pursuant to the procedures and requirements of this rule. Disposal records shall be maintained ~~in the files of~~ by the registrant.

**10.18(1)** and **10.18(2)** No change.

~~**10.18(3)** *Previously dispensed controlled substances.* Controlled substances dispensed to or for a patient and subsequently requiring destruction due to discontinuance of the drug, death of the patient, or other reasons necessitating destruction may be destroyed or otherwise disposed of by a pharmacist in witness of one other responsible adult pursuant to this subrule. All licenses and registrations issued to the pharmacy, the pharmacist, and any individual witnessing the destruction or other disposition shall not be subject to sanctions relating to controlled substances at the time of the destruction or disposition. The individuals involved in the destruction or other disposition shall not have been subject to any criminal, civil, or administrative action relating to violations of controlled substances laws, rules, or regulations within the past five years. The pharmacist in charge shall be responsible for designating pharmacists authorized to participate in the destruction or other disposition pursuant to this subrule. The authorized pharmacist shall prepare and maintain in the pharmacy a readily retrievable record of the destruction or other disposition, which shall be clearly marked to indicate the destruction or other disposition of noninventory or patient drugs. The record shall include, at a minimum, the following:~~

- ~~a.—The source of the controlled substance (patient identifier or administering practitioner, if applicable, prescription number or other unique identification number, and date of return);~~
- ~~b.—The name, strength, and dosage form of the substance;~~
- ~~c.—The quantity returned and destroyed or otherwise disposed of;~~
- ~~d.—The date the substance is destroyed or otherwise disposed of;~~
- ~~e.—The signatures or other unique identification of the pharmacist and the witness;~~
- ~~f.—The name and address of the dispensing pharmacy or practitioner if the controlled substance was not dispensed by the pharmacy completing the destruction.~~

ITEM 8. Adopt the following new rule 657—10.19(124):

**657—10.19(124) Disposal of previously dispensed controlled substances.** A registrant may not dispose of previously dispensed controlled substances unless the registrant has modified its registration with DEA to administer an authorized collection program. A registrant shall not take possession of a previously dispensed controlled substance except for reuse for the same patient.

ITEM 9. Amend subrule 10.34(3) as follows:

**10.34(3) *Date of record.*** The date on which a controlled substance is actually received, imported, distributed, exported, disposed of, or otherwise transferred shall be used as the date of receipt, importation, ~~or distribution, exportation, disposal, or transfer.~~

ITEM 10. Amend subrule 10.35(1) as follows:

**10.35(1) *Record and procedure.*** Each inventory record, except the periodic count and reconciliation required pursuant to subrule 10.33(4), shall comply with the requirements of this subrule and shall be maintained for a minimum of two years from the date of the inventory.

a. and b. No change.

c. Controlled substances shall be deemed to be on hand if they are in the possession of or under the control of the registrant. These shall include prescriptions prepared for dispensing to a patient but not yet delivered to the patient, substances maintained in emergency medical services programs or care facility emergency supplies, outdated or adulterated substances pending destruction, and substances stored in a warehouse on behalf of the registrant. Controlled substances obtained through an authorized collection program for the purpose of disposal shall not be examined, inspected, counted, sorted, inventoried, or otherwise handled.

d. and e. No change.

f. The inventory record, unless otherwise provided under federal law, shall include the following information:

- (1) The name of the substance;
- (2) The strength and dosage form of the substance; ~~and~~

## PHARMACY BOARD[657](cont'd)

(3) The quantity of the substance; and

(4) Information required of authorized collection programs pursuant to federal regulations for such collection programs.

*g.* and *h.* No change.

ITEM 11. Adopt the following **new** definitions in rule **657—17.1(155A)**:

*“Authorized collection program”* means a program administered by a registrant that has modified its registration with DEA to collect controlled substances for the purpose of disposal. Federal regulations for such programs can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/). Modification to the registrant’s Iowa controlled substances Act registration shall not be required.

*“DEA”* means the United States Department of Justice, Drug Enforcement Administration.

ITEM 12. Amend rule 657—17.3(155A), introductory paragraph, as follows:

**657—17.3(155A) Wholesale drug license.** Every wholesaler as defined in rule 657—17.1(155A), wherever located, that engages in wholesale distribution into, out of, or within this state must be licensed by the board in accordance with the laws and rules of Iowa before engaging in wholesale distribution of prescription drugs. Where operations are conducted at more than one location by a single wholesaler, each such location shall be separately licensed in Iowa. A wholesaler located within Iowa that engages in wholesale distribution of or collection via an authorized collection program of controlled substances shall also register pursuant to 657—Chapter 10.

ITEM 13. Adopt the following **new** subrule 17.10(4):

**17.10(4) Authorized collection program.** Licensees that are authorized to administer a controlled substances collection program shall provide security pursuant to 657—Chapter 10 and federal regulations.

ITEM 14. Adopt the following **new** subrule 17.14(4):

**17.14(4) Authorized collection program.** Substances, including controlled substances, collected through an authorized collection program shall not be examined, inspected, counted, sorted, inventoried, or otherwise handled.

ITEM 15. Adopt the following **new** subrule 17.16(5):

**17.16(5) Authorized collection program.** A licensee that is authorized to administer a collection program shall maintain all records and inventories as required by 657—Chapter 10, this chapter, and federal regulations.

ITEM 16. Adopt the following **new** definitions in rule **657—23.1(155A)**:

*“Authorized collection program”* means a program administered by a registrant that has modified its registration with DEA to collect controlled substances for the purpose of disposal. Federal regulations for such programs can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

*“DEA”* means the United States Department of Justice, Drug Enforcement Administration.

ITEM 17. Amend subrule 23.11(4) as follows:

**23.11(4) Floor stock.** Prescription drugs, as defined by Iowa Code section ~~155A.3(30)~~ 155A.3(37), shall not be floor-stocked in a long-term care facility except as provided in this subrule or in subrule 23.5(2). Bulk supplies of nonprescription drugs may be maintained as provided in subrule 23.13(3). Any pharmacy that utilizes a floor stock distribution system pursuant to this subrule shall develop and implement procedures to accurately establish proof of use of prescription drugs and shall maintain a perpetual inventory, whether by electronic or manual means, of all prescription drugs so dispensed. A floor stock distribution system for prescription drugs may be permitted only under the following circumstances:

*a.* and *b.* No change.

## PHARMACY BOARD[657](cont'd)

ITEM 18. Amend rule 657—23.21(124,155A) as follows:

**657—23.21(124,155A) Destruction Disposal of previously dispensed controlled substances.** Controlled substances dispensed to a resident in a long-term care facility and subsequently requiring ~~destruction~~ disposal due to discontinuance of the drug, death of the resident, or other reasons necessitating ~~destruction~~ disposal shall be ~~destroyed~~ disposed of by one of the following methods. Controlled substances shall not be returned to a pharmacy for disposal.

**23.21(1) ~~Destruction~~ Disposal in the facility.** In facilities staffed by one or more persons licensed to administer drugs, a licensed health care professional (pharmacist, registered nurse, licensed practical nurse) may ~~destroy~~ dispose of controlled substances in witness of one other responsible adult. The professional ~~destroying or otherwise~~ disposing of the drug shall prepare and maintain a readily retrievable record of the ~~destruction or other~~ disposition which shall be clearly marked to indicate the ~~destruction or other~~ disposition of resident drugs. The record shall include, at a minimum, the following:

- a. Resident name and unique identification or number assigned by the dispensing pharmacy to the prescription;
- b. The name, strength, and dosage form of the substance;
- c. The quantity ~~destroyed or otherwise~~ disposed of;
- d. The date the substance is ~~destroyed or otherwise~~ disposed of;
- e. The signature or uniquely identifying initials or other unique identification of the professional and the witness;
- f. The name and address of the dispensing pharmacy or the dispensing practitioner.

**23.21(2) ~~Destruction or other disposition in the long-term care pharmacy~~ Authorized collection program within a facility.** ~~Controlled substances returned to the pharmacy for destruction or other disposition may be destroyed or otherwise disposed of pursuant to the requirements of 657—subrule 10.18(3).~~ Registrants registered with DEA to administer an authorized collection program may install and maintain a collection receptacle in a long-term care facility for the purpose of disposal of prescription drugs, including controlled substances, pursuant to federal regulations, which can be found at [http://deadiversion.usdoj.gov/drug\\_disposal/](http://deadiversion.usdoj.gov/drug_disposal/).

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**ARC 2414C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 6, "General Pharmacy Practice," and Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendments implement 2015 Iowa Acts, Senate File 462, which authorizes the prescribing of epinephrine auto-injectors in the name of a facility as defined in Iowa Code subsection 135.185(1), a school district, or an accredited nonpublic school. The amendments exclude such a prescription from the requirement for a preexisting patient-prescriber relationship and establish the unique prescription label and record-keeping requirements for a prescription issued to a facility, school district, or accredited nonpublic school as authorized by 2015 Iowa Acts, Senate File 462.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the December 9, 2015, Iowa Administrative Bulletin as **ARC 2288C**. The Board received one written comment regarding the proposed amendments. The

## PHARMACY BOARD[657](cont'd)

single comment received expressed support for the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the January 13, 2016, meeting of the Board of Pharmacy.

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

These amendments are intended to implement Iowa Code section 155A.27 and 2015 Iowa Acts, Senate File 462.

These amendments will become effective on March 23, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 6.10(1) as follows:

**6.10(1) Required information.** The label affixed to or on the dispensing container of any prescription drug or device dispensed by a pharmacy pursuant to a prescription drug order shall bear the following:

*a. and b.* No change.

*c.* ~~The~~ Except as provided in 657—subrule 8.19(7) for epinephrine auto-injectors, the name of the patient or, if such drug is prescribed for an animal, the species of the animal and the name of its owner;

*d. to h.* No change.

ITEM 2. Amend subrule 8.19(1) as follows:

**8.19(1) Requirements for a prescription.** A valid prescription drug order shall be based on a valid patient-prescriber relationship except as provided in subrule 8.19(7) for epinephrine auto-injectors.

*a. Written, electronic, or facsimile prescription.* In addition to the electronic prescription application and pharmacy prescription application requirements of this rule, a written, electronic, or facsimile prescription shall include:

(1) The date issued.

(2) The name and address of the patient except as provided in subrule 8.19(7) for epinephrine auto-injectors.

(3) The name, strength, and quantity of the drug or device prescribed.

(4) The name and address of the prescriber and, if the prescription is for a controlled substance, the prescriber's DEA registration number.

(5) The written or electronic signature of the prescriber.

*b. to d.* No change.

ITEM 3. Amend subrule 8.19(5) as follows:

**8.19(5) Legitimate purpose.** The pharmacist shall ensure that the prescription drug or medication order, regardless of the means of transmission, has been issued for a legitimate medical purpose by an authorized practitioner acting in the usual course of the practitioner's professional practice. A pharmacist shall not dispense a prescription drug if the pharmacist knows or should have known that the prescription was issued solely on the basis of an Internet-based questionnaire, an Internet-based consultation, or a telephonic consultation and without a valid preexisting patient-practitioner relationship except as provided in subrule 8.19(7) for epinephrine auto-injectors.

ITEM 4. Adopt the following **new** subrule 8.19(7):

**8.19(7) Epinephrine auto-injector prescription issued to school or facility.** A physician, advanced registered nurse practitioner, or a physician assistant may issue a prescription for one or more epinephrine auto-injectors in the name of a facility as defined in Iowa Code subsection 135.185(1), a school district, or an accredited nonpublic school. The prescription shall comply with all requirements of subrule 8.19(1) as applicable to the form of the prescription except that the prescription shall be issued in the name and address of the facility, the school district, or the accredited nonpublic school in lieu of the name and address of a patient. Provisions requiring a preexisting patient-prescriber relationship shall not apply to a prescription issued pursuant to this subrule.

*a.* The pharmacy's patient profile and record of dispensing of a prescription issued pursuant to this subrule shall be maintained in the name of the facility, school district, or accredited nonpublic school to which the prescription was issued and the drug was dispensed.

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*b.* The label affixed to an epinephrine auto-injector dispensed pursuant to this subrule shall identify the name and address of the facility, school district, or accredited nonpublic school to which the prescription is dispensed.

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**ARC 2413C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendment requires that the initial record or report of a continuous quality improvement program event shall be documented no later than three days following the date the error or event was discovered.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the December 9, 2015, Iowa Administrative Bulletin as **ARC 2307C**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the January 13, 2016, meeting of the Board of Pharmacy.

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

This amendment is intended to implement Iowa Code section 155A.41.

This amendment will become effective on March 23, 2016.

The following amendment is adopted.

Amend subrule 8.26(5) as follows:

**8.26(5) CQI program records.** All CQI program records shall be maintained on site at the pharmacy or shall be accessible at the pharmacy and be available for inspection and copying by the board or its representative for at least two years from the date of the record. When a reportable program event occurs or is suspected to have occurred, the program event shall be documented in a written or electronic storage record created solely for that purpose. Records of program events shall be maintained in an orderly manner and shall be filed chronologically by date of discovery.

*a.* The program event shall initially be documented as soon as practicable but no more than three days following discovery of the event by the staff member who discovers the event or is informed of the event.

*b.* No change.

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**ARC 2407C**

**PHARMACY BOARD[657]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 124.201, the Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendment rescinds current rule 657—10.38(124) and adopts new rule 657—10.38(124) temporarily designating certain identified substances as controlled substances, subject to the applicable

## PHARMACY BOARD[657](cont'd)

security and control requirements and penalties provided for in the Iowa Controlled Substances Act (CSA), and removing one substance from the CSA, in conformance with recent scheduling actions of the federal Drug Enforcement Administration (DEA). The substances affected by this action include three synthetic cannabinoids and acetyl fentanyl, all of which are temporarily placed into Schedule I of the CSA. Synthetic cannabinoids are chemicals synthesized in laboratories and mimic the biological effects of THC, the main psychoactive ingredient in marijuana. These chemicals are much more potent than marijuana and are often marketed as herbal incense or potpourri. They have no accepted medical use in the United States and have been reported to produce adverse health effects, including acute and chronic abuse, addiction, and withdrawal. Acetyl fentanyl, a synthetic opioid, has been linked to at least 39 fatalities nationwide in 2013 and 2014 and poses an imminent hazard to public safety. There is currently no approved medical use for acetyl fentanyl, and it should be appropriately classified as a Schedule I controlled substance.

Also affected by this temporary action is naloxegol, a new molecular entity and derivative of naloxone. The Food and Drug Administration (FDA) recently approved naloxegol for marketing for the treatment of opioid-induced constipation in adults with chronic noncancer pain. Based on the FDA's approval of naloxegol for marketing for an identified medical purpose and the lack of evidence of a high potential for abuse of this product, the Board concurs with the DEA's decision to remove naloxegol from control under the CSA.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the December 9, 2015, Iowa Administrative Bulletin as **ARC 2287C**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the January 13, 2016, meeting of the Board of Pharmacy.

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

This amendment is intended to implement Iowa Code section 124.201.

This amendment will become effective on March 23, 2016.

The following amendment is adopted.

Rescind rule 657—10.38(124) and adopt the following **new** rule in lieu thereof:

**657—10.38(124) Temporary designation of controlled substances.**

**10.38(1)** Amend Iowa Code subsection 124.204(9) by adding the following new paragraphs “g,” “h,” “i,” and “j”:

*g.* N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: AB-CHMINACA.

*h.* N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: AB-PINACA.

*i.* [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: THJ-2201.

*j.* N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: acetyl fentanyl.

**10.38(2)** Amend Iowa Code subsection 124.206(2), paragraph “a,” introductory paragraph, as follows:

*a.* Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextroprhan, nalbuphine, nalmefene, naloxegol, naloxone, and naltrexone, and their respective salts, but including the following:

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**ARC 2406C****PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 22, “Unit Dose, Alternative Packaging, and Emergency Boxes,” Iowa Administrative Code.

The amendment eliminates the requirement for a record, on the prescription, identifying the patient med pak in which the prescription drug is packaged. The patient med pak record requires identification of each prescription included in the patient med pak. Requiring the complementary record on the prescription is duplicative and unnecessary. The amendment further clarifies that the unique identification number of the current prescription drug order must be included in the patient med pak record. Also, because of the removal of paragraph 22.5(8)“b,” paragraph “a” is restructured.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the December 9, 2015, Iowa Administrative Bulletin as **ARC 2289C**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the January 13, 2016, meeting of the Board of Pharmacy.

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

This amendment is intended to implement Iowa Code sections 126.10, 126.11, and 155A.28.

This amendment will become effective on March 23, 2016.

The following amendment is adopted.

Amend subrule 22.5(8) as follows:

**22.5(8) Record keeping.**

~~a.~~ The record of each patient med pak shall contain, at a minimum:

(1) a. The name and address of the patient;

(2) b. ~~A~~ The unique identification number for each of the current prescription drug orders for each of the drug products contained therein;

(3) c. A unique identification number for the patient med pak;

(4) d. Information identifying or describing the design, characteristics, or specifications of the patient med pak sufficient to allow subsequent preparation of an identical patient med pak for the patient;

(5) e. The date of preparation of the patient med pak and the beyond-use date that was assigned;

(6) f. Any special labeling instructions; and

(7) g. The name, unique identification, or initials of the responsible pharmacist.

~~b.~~ ~~The record of the individual prescription drug orders for each of the drug products packaged in a patient med pak shall include the unique identification number for the patient med pak wherein the prescription drug is dispensed.~~

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AGENCY	RULE	DELAY
Professional Licensure Division[645]	327.4(2) [IAB 3/18/15, <b>ARC 1909C</b> ]	Effective date of April 22, 2015, delayed until the adjournment of the 2016 General Assembly by the Administrative Rules Review Committee at a special meeting held April 20, 2015. [Pursuant to §17A.8(9)] At its meeting held February 5, 2016, the Committee extended the delay 70 days beyond the adjournment of the 2016 General Assembly. [Pursuant to §17A.4(7)]