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**KATHLEEN K. WEST**  
Administrative Code Editor

**STEPHANIE A. HOFF**  
Deputy Editor

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(4); an effective date delay imposed by the ARRC pursuant to section 17A.4(5) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(6); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

# INSTRUCTIONS

## FOR UPDATING THE

# IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515) 281-3355 or (515) 281-8157

### **Insurance Division[191]**

- Replace Analysis
- Remove Reserved Chapters 59 to 69
- Insert Chapter 59
- Insert Reserved Chapters 60 to 69

### **Inspections and Appeals Department[481]**

- Replace Analysis
- Replace Chapter 31
- Replace Chapter 50
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### **Lottery Authority, Iowa[531]**

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### **Professional Licensure Division[645]**

- Replace Analysis
- Replace Reserved Chapters 35 to 39 with Reserved Chapters 35 to 40
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**Public Safety Department[661]**

Replace Chapter 221

**Secretary of State[721]**

Replace Analysis  
Replace Chapter 21

**Index**

Replace "D"

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[Prior to 10/22/86, see Insurance Department[510], renamed Insurance Division[191] under the “umbrella” of Department of Commerce by the 1986 Iowa Acts, Senate File 2175]

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CHAPTER 59  
PHARMACY BENEFITS MANAGERS

**191—59.1(510B) Purpose.** The purpose of this chapter is to administer the provisions of Iowa Code Supplement chapter 510B relating to the regulation of pharmacy benefits managers.

**191—59.2(510B) Definitions.** The terms defined in Iowa Code Supplement section 510B.1 shall have the same meaning for the purposes of this chapter. The definitions contained in 191—Chapter 58, “Third-Party Administrators,” and 191—Chapter 78, “Uniform Prescription Drug Information Card,” of the Iowa Administrative Code are incorporated by reference. As used in this chapter:

“*Clean claim*” means a claim which is received by any pharmacy benefits manager for adjudication and which requires no further information, adjustment or alteration by the pharmacist or pharmacies or the insured in order to be processed and paid by the pharmacy benefits manager. A claim is a clean claim if it has no defect or impropriety, including any lack of substantiating documentation, or no particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this chapter. A clean claim includes a resubmitted claim with previously identified deficiencies corrected.

“*Complaint*” means a written communication expressing a grievance or an inquiry concerning a transaction between a pharmacy benefits manager and a pharmacy or pharmacist.

“*Day*” means a calendar day, unless otherwise defined or limited.

“*Paid*” means the day on which the check is mailed or the day on which the electronic payment is processed by the pharmacy benefits manager’s bank.

**191—59.3(510B) Timely payment of pharmacy claims.**

**59.3(1)** All benefits payable under a pharmacy benefits management plan shall be paid as soon as feasible but within 20 days after receipt of a clean claim when the claim is submitted electronically and shall be paid within 30 days after receipt of a clean claim when the claim is submitted in paper format.

**59.3(2)** Payments to the pharmacy or pharmacist for clean claims are considered to be overdue if not paid within 20 or 30 days, whichever is applicable. If any clean claim is not timely paid, the pharmacy benefits manager must pay the pharmacy or pharmacist interest at the rate of 10 percent per annum commencing the day after any claim payment or portion thereof was due until the claim is finally settled or adjudicated in full.

**59.3(3)** Existing contracts between clients and pharmacy benefits managers shall comply with the requirement that clean claims be paid within 20 or 30 days, whichever is applicable, when such contracts are renegotiated on or after January 1, 2009, but no later than December 31, 2009.

**191—59.4(510B) Study.** On or before December 31, 2009, the commissioner will examine the feasibility of requiring a 15-day payment schedule for electronically submitted claims. The examination shall include economic impact on pharmacy benefits managers, patients, and Iowa pharmacies.

**191—59.5(510B) Complaints.**

**59.5(1)** Each pharmacy benefits manager shall develop an internal system to record and report complaints. This system shall include but not be limited to:

- a. Complaints from the pharmacy indicating the reason for the complaint and factual documentation to support the complaint;
- b. Contact name, address and telephone number of the pharmacy benefits manager;
- c. Contact name, address and telephone number of the pharmacy;
- d. Prescription number;
- e. Prescription reimbursement amount for disputed claim(s);
- f. Disputed prescription claim payment date(s);
- g. Plan benefits certificate.

**59.5(2)** A summary of all complaints as outlined in subrule 59.5(1) received by the pharmacy benefits manager shall be submitted to the commissioner on a quarterly basis within 30 days after the calendar quarter has ended.

**191—59.6(510B) Auditing practices.**

**59.6(1)** An audit of the pharmacy records by a pharmacy benefits manager shall be conducted in accordance with the following:

*a.* The pharmacy benefits manager conducting the initial on-site audit must provide the pharmacy written notice at least one week prior to conducting any audit;

*b.* Any audit which involves clinical or professional judgment must be conducted by or in consultation with a pharmacist;

*c.* When a pharmacy benefits manager alleges an overpayment has been made to a pharmacy or pharmacist, the pharmacy benefits manager shall provide the pharmacy or pharmacist sufficient documentation to determine the specific claims included in the alleged overpayment;

*d.* A pharmacy may use the records of a hospital, physician or other authorized practitioner of the healing arts for drugs or medicinal supplies, written or transmitted by any means of communication, for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug;

*e.* Each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies audited by the pharmacy benefits manager;

*f.* The period covered by an audit may not exceed two years from the date on which the claim was submitted to or adjudicated by a managed care company, insurance company, third-party payor, or any pharmacy benefits manager that represents such companies, groups, or a department;

*g.* Unless otherwise consented to by the pharmacy, an audit may not be initiated or scheduled during the first seven calendar days of any month due to the high volume of prescriptions filled during that time;

*h.* The preliminary audit report must be delivered to the pharmacy within 120 days after conclusion of the audit. A final written audit report shall be received by the pharmacy within six months of the preliminary audit report or final appeal, whichever is later;

*i.* A pharmacy shall be allowed at least 30 days following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit; and

*j.* The audit criteria set forth in this subrule shall apply only to audits of claims submitted for payment after December 31, 2008.

**59.6(2)** Notwithstanding any other provision in this rule, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating the recuperation of contractual penalties for audits.

**59.6(3)** Recuperation of any disputed funds shall occur only after final disposition of the audit, including the appeals process as set forth in subrules 59.6(4) and 59.6(5).

**59.6(4)** Each pharmacy benefits manager conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the pharmacy benefits manager. If, following the appeal, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is unsubstantiated, the pharmacy benefits manager shall dismiss the audit report or said portion without the necessity of any further proceedings.

**59.6(5)** If, following the final appeal, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is found to be substantiated, the pharmacy benefits manager shall already have in place a process for an independent third-party review of the final audit findings. As part of the final appeal process of any final adverse decision, the pharmacy benefits manager shall notify the pharmacy in writing of its right to request an independent third-party review of the final audit findings and the process used to request such a review.

**59.6(6)** Each pharmacy benefits manager conducting an audit shall, after completion of any review process, provide a copy of the final audit report to the plan sponsor.

**59.6(7)** This rule shall not apply to any investigative audit which involves fraud, willful misrepresentation, abuse, or any other statutory provision which authorizes investigations relating to but not limited to insurance fraud.

**191—59.7(510B) Termination of pharmacy contracts.**

**59.7(1)** A pharmacy or pharmacist shall not be terminated from the network or penalized by a pharmacy benefits manager solely because of filing a complaint, grievance or appeal.

**59.7(2)** A pharmacy or pharmacist shall not be terminated from the network or penalized by a pharmacy benefits manager due to any disagreement with the decision of the pharmacy benefits manager to deny or limit benefits to covered persons or due to any assistance provided to covered persons by the pharmacy or pharmacist in obtaining reconsideration of the decision of the pharmacy benefits manager.

**59.7(3)** Termination of contracts between a pharmacy benefits manager and a pharmacy shall include a provision describing notification procedures for contract termination. The contract shall require no less than 60 days' prior written notice by either party that wishes to terminate the contract.

**59.7(4)** If the pharmacy benefits manager has evidence that the pharmacy or pharmacist has engaged in fraudulent conduct or poses a significant risk to patient care or safety, the pharmacy benefits manager may immediately suspend the pharmacy or pharmacist from further performance under the contract provided written notice of termination is provided to the pharmacy or pharmacist.

**59.7(5)** Termination of a contract between a pharmacy benefits manager and a pharmacy or pharmacist or termination of a pharmacy or pharmacist from the network of the pharmacy benefits manager shall not release the pharmacy benefits manager from the obligation to make payments due to the pharmacy or pharmacist for services rendered before the contract of the pharmacy or pharmacist was terminated.

**59.7(6)** Independent third-party review of termination decision. The pharmacy or pharmacist may request an independent third-party review of the final decision to terminate the contract between the pharmacy benefits manager and the pharmacy or pharmacist by filing with the pharmacy benefits manager a written request for an independent third-party review of the decision. This written request must be filed with the pharmacy benefits manager within 30 days of receipt of the final termination decision.

These rules are intended to implement Iowa Code chapters 17A and 514L and Iowa Code Supplement chapter 510B.

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CHAPTER 31  
FOOD ESTABLISHMENT AND FOOD  
PROCESSING PLANT INSPECTIONS

[Prior to 8/26/87, see Inspections and Appeals Department[481]—Chs 21 and 22]

**481—31.1(137F) Inspection standards.** The department adopts the 2005 Food Code with Supplement of the Food and Drug Administration as the state's "food code" with the following exceptions.

**31.1(1)** Section 3-201.11 is amended to allow honey which is stored; prepared, including by placement in a container; or labeled on or distributed from the premises of a residence to be sold in a food establishment.

**31.1(2)** Subparagraph 3-201.17(A)(4) is amended to state that field-dressed wild game shall not be permitted in food establishments.

**31.1(3)** Paragraph 3-502.12(A) is amended by adding the following: "Packaging of raw meat and poultry using an oxygen packaging method, with a 30-day 'sell by' date from the date it was packaged, shall be exempt from having a HACCP Plan."

**31.1(4)** Reserved.

**31.1(5)** Paragraph 4-301.12(C) is amended by adding the following: "Establishments need not have a three-compartment sink when each of the following conditions is met:

"1. Three or fewer utensils are used for food preparation;

"2. Utensils are limited to tongs, spatulas, and scoops; and

"3. The department has approved after verification that the establishment can adequately wash and sanitize these utensils."

**31.1(6)** Paragraph 5-203.11(C) is deleted.

**31.1(7)** Section 5-203.14 is amended by adding the following: "Water outlets with hose attachments, except for water heater drains and clothes washer connections, shall be protected by a non-removable hose bibb backflow preventer or by a listed atmospheric vacuum breaker installed at least six inches above the highest point of usage and located on the discharge side of the last valve."

**31.1(8)** Paragraph 5-402.11(D) is amended by adding the following: "A culinary sink or sink used for food preparation shall not have a direct connection between the sewage system and a drain originating from that sink. Culinary sinks or sinks used in food preparation shall be separated by an air break."

**31.1(9)** Elder group homes as defined by Iowa Code section 231B.1 shall be inspected by the department, but Chapters 4 and 6 of the Food Code shall not apply. Elder group homes shall pay the lowest license fee in 481—subrule 30.4(2).

**31.1(10)** Nonprofit organizations that are licensed as temporary food establishments may serve nonpotentially hazardous food from an unapproved source for the duration of the event.

**31.1(11)** Section 3-301.11(D)(1) is amended by striking the words "regulatory authority" and inserting the word "department."

**481—31.2(137F) Food processing plant standards.**

1. Standards used to inspect establishments where wholesale food is manufactured, processed, packaged or stored are found in the Code of Federal Regulations in 21 CFR, Part 110, April 1, 2007, publication, "Current Good Manufacturing Practices in Manufacturing, Processing, Packing or Holding Human Food."

2. Standards used to inspect establishments where bakery products, flour, cereals, food dressings and flavorings are manufactured on a wholesale basis are found in the Code of Federal Regulations in 21 CFR, Parts 136, 137 and 169, April 1, 2007, publication.

3. Standards used to inspect establishments which process low-acid food in hermetically sealed containers are found in 21 CFR, Part 113, April 1, 2007, "Thermally Processed Low-Acid Food Packaged in Hermetically Sealed Containers."

4. Standards used to inspect establishments which process acidified foods are found in 21 CFR, Part 114, April 1, 2007, "Acidified Foods."

5. Standards used to inspect establishments which process bottled drinking water are found in the Code of Federal Regulations in 21 CFR, Parts 129 and 165, April 1, 2007, publications, "Processing and Bottling of Bottled Drinking Water" and "Beverages."

6. In addition to compliance with rule 481—31.2(137F)“1,” manufacturers of packaged ice must comply with the following:

- Equipment must be cleaned on a schedule of frequency that prevents the accumulation of mold, fungus and bacteria. A formal cleaning program and schedule which include the use of sanitizers to eliminate microorganisms must be developed and used.
- Packaged ice must be tested every 120 days for the presence of bacteria.
- Plants that use a nonpublic water system must sample the water supply monthly for the presence of bacteria and annually for chemical and pesticide contamination.

Copies of these regulations are available from the Department of Inspections and Appeals, Bureau of Food and Consumer Safety, Lucas State Office Building, Des Moines, Iowa 50319-0083.

**481—31.3(137F) Trichinae control for pork products prepared at retail.** Pork products prepared at retail shall comply with the Code of Federal Regulations found in 9 CFR, Section 318.10, January 1, 2007, publication, regarding the destruction of possible live trichinae in pork and pork products. Examples of pork products that require trichinae control include raw sausages containing pork and other meat products, raw breaded pork products, bacon used to wrap around steaks and patties, and uncooked mixtures of pork and other meat products contained in meat loaves and similar types of products. The use of “certified pork” as authorized by the department of agriculture and land stewardship or the United States Department of Agriculture Food Safety and Inspection Service shall meet the requirements of this rule.

**481—31.4(137F) Certified food protection programs.** For purposes of Section 2-102.11, a program approved by the Conference on Food Protection shall meet the criteria for a certified food protection manager.

**481—31.5(137F) Labeling.** The following labeling standards are required in addition to those in the Food Code. Labels on or with packaged foods shall be in legible English and state:

1. The true name, brand or trademark of the article;
2. The names of all ingredients in the food, beginning with the one present in the largest proportion and in descending order of predominance;
3. The quantity of the contents in terms of weight, measure or numerical count;
4. The name and address of the manufacturer, packer, importer, distributor or dealer.

Foods and food products labeled in conformance with the labeling requirements of the government of the United States as listed in the Code of Federal Regulations in 21 CFR, April 1, 1998, publication, Parts 101 and 102, are considered in compliance with the Iowa labeling law.

**481—31.6(137F) Adulterated food and disposal.** No one may produce, distribute, offer for sale or sell adulterated food. “Adulterated” is defined in the federal Food, Drug and Cosmetic Act, Section 402.

Adulterated food shall be disposed of in a reasonable manner as determined by the department. The destruction of adulterated food shall be watched by a person approved by the department.

**481—31.7(137F) Mobile food units/pushcarts.** Rescinded IAB 8/13/08, effective 7/24/08.

**481—31.8(137F) Enforcement.** A person who violates Iowa Code chapter 137F or these rules shall be subject to a civil penalty of \$100 for each violation. Prior to the assessment of any civil penalties, a hearing conducted by the appeals division in the department of inspections and appeals must be provided as required in rule 481—30.13(10A). Additionally, the department may employ various other remedies if violations are discovered:

1. A license may be revoked or suspended.
2. An injunction may be sought.

3. A case may be referred to a county or city attorney for criminal prosecution.

**481—31.9(137F) Toilets and lavatories.** Separate toilet facilities for men and women shall be provided in places which seat 50 or more people or in places which serve beer or alcoholic beverages.

**481—31.10(137F) Warewashing sinks in establishments serving alcoholic beverages.** When alcoholic beverages are served in a food service establishment, a sink with not fewer than three compartments shall be used in the bar area for manual washing, rinsing and sanitizing of bar utensils and glasses. When food is served in a bar, a separate three-compartment sink for washing, rinsing and sanitizing food-related dishes shall be used in the kitchen area, unless a dishwasher is used to wash utensils.

**481—31.11(137F) Criminal offense—conviction of license holder.**

**31.11(1)** The department may revoke the license of a license holder who:

- a. Conducts an activity constituting a criminal offense in the licensed food establishment; and
- b. Is convicted of a felony as a result.

**31.11(2)** The department may suspend or revoke the license of a license holder who:

- a. Conducts an activity constituting a criminal offense in the licensed food establishment; and
- b. Is convicted of a serious misdemeanor or aggravated misdemeanor as a result.

**31.11(3)** A certified copy of the final order or judgment of conviction or plea of guilty shall be conclusive evidence of the conviction of the license holder.

**31.11(4)** The department's decision to revoke or suspend a license may be contested by the adversely affected party pursuant to the provisions of 481—30.13(10A).

**481—31.12(137F) Temporary food establishments and farmers market potentially hazardous food licensees.**

**31.12(1) Personnel.**

a. Employees shall keep their hands and exposed portions of their arms clean.

b. Employees shall have clean garments, aprons and effective hair restraints. Smoking, eating or drinking in food booths is not allowed. All nonworking, unauthorized persons are to be kept out of the food booth.

c. All employees, including volunteers, shall be under the direction of the person in charge. The person in charge shall ensure that the workers are effectively cleaning their hands, that potentially hazardous food is adequately cooked, held or cooled, and that all multiuse equipment or utensils are adequately washed, rinsed and sanitized.

d. Employees and volunteers shall not work at a temporary food establishment or farmers market potentially hazardous food establishment licensees if the employees and volunteers have open cuts, sores or communicable diseases. The person in charge shall take appropriate action to ensure that employees and volunteers who have a disease or medical condition transmissible by food are excluded from the food operation.

e. Every employee and volunteer must sign a logbook with the employee's or volunteer's name, address, telephone number and the date and hours worked. The logbook must be maintained for 30 days by the person in charge and be made available to the department upon request.

**31.12(2) Food handling and service.**

a. *Dry storage.* All food, equipment, utensils and single-service items shall be stored off the ground and above the floor on pallets, tables or shelving.

b. *Cold storage.* Refrigeration units shall be provided to keep potentially hazardous foods at 41°F or below. The inspector may approve an effectively insulated, hard-sided container with sufficient coolant for storage of less hazardous food or the use of such a container at events of short duration if the container maintains the temperature at 41°F or below.

c. *Hot storage.* Hot food storage units shall be used to keep potentially hazardous food at 135°F or above. Electrical equipment is required for hot holding, unless the use of propane stoves and grills

capable of holding the temperature at 135°F or above is approved by the department. Sterno cans are allowed for hot holding if adequate temperatures can be maintained. Steam tables or other hot holding devices are not allowed to heat foods and are to be used only for hot holding after foods have been adequately cooked.

*d. Cooking temperatures.* As specified in the following chart, the minimum cooking temperatures for food products are:

165°F	<ul style="list-style-type: none"> <li>● Poultry and game animals that are not commercially raised</li> <li>● Products stuffed or in a stuffing that contains fish, meat, pasta, poultry or ratite</li> <li>● All products cooked in a microwave oven</li> </ul>
155°F	<ul style="list-style-type: none"> <li>● Rabbits, ratite and game meats that are commercially raised</li> <li>● Ground or comminuted (such as hamburgers) meat/fish products</li> <li>● Raw shell eggs not prepared for immediate consumption</li> </ul>
145°F	<ul style="list-style-type: none"> <li>● Pork and raw shell eggs prepared for immediate consumption</li> <li>● Fish and other meat products not requiring a 155°F or 165°F cooking temperature as listed above</li> </ul>

*e. Consumer advisory requirement.* If raw or undercooked animal food such as beef, eggs, fish, lamb, poultry or shellfish is offered in ready-to-eat form, the license holder (person in charge) shall post the consumer advisory as required by the food code.

*f. Thermometers.* Each refrigeration unit shall have a numerically scaled thermometer to measure the air temperature of the unit accurately. A metal stem thermometer shall be provided where necessary to check the internal temperature of both hot and cold food. Thermometers must be accurate and have a range from 0°F to 220°F.

*g. Food display.* Foods on display must be covered. The public is not allowed to serve itself from opened containers of food or uncovered food items. Condiments such as ketchup, mustard, coffee creamer and sugar shall be served in individual packets or from squeeze containers or pump bottles. Milk shall be dispensed from the original container or from an approved dispenser. All fruits and vegetables must be washed before being used or sold. Food must be stored at least six inches off the ground. All cooking and serving areas shall be adequately protected from contamination. Barbeque areas shall be roped off or otherwise protected from the public. All food shall be protected from customer handling, coughing or sneezing by wrapping, sneeze guards or other effective means.

*h. Food preparation.* Unless otherwise approved by a variance from the department, no bare-hand contact of ready-to-eat food shall occur.

*i. Approved food source.* All food supplies shall come from a commercial manufacturer or an approved source. The use of food in hermetically sealed containers that is not prepared in an approved food processing plant is prohibited. Transport vehicles used to supply food products are subject to inspection and shall protect food from physical, chemical and microbial contamination.

*j. Leftovers.* Hot-held foods that are not used by the end of the day must be discarded.

**31.12(3) Utensil storage and warewashing.**

*a. Single-service utensils.* The use of single-service plates, cups and tableware is required.

*b. Dishwashing.* If approved, an adequate means to heat the water and a minimum of three basins large enough for complete immersion of the utensils are required to wash, rinse and sanitize utensils or food-contact equipment.

*c. Sanitizers.* Chlorine bleach or another approved sanitizer shall be provided for warewashing sanitization and wiping cloths. An appropriate test kit shall be provided to check the concentration of the sanitizer used. The person in charge shall demonstrate knowledge in the determination of the correct concentration of sanitizer to be used.

*d. Wiping cloths.* Wiping cloths shall be stored in a clean, 100 ppm chlorine sanitizer solution or equivalent. Sanitizing solution shall be changed as needed to maintain the solution in a clean condition.

**31.12(4) Water.**

*a. Water supply.* An adequate supply of clean water shall be provided from an approved source. Water storage units and hoses shall be food grade and approved for use in storage of water. If not

permanently attached, hoses used to convey drinking water shall be clearly and indelibly identified as to their use. Water supply systems shall be protected against backflow or contamination of the water supply. Backflow prevention devices, if required, shall be maintained and adequate for their intended purpose.

*b. Wastewater disposal.* Wastewater shall be disposed of in an approved wastewater disposal system sized, constructed, maintained and operated according to law.

**31.12(5) Premises.**

*a. Hand-washing container.* An insulated container with at least a two-gallon capacity with a spigot, basin, soap and dispensed paper towels shall be provided for hand washing. The container shall be filled with hot water.

*b. Floors, walls and ceilings.* If required, walls and ceilings shall be of tight design and weather-resistant materials to protect against the elements and flying insects. If required, floors shall be constructed of tight wood, asphalt, rubber or plastic matting or other cleanable material to control dust or mud.

*c. Lighting.* Adequate lighting shall be provided. Lights above exposed food preparation areas shall be shielded.

*d. Food preparation surfaces.* All food preparation or food contact surfaces shall be of a safe design, smooth, easily cleanable and durable.

*e. Garbage containers.* An adequate number of cleanable containers with tight-fitting covers shall be provided both inside and outside the establishment.

*f. Toilet rooms.* An adequate number of approved toilet and hand-washing facilities shall be provided at each event.

*g. Clothing.* Personal clothing and belongings shall be stored at a designated place in the establishment, adequately separated from food preparation, food service and dishwashing areas.

These rules are intended to implement Iowa Code section 137F.7.

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<sup>1</sup> NOTE: Rules 30—33.1(159) to 30—33.4(159) and 30—34.1(159) to 30—34.4(159) transferred to Inspections and Appeals Department[481] and rescinded.

CHAPTER 50  
HEALTH CARE FACILITIES ADMINISTRATION

**481—50.1(10A) Inspections.** The health facilities division inspects health care facilities, hospitals, and providers and suppliers of medical services in Iowa. Standards to obtain a license are explained in this chapter.

**481—50.2(10A) Definitions.**

*“Administrator”* means the person coordinating the administration of the division.

*“Department”* means the department of inspections and appeals.

*“Director”* means the director of inspections and appeals.

*“Division”* means the health facilities division.

**481—50.3(135B,135C) Licensing.** All hospitals and health care facilities shall be licensed by the department. Applications are available from the Health Facilities Division, Lucas State Office Building, Des Moines, Iowa 50319-0083. Completed applications are returned to the division with the fee.

**50.3(1)** Initial fees for hospitals are:

- a. Fifty beds or less, \$15;
- b. More than 50 and not more than 100 beds, \$25;
- c. Any greater number of beds, \$50.

A fee of \$10 is charged to renew a hospital license each year.

**50.3(2)** Initial and renewal fees for health care facilities are:

- a. Ten beds or less, \$20;
- b. More than 10 and not more than 25 beds, \$40;
- c. More than 26 and not more than 75 beds, \$60;
- d. More than 76 and not more than 150 beds, \$80;
- e. Any greater number of beds, \$100.

**50.3(3)** Standards used to determine whether a license is granted or retained are found in the rules of the department of inspections and appeals in the Iowa Administrative Code as follows:

- a. Hospitals, 481—Chapter 51;
- b. Hospices, 481—Chapter 53;
- c. Residential care facilities, 481—Chapters 57 and 60;
- d. Nursing facilities, 481—Chapters 58 and 61;
- e. Residential care facilities for persons with mental illness, 481—Chapters 60 and 62;
- f. Residential care facilities for the mentally retarded, 481—Chapters 60 and 63;
- g. Intermediate care facilities for the mentally retarded, 481—Chapter 64; and
- h. Intermediate care facilities for persons with mental illness, 481—Chapter 65.

**50.3(4)** Posting of license. The license shall be posted in each facility so the public can see it easily.

**481—50.4(135C) Fines and citations.** A fine or citation will be issued and may be contested according to the rules in 481—Chapter 56.

**481—50.5(135C) Denial, suspension or revocation.**

**50.5(1)** A denial, suspension or revocation shall be effective 30 days after certified mailing or personal service of the notice.

**50.5(2)** A hearing may be requested and the request must be made in writing to the department within 30 days of the mailing or service.

**481—50.6(10A) Formal hearing.** All decisions of the division may be contested. Appeals and hearings are controlled by 481—Chapter 10, “Contested Case Hearings.”

**50.6(1)** The proposed decision of the hearing officer becomes final ten days after it is mailed.

**50.6(2)** Any request for administrative review of a proposed decision must:

1. Be made in writing,

2. Be mailed by certified mail to the director, within ten days after the proposed decision was mailed to the aggrieved party,

3. State the reason(s) for the request.

A copy shall also be sent to the hearing officer at the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

**50.6(3)** The decision of the director shall be based upon the record and becomes final agency action upon mailing by certified mail.

**50.6(4)** The fees of witnesses for attendance and travel shall be the same as the fees for witnesses before the district court and shall be paid by the party to the proceeding at whose request the subpoena is issued.

**481—50.7(10A,135C) Additional notification.** The director or the director’s designee shall be notified within 24 hours, or the next business day, by the most expeditious means available (I,II,III):

**50.7(1)** Of any accident causing major injury.

a. “Major injury” shall be defined as any injury which:

(1) Results in death; or

(2) Requires admission to a higher level of care for treatment, other than for observation; or

(3) Requires consultation with the attending physician, designee of the physician, or physician extender who determines, in writing on a form designated by the department, that an injury is a “major injury” based upon the circumstances of the accident, the previous functional ability of the resident, and the resident’s prognosis.

b. The following are not reportable accidents:

(1) An ambulatory resident, as defined in rules 481—57.1(135C), 58.1(135C), and 63.1(135C), who falls when neither the facility nor its employees have culpability related to the fall, even if the resident sustains a major injury; or

(2) Spontaneous fractures; or

(3) Hairline fractures.

**50.7(2)** When damage to the facility is caused by a natural or other disaster.

**50.7(3)** When there is an act that causes major injury to a resident or when a facility has knowledge of a pattern of acts committed by the same resident on another resident that results in any physical injury. For the purposes of this subrule, “pattern” means two or more times within a 30-day period.

**50.7(4)** When a resident elopes from a facility. For the purposes of this subrule, “elopes” means when a resident who has impaired decision-making ability leaves the facility without the knowledge or authorization of staff.

**50.7(5)** When a resident attempts suicide, regardless of injury.

**50.7(6)** When a fire occurs in a facility and the fire requires the notification of emergency services, require full or partial evacuation of the facility, or causes physical injury to a resident.

**50.7(7)** When a defect or failure occurs in the fire sprinkler or fire alarm system for more than 4 hours in a 24-hour period. (This reporting requirement is in addition to the requirement to notify the state fire marshal.)

NOTE: Additional reporting requirements are created by other rules and statutes, including but not limited to Iowa Code chapter 235B and 2008 Iowa Acts, House File 2591, which require reporting of dependent adult abuse.

**481—50.8(22,135B,135C) Records.** The division collects and stores a variety of records in the course of licensing and inspecting health care facilities. Some information stored may be personally identifiable. None is retrievable by personal identifier with the exception of a business which uses an individual’s name in the title. All records stored by the health facilities division are kept in files under the name of a facility. Computer files are retrieved by facility name also.

**50.8(1)** The department maintains information about long-term care facilities in files which are organized by facility name, city, and county. No information is retrievable by personal identifier. Each long-term care facility record contains both open and confidential information.

*a.* Open information includes:

- (1) License application and status,
- (2) Variance requests and responses,
- (3) Final findings of state and Medicaid survey investigations,
- (4) Records of complaints,
- (5) Reports from the fire marshal,
- (6) Plans of correction submitted by the facility,
- (7) Medicaid status,
- (8) Official notices of license and Medicaid sanctions.

*b.* Confidential information includes:

- (1) Survey or investigation information which does not comprise a final finding. Survey information which does not comprise a final finding may be made public in a proceeding concerning the citation of a facility, denial, suspension or revocation of a license, Iowa Code section 135C.19(1),
- (2) Names of all complainants, Iowa Code sections 135C.19(1) and 135C.37,
- (3) Names of patients in all facilities, identifying medical information and the address of anyone other than an owner, Section 1106 of the Social Security Act as amended, 42 CFR Part 401, Subpart B (October 1, 1986) and Iowa Code sections 22.9 and 135C.19(1).

**50.8(2)** The department maintains records about hospitals. The records are organized by facility name, city, and county. The records are not retrievable by personal identifier. The Joint Commission on the Accreditation of Healthcare Organizations is referred to as JCAHO, and the American Osteopathic Association is referred to as AOA in this rule. These records may contain both open and confidential information.

*a.* Open information includes:

- (1) License status,
- (2) Medicare certification status,
- (3) Medicare survey reports,
- (4) Plans of correction submitted by a hospital,
- (5) Official notices of involuntary provider termination or license sanctions,
- (6) For hospitals not certified by JCAHO or AOA, reports of the fire marshal,
- (7) Final survey findings of the JCAHO and the AOA with respect to compliance by a hospital

with the requirements for licensure or accreditation.

*b.* Confidential information includes:

- (1) Names of patients and identifying medical information,
- (2) Identity of any complainant, and
- (3) The address of anyone other than the owner, Iowa Code section 135B.12 and Section 1106 of the Social Security Act, 42 CFR Part 401, Subpart B (October 1, 1986) and Iowa Code section 22.9.
- (4) Rescinded IAB 2/19/92, effective 3/25/92.
- (5) No information may be disclosed in a manner which will identify individuals or hospitals except in a proceeding concerning the question of license or the denial, suspension or revocation of a license, Iowa Code section 135B.12.

**50.8(3)** The department maintains files for all other Medicare-certified facilities. These files are organized by facility or agency name, city, and county. None is retrievable by personal identifier except when a business uses an individual's name in its title. These files contain both open and confidential information.

*a.* Open information includes:

- (1) Certification status,
- (2) Survey reports,
- (3) Plans of correction,
- (4) Official notices of involuntary provider termination,
- (5) Proficiency test results for non-JCAHO or AOA accredited hospitals, Medicare laboratories and laboratories licensed under the clinical Laboratory Improvement Act.

*b.* Confidential information includes:

- (1) Name of any patient,
- (2) Medical information about any identifiable patient,
- (3) The identity of any complainant, and
- (4) The address of anyone other than an owner of the facility, Section 1106 of the Social Security Act, 43 CFR, Part 401, Subpart B (October 1, 1986), and Iowa Code section 22.9.

**50.8(4)** Rescinded IAB 3/31/04, effective 5/5/04.

**50.8(5)** Following a written request and payment of a fee in the amount determined by the department, one or more of the following lists may be obtained by the public.

*a.* Corporations which own more than one facility and the list of facilities owned by each corporation.

*b.* All the facilities in the state with the owner of the real estate property identified.

*c.* All corporations that lease facilities and the facilities they lease.

*d.* All corporations which manage facilities for other owners and the facilities they manage.

Requests are sent to Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

**481—50.9(135C) Background checks.** Beginning July 1, 1988, each home health agency or hospice that is regulated by the state or receives any state or federal funding shall submit a form specified by the department of public safety to the department of public safety and receive the results of a criminal history check and dependent adult abuse record check before any person is employed by the home health agency or hospice. The home health agency or hospice may submit a form specified by the department of human services to the department of human services to request a child abuse history check.

For the purposes of this rule, “employed in or by a home health agency or hospice” shall be defined as any individual who is paid, either by the home health agency, hospice or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractor) to provide direct or indirect treatment or services to patients of the home health agency or hospice. Direct treatment or services include those provided through person-to-person contact. Indirect treatment or services include, but are not limited to, person-to-person contact services provided by administration, homemaker aides, and assistants.

**50.9(1)** A person who has a criminal record or founded dependent adult abuse report cannot be employed in a home health agency or hospice unless the department of human services has evaluated the crime or founded abuse report and concluded that the crime or founded abuse report does not merit prohibition from employment.

**50.9(2)** Each home health agency or hospice shall ask each person seeking employment by the home health agency or hospice, “Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime in this state or any other state?” The person shall also be informed that a criminal history and dependent adult abuse record check will be conducted. The person shall indicate, by signature, that the person has been informed that the record checks will be conducted.

**50.9(3)** If a person has a record of founded child abuse in Iowa or any other state, the person shall not be employed by a home health agency or hospice unless the department of human services has evaluated the crime or founded abuse report and concluded that the report does not merit prohibition of employment.

**50.9(4)** Proof of dependent adult abuse and criminal history checks may be kept in files maintained by the temporary employment agencies and contractors. Home health agencies and hospices may require temporary agencies and contractors to provide a copy of the results of dependent adult abuse and criminal history checks.

**50.9(5)** The results of a records check shall be valid for a period of 30 days from the date it was requested during which time the facility may determine whether the potential employee is to be hired.

These rules are intended to implement Iowa Code sections 22.11 and 135B.3 to 135B.7 and Iowa Code chapters 10A and 135C.

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CHAPTER 56  
FINING AND CITATIONS  
[Prior to 7/15/87, Health Department[470] Ch 56]

**481—56.1(135C) Authority for citations.** Pursuant to the authority vested in the director of the department of inspections and appeals to issue citations and assess penalties for violations of the statutes or departmental rules relating to the health care facilities, the following rules indicate the method by which citations may be issued when a particular statute or departmental rule is violated by a facility.

**481—56.2(135C) Classification of violations—classes.** There are three classifications for violations of statutes or departmental rules which may result in the issuance of a citation by the director of inspections and appeals and the assessment of a penalty therefor.

**56.2(1) Class I.** A class I violation is one which presents an imminent danger or a substantial probability of resultant death or physical harm to the residents of the facility in which the violation occurs. A physical condition or one or more practices in a facility may constitute a class I violation;

**56.2(2) Class II.** A class II violation is one that has a direct or immediate relationship to the health, safety, or security of residents of a health care facility, but which presents no imminent danger nor substantial probability of death or physical harm to them. A physical condition or one or more practices within a facility, including either physical abuse of any resident or failure to treat any resident with consideration, respect, and full recognition of the resident's dignity and individuality, in violation of a specific rule adopted by the department, may constitute a class II violation;

**56.2(3) Class III.** A class III violation is one which is not classifiable in the department's rules nor classifiable under the criteria stated in those rules as a class I or class II violation.

**481—56.3(135C) Fines.** Citations which are issued by the director of the department of inspections and appeals for violations of the statutes or rules relating to health care facilities will subject the facility to the following penalties:

**56.3(1) Citation for a class I violation:** Not less than \$2,000 nor more than \$10,000;

**56.3(2) Citation for a class II violation:** Not less than \$100 nor more than \$500. (The director of the department of inspections and appeals may waive the penalty if the violation is corrected within the time specified in the citation);

**56.3(3) Citation for a class III violation:** No penalty, except as provided in 56.5(135C).

**481—56.4(135C) Time for compliance.** Citations which are issued by the director of the department of inspections and appeals for violations of the statutes or rules related to health care facilities shall specify the length of time permitted for the violation to be abated or eliminated, as follows:

**56.4(1) Citation for a class I violation:** The violation shall be abated or eliminated immediately, unless the department determines that a stated period of time, specified in the citation, is required to correct the violation;

**56.4(2) Citation for a class II violation:** The violation shall be corrected within a stated period of time determined by the department and specified in the citation. The stated period of time specified in the citation may subsequently be modified by the department for good cause shown;

**56.4(3) Citation for a class III violation:** The violation shall be corrected within a reasonable time specified by the department in the citation.

**481—56.5(135C) Failure to correct a violation within the time specified—penalty.** Failure to correct any class of violation within the time specified in the citation, unless the licensee shows that the failure was due to circumstances beyond the licensee's control, shall subject the facility to a further penalty of \$50 for each day that the violation continues after the time specified for correction.

**481—56.6(135C) Treble fines for repeated violations.** The director of the department of inspections and appeals shall treble the penalties specified in 56.3(135C) for any second or subsequent class I or

class II violation occurring within any 12-month period, if a citation was issued for the same class I or class II violation occurring within that period and a penalty was assessed therefor.

**481—56.7(135C) Notation of classes of violations.** All rules relating to health care facilities, other than those which are informational in character, shall be followed by a notation at the end of each rule, or pertinent part thereof. This notation shall consist of a Roman numeral or numerals in parentheses. These Roman numerals refer to the class (either class I, class II, or class III) of violation which may be cited by the commissioner when that rule, or part of a rule carrying the notation is violated by the facility.

**481—56.8(135C) Notation for more than one class of violation.** In those instances where a particular rule, or part of a rule is followed by a notation consisting of more than one Roman numeral in parentheses, at the discretion of the director of the department of inspections and appeals, the director may issue a citation for a violation of that rule, or part thereof, designating any one of the multiple classes of violations specified in the notation.

**481—56.9(135C) Factors determining selection of class of violation.** In determining which class of violation will be designated in the citation, where more than one class is specified in the notation following the rule, the director of the department of inspections and appeals shall consider evidence of the circumstances surrounding the violation, including, but not limited to, the following factors:

**56.9(1)** The frequency and length of time the violation occurred, i.e., whether the violation was an isolated or a widespread occurrence, practice, or condition;

**56.9(2)** The past history of the facility within 24 months of the violation as it relates to the nature of the violation;

**56.9(3)** The culpability of the facility as it relates to the reasons the violation occurred;

**56.9(4)** The extent of any harm to the residents or the effect on the health, safety, or security of the residents which resulted from the violation;

**56.9(5)** The relationship of the violation to any other types of violations which have occurred in the facility;

**56.9(6)** The actions of the facility after the occurrence of the violation, including when corrective measures, if any, were implemented and whether the facility notified the director as required;

**56.9(7)** The accuracy and extent of records kept by the facility which relate to the violation, and the availability of such records to the department;

**56.9(8)** The rights of residents to make informed decisions with their doctor(s) and family/legal representative(s); and

**56.9(9)** Whether the facility made a good-faith effort to address a high-risk resident's specific needs, and whether the evidence substantiates this effort.

**481—56.10(135C) Factors determining imposition of citation and fine.** The director of the department of inspections and appeals may consider evidence of the circumstances surrounding the violation including, but not limited to, those factors set out in rule 56.9(135C) when:

1. Determining whether a violation will be subject to a fine or citation; and

2. Determining the monetary amount of the penalty to be specified in the citation, when such a fine is authorized to be levied for a particular class of violation.

**481—56.11(135C) Class I violation not specified in the rules.** The director of the department of inspections and appeals may issue a citation for a class I violation when a physical condition or one or more practices exist in a facility which are not in violation of a specific statute or rule, but which constitute an imminent danger or a substantial probability of resultant death or physical harm to the residents of the facility.

**481—56.12(135C) Class I violation as a result of multiple lesser violations.** The director of the department of inspections and appeals may issue a citation for a class I violation when a physical condition or one or more practices exist in a facility which are a result of multiple lesser violations of the

statutes or rules, but which taken as a whole constitute an imminent danger or a substantial probability of resultant death or physical harm to the residents of the facility.

**481—56.13(135C) Form of citations.** Each citation issued by the director of the department of inspections and appeals shall contain the following information:

**56.13(1)** A description of the nature of the violation;

**56.13(2)** A statement of the Code section or subsection or the rule or standard violated. (In the case of class I violations as described in 56.11(135C), a statement of the specific physical condition or one or more practices may be made in lieu of this statement.);

**56.13(3)** A statement of the classification of the violation, as specified in section 56.2(135C);

**56.13(4)** When appropriate, a statement of the period of time allowed for correction of the violation, which shall in each case be the shortest period of time the department deems feasible.

**481—56.14(135C) Licensee's response to a citation.** Within 20 business days after service of a citation, the facility shall respond in the following manner, according to the type of citation issued.

**56.14(1)** If the facility does not desire to contest the citation:

*a.* For each class I violation, the facility shall remit to the department of inspections and appeals the amount specified by the department of inspections and appeals in the citation;

*b.* For each class I violation issued in conjunction with a federal civil money penalty, the facility shall remit the amounts specified by the department of inspections and appeals only after the results of the revisit have been determined;

*c.* For each class II violation issued in conjunction with a federal civil money penalty, the facility shall remit the amounts specified by the department of inspections and appeals only after the results of the revisit have been determined;

*d.* For each class II violation for which the penalty has not been waived, the facility shall remit to the department of inspections and appeals the amount specified by the department of inspections and appeals in the citation;

*e.* For each class II violation for which the penalty has been waived or for each class III violation, the facility shall send a written response to the department of inspections and appeals, acknowledging that the citation has been received and stating that the violation will be corrected within the specified period of time allowed by the citation.

**56.14(2)** If the facility desires to contest a citation for a class I violation, the facility shall follow the procedure as set out in 56.16(135C).

**56.14(3)** If the facility desires to contest a citation for a class II or class III violation, the facility shall notify the director of the department of inspections and appeals in writing that it desires to contest such citation and request in writing an informal conference with a representative of the department of inspections and appeals.

**481—56.15(135C) Procedure for facility after informal conference.** After the conclusion of an informal conference requested by the licensee and provided pursuant to 56.14(3):

**56.15(1)** If the facility does not desire to further contest an affirmed or modified citation for a class II or class III violation, the facility shall, within five working days after the informal conference, or within five working days after receipt of the written decision and explanation of the department of inspections and appeals' representative at the informal conference, as the case may be, comply with the provisions of 56.14(1) "b" or 56.14(1) "c."

**56.15(2)** If the facility does desire to further contest an affirmed or modified citation for a class II or class III violation, the facility shall, within five working days after the informal conference, or within five working days after receipt of the written decision and explanation of the department of inspections and appeals' representative at the informal conference, as the case may be, notify the department of inspections and appeals in writing of the facility's intent to formally contest the citation.

**481—56.16(135C) Contesting a citation for a class I violation.** If a facility desires to contest a citation for a class I violation, the facility shall, within five working days after service of such citation, notify the department of inspections and appeals in writing of the facility's intent to formally contest the citation.

**481—56.17(135C) Formal contest.** The procedures for contested cases, as set out in Iowa Code chapter 17A, and the rules adopted by the department of inspections and appeals shall be followed in all cases where proper notice has been made to the department of inspections and appeals of the intent to formally contest any citation.

These rules are intended to implement Iowa Code chapters 10A and 135C.

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[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]<sup>2</sup>

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<sup>1</sup> Effective date of Ch 56 delayed by the Administrative Rules Review Committee until 12/6/76, pursuant to Iowa Code section 17A.4 as amended by 66 GA, SF 1288, section 2, to allow further time to study and examine the rules.

<sup>2</sup> See IAB Inspections and Appeals Department.

CHAPTER 11  
PRIZES

**531—11.1(99G) Claiming prizes.**

**11.1(1)** A prize claim shall be entered in the name of a single individual or organization. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses or has applied for a federal employer's identification number (FEIN) as issued by the Internal Revenue Service. Groups, family units, organizations, clubs, or other organizations that are not legal entities, do not possess a FEIN, or have not applied for a FEIN must designate one individual in whose name the claim will be entered.

**11.1(2)** By submitting a claim, a player agrees that the state, the lottery authority board, the lottery authority, and the officials, officers, and employees of each shall be discharged from all further liability upon payment of the prize.

**11.1(3)** By submitting a claim, the player also agrees that the prizewinner's name may be used for publicity purposes by the lottery.

**11.1(4)** An original ticket or share must be presented before payment of any prize will occur. No reproductions, facsimiles, or copies of any kind will be allowed.

**11.1(5)** The player must sign the original ticket or share prior to presenting the ticket to another party for the purpose of checking or validating the ticket. The lottery and retailers shall verify that there is a signature on any ticket(s) submitted for checking or validation.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

**531—11.2(99G) Claim period.** A prize must be claimed within the time limit specifically designated in these rules or as specified by the lottery in the specific game rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

**531—11.3(99G) Invalid tickets not entitled to prize payment.** If a ticket presented to the lottery is invalid pursuant to the terms of these rules or the specific game rules, the ticket is not entitled to prize payment.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

**531—11.4(99G) Ticket is a bearer instrument.** A ticket is a bearer instrument until signed in the space designated on the ticket for signature if a signature space is provided. The person who signs the ticket is thereafter considered the owner of the ticket. All liability of the state, the lottery authority board, the lottery authority, the chief executive officer, and the employees of the lottery terminates upon payment.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21, and 99G.31.

**531—11.5(99G) Assignment of prizes.** Payments of prizes shall be made as follows:

**11.5(1)** The lottery shall pay all prizes to only one person or one legal entity per winning ticket.

**11.5(2)** If a prize is payable in installments, all future installments of the prize must be made to the person or legal entity that received the initial installment of the prize or to a person designated by the court to receive payment following the prizewinner's death, unless otherwise assigned according to these rules.

**11.5(3)** Payment of a prize may be made to the estate of a deceased prizewinner or to another person pursuant to an appropriate judicial order.

**11.5(4)** The right to control receipt of a lottery prize shall be substantially limited. See 26 U.S.C. 451 and Treas. Reg. 1.451-2(a). The right to receive payment of a lottery prize or a future installment of a lottery prize shall not be sold, assigned or otherwise transferred in any manner without an appropriate judicial order or statutory authorization. An appropriate judicial order is an order of a court of competent jurisdiction.

**11.5(5)** In the event that a legal entity other than an individual is entitled to a lottery prize won jointly by more than one individual, the individuals originally entitled to share the prize cannot sell, assign or otherwise transfer their interest in the legal entity receiving prize payment or their right to receive

future payments from the legal entity without an appropriate judicial order or statutory authorization. An appropriate judicial order is an order of a court of competent jurisdiction.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

**531—11.6(99G) Prize payment to minors.** If the person entitled to a prize is under the age of 18, the payment of the prize may be made by delivery of cash or a check payable to the order of the minor or to a parent or legal guardian of the minor. Claim forms and tickets submitted by minors must be signed by a parent or legal guardian of the minor.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21(2), 99G.30(3), and 99G.31.

**531—11.7(99G) Time of prize payment.** All prizes shall be paid within a reasonable time after a claim is verified by the lottery and a winner is determined. The date of the first installment payment of any prize to be paid in installment payments shall be the date the claim is validated and processed unless a different date is specified for a particular game in these rules or the specific game rules. Subsequent installment payments shall be made approximately weekly, monthly, or annually, from the date the claim is processed and validated in accordance with the type of prize won and the rules applicable to the prize. The lottery may, at any time, delay any prize payment in order to review a change in circumstances relative to the prize awarded, the payee, or the claim.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.30.

**531—11.8(99G) Prizes payable for the life of the winner.** If any prize is payable for the life of the winner, only an individual may claim and receive the prize for life. If a group, corporation, or other organization is the winner, the life of the winner shall be deemed to be 20 years.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

**531—11.9(99G) Prizes payable after death of winner.** All prizes and portions of prizes that remain unpaid at the time of the prizewinner's death shall be payable to the court-appointed representative of the prizewinner's estate or to a single individual pursuant to the terms of a final order closing the estate.

The lottery may withhold payment until it is satisfied that the proper payee has been identified, or it may petition the court to determine the proper payee. In making payment, the lottery may rely wholly on the presentation of a certified copy of the letters of appointment as an administrator, executor, or other personal representative for the prizewinner's estate or on a certified copy of the final order closing the estate. Payment to the representative of the estate of the deceased owner of any prize winnings or to another individual pursuant to a final order closing the estate shall absolve the lottery authority and employees of the lottery authority of any further liability for payment of prize winnings.

If the winner received an annuitized prize funded through the Multi-State Lottery Association (MUSL) or any other multijurisdictional lottery organization in which the Iowa lottery participates as a member, the MUSL board or other organization board, as may be appropriate, in its sole discretion, upon the petition of the estate of the lottery winner (the "estate"), may accelerate the payment of all of the remaining lottery proceeds to the estate. If the winner received an annuitized prize funded solely through the sales from the Iowa lottery, the lottery board, in its sole discretion, upon the petition of the estate of the lottery winner (the "estate"), may accelerate the payment of all of the remaining lottery proceeds to the estate. If such a determination is made, then securities or cash held for the deceased lottery winner, that represents the present value of that portion of the future lottery payments that are to be accelerated, shall be distributed to the estate. The valuation of the securities and determination of the present value of the accelerated lottery payments shall be at the sole discretion of the board granting the petition.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

**531—11.10(99G) Disability of prizewinner.** The lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings which are or may become due a person under a disability because of, but not limited to, underage, mental deficiency, or physical or mental incapacity.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

**531—11.11(99G) Stolen or lost tickets.** The lottery has no responsibility for paying prizes attributable to stolen or lost tickets.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

**531—11.12(99G) Effect of game rules.** In purchasing a ticket, the player agrees to comply with Iowa Code Supplement chapter 99G, these rules, the specific game rules, lottery instructions and procedures, and the final decisions of the lottery. The lottery's decisions and judgments in respect to the determination of winning tickets or any other dispute arising from the payment or awarding of prizes shall be final and binding upon all participants in the lottery. If a dispute between the lottery and a player occurs as to whether a ticket is a winning ticket and the prize is not paid, the lottery may, solely at the lottery's option, replace the ticket with an unplayed ticket of equivalent price from any game or refund the price of the ticket. This shall be the sole and exclusive remedy of the player.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

**531—11.13(99G) Disputed prizes.** If there is a dispute, or it appears that a dispute may occur relative to the payment of any prize, the lottery may refrain from making payment of the prize pending a final determination by the lottery or by a court of competent jurisdiction as to the proper payment of the prize.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

**531—11.14(99G) Prize payment for prizes paid over a term exceeding ten years.**

**11.14(1)** A prizewinner who wins a prize that is payable over a term exceeding ten years may, not later than 60 days after the player became entitled to the prize, elect to have the prize paid in cash or by annuity consistent with 26 U.S.C. §451. If the payment election is not made by the prizewinner at the time of purchase or is not made within 60 days after the prizewinner becomes entitled to the prize, then the prize shall be paid as an annuity prize. An election for an annuity payment made by a prizewinner before the ticket purchase or by system default or design may be changed to a cash payment at the election of the prizewinner until the expiration of 60 days after the prizewinner becomes entitled to the prize. The election to take the cash payment may be made at the earlier of the following dates:

- a. The time of the prize claim; or
- b. Within 60 days after the prizewinner becomes entitled to the prize.

An election made after the prizewinner becomes entitled to the prize is final and cannot be revoked, withdrawn or otherwise changed.

**11.14(2)** In the event there is more than one prizewinner for a prize paid over a period exceeding ten years, the shares of the prize shall be determined by dividing the cash available in the prize pool equally among all the winners of the prize. Winners who elect a cash payment shall be paid their share in a single cash payment. The annuitized option prize shall be determined by multiplying a winner's share of the prize pool by the annuity factor used by the lottery. The lottery's annuity factor is determined by the best price obtained through a competitive bid of qualified, preapproved brokers or insurance companies made after it is determined that the prize is to be paid as an annuity prize or after the expiration of 60 days after the prizewinner becomes entitled to the prize.

**11.14(3)** The lottery shall not be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount of the prize value purchased from the time the player becomes eligible for the prize and the time the prizewinner claims the prize.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

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**PROFESSIONAL LICENSURE DIVISION[645]**

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.  
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

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## CHAPTER 41

### LICENSURE OF CHIROPRACTIC PHYSICIANS

[Prior to 7/24/02, see 645—40.10(151) to 645—40.13(151), 645—40.15(151) and 645—40.16(151)]

**645—41.1(151) Definitions.** The following definitions shall be applicable to the rules of the Iowa board of chiropractic:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the Iowa board of chiropractic.

“*Council on Chiropractic Education*” or “*CCE*” means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws. A copy of the standards may be requested from the Council on Chiropractic Education. CCE’s address and Web site may be obtained from the board’s Web site at <http://www.idph.state.ia.us/licensure>.

“*Department*” means the Iowa department of public health.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*License*” means license to practice chiropractic in Iowa.

“*Licensee*” means any person licensed to practice as a chiropractic physician in Iowa.

“*License expiration date*” means June 30 of even-numbered years.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice chiropractic to an applicant who is or has been licensed in another state and meets the criteria for licensure in this state.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of chiropractic physicians who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*NBCE*” means the National Board of Chiropractic Examiners. The mailing address and Web site address may be obtained from the board’s Web site at <http://www.idph.state.ia.us/licensure>.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 41.14(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice chiropractic to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of chiropractic to license persons who have the same or similar qualifications to those required in Iowa.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*SPEC*” means Special Purposes Examination for Chiropractic, which is an examination provided by the NBCE that is designed specifically for utilization by state or foreign licensing agencies.

**645—41.2(151) Requirements for licensure.**

**41.2(1)** The following criteria shall apply to licensure:

*a.* An applicant shall complete a board-approved application form. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the Board of Chiropractic, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

*b.* An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

*c.* An applicant shall submit the appropriate fee to the Iowa Board of Chiropractic. The fee is nonrefundable.

*d.* No applicant shall be considered for licensure until official copies of academic transcripts are received by the board directly from a chiropractic school accredited by the CCE and approved by the board. The transcript must display the date of graduation and the degree conferred.

*e.* An applicant shall submit an official certificate of completion of 120 hours of physiotherapy from a board-approved chiropractic college. The physiotherapy course must include a practicum component.

*f.* An applicant shall pass all parts of the NBCE examination as outlined in 645—41.3(151).

*g.* An applicant shall submit one passport-size photograph of the applicant taken within the previous six months.

*h.* An applicant shall submit a copy of the chiropractic diploma (no larger than 8½" × 11") from a chiropractic school accredited by the CCE and approved by the board.

**41.2(2)** Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

**41.2(3)** Incomplete applications that have been on file in the board office for more than two years shall be:

*a.* Considered invalid and shall be destroyed; or

*b.* Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

**41.2(4)** Persons licensed to practice chiropractic shall keep their license publicly displayed in the primary place of practice.

**41.2(5)** Licensees are required to notify the board of chiropractic of changes in residence or place of practice within 30 days after the change of address occurs.

#### **645—41.3(151) Examination requirements.**

**41.3(1)** Applicants shall submit the application for the NBCE examination and the fee directly to the NBCE.

**41.3(2)** The following criteria shall apply for the NBCE:

*a.* Prior to July 1, 1973, applicants shall provide proof of being issued a basic science certificate.

*b.* After July 1, 1973, applicants shall provide proof of successful completion of the required examination from the National Board of Chiropractic Examiners. The required examination shall meet the following criteria:

(1) Examinations completed after July 1, 1973, shall be defined as the successful completion of Parts I and II of the NBCE examination.

(2) Examinations completed after August 1, 1976, shall be defined as the successful completion of Parts I, II and Physiotherapy of the NBCE examination.

(3) Examinations completed after January 1, 1987, shall be defined as the successful completion of Parts I, II, III and Physiotherapy of the NBCE examination.

(4) Examinations completed after January 1, 1996, shall be defined as satisfactory completion of Parts I, II, III, IV and Physiotherapy of the NBCE examination.

#### **645—41.4(151) Educational qualifications.**

**41.4(1)** An applicant for licensure to practice as a chiropractic physician shall present an official transcript verifying graduation from a board-approved college of chiropractic.

**41.4(2)** Foreign-trained chiropractic physicians shall:

*a.* Provide an equivalency evaluation of their educational credentials by the International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310)258-9451, Web site [www.ierf.org](http://www.ierf.org) or E-mail at [info@ierf.org](mailto:info@ierf.org). The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

*b.* Provide a notarized copy of the certificate or diploma awarded to the applicant from a chiropractic program in the country in which the applicant was educated.

*c.* Receive a final determination from the board regarding the application for licensure.

**645—41.5(151) Temporary certificate.**

**41.5(1)** The board may issue a temporary certificate to practice chiropractic if the issuance is in the public interest. A temporary certificate may be issued at the discretion of the board to an applicant who demonstrates a need for the temporary certificate and meets the professional qualifications for licensure.

**41.5(2)** Demonstrated need. An applicant must establish that a need exists for the issuance of a temporary license and that the need serves the public interest. An applicant may only meet the demonstrated need requirement by proving that the need meets one of the following conditions:

*a.* The applicant will provide chiropractic services in connection with a special activity, event or program conducted in this state;

*b.* The applicant will provide chiropractic services in connection with a state emergency as proclaimed by the governor; or

*c.* The applicant previously held an unrestricted license to practice chiropractic in this state and will provide gratuitous chiropractic services as a voluntary public service.

**41.5(3)** Professional qualifications. The applicant shall:

*a.* Submit the board-approved application form. Applications may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the Board of Chiropractic, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

*b.* Provide verification of current active licensure in the United States sent directly to the board office from the state in which the applicant is licensed.

*c.* Submit proof of two years of full-time chiropractic practice within the immediately preceding two years.

*d.* Provide a copy of a chiropractic diploma (no larger than 8½" × 11") from a chiropractic school accredited by the CCE and approved by the board and submit an official certificate of completion of 120 hours of physiotherapy from a board-approved chiropractic college. The physiotherapy course must include a practicum component.

*e.* Submit the temporary certificate fee.

*f.* Submit information explaining the demonstrated need, the scope of practice requested by the applicant, and why a temporary certificate should be granted.

**41.5(4)** If the application is approved by the board, a temporary certificate shall be issued authorizing the applicant to practice chiropractic for one year to fulfill the demonstrated need for temporary licensure, as stated on the application and described in subrule 41.5(2).

**41.5(5)** An applicant or temporary certificate holder who has been denied a temporary certificate may appeal the denial pursuant to rule 41.11(17A,151,272C). A temporary certificate holder is subject to discipline for any grounds for which licensee discipline may be imposed.

**41.5(6)** A temporary license holder who meets all licensure conditions as specified in rule 645—41.2(151) may obtain a permanent license in lieu of the temporary certificate. To obtain a permanent license, the applicant shall submit any additional documentation required for permanent licensure that was not submitted as a part of the temporary certificate application. The applicant may receive fee credit toward the permanent licensure fee equivalent to the fee paid for the temporary permit if the application for the permanent license and all required documentation are received by the board prior to the expiration of the temporary permit.

**645—41.6(151) Licensure by endorsement.**

**41.6(1)** An applicant who has been licensed to practice chiropractic under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office.

**41.6(2)** The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

- a. Submits to the board a completed application;
- b. Pays the licensure fee;
- c. Provides a notarized copy of the diploma (no larger than 8½" × 11") along with an official copy of the transcript from a board-approved chiropractic school sent directly from the school to the board office;
- d. Shows evidence of successful completion of the examination of the National Board of Chiropractic Examiners as outlined in 645—41.3(151);
- e. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
  - (1) Licensee's name;
  - (2) Date of initial licensure;
  - (3) Current licensure status; and
  - (4) Any disciplinary action taken against the license; and
- f. Holds or has held a current license and provides evidence of one of the following requirements:
  - (1) Completion of 60 hours of board-approved continuing education during the immediately preceding two-year period as long as the applicant had an active practice within the last five years; or
  - (2) Practice as a licensed chiropractic physician for a minimum of one year during the immediately preceding two-year period; or
  - (3) The equivalent of one year as a full-time faculty member teaching chiropractic in an accredited chiropractic college for at least one of the immediately preceding two years; or
  - (4) Graduation from a board-approved chiropractic college within the immediately preceding two years from the date the application is received in the board office.
- g. If the applicant does not meet the requirements of paragraph 41.6(2) "f," the applicant shall submit the following:
  - (1) Evidence of satisfactory completion of 60 hours of board-approved continuing education during the immediately preceding two-year period; and
  - (2) Evidence of successful completion of the SPEC examination within one year prior to receipt of the application in the board office.

**645—41.7(151) Licensure by reciprocal agreement.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—41.8(151) License renewal.**

**41.8(1)** The biennial license renewal period for a license to practice as a chiropractic physician shall begin on July 1 of an even-numbered year and end on June 30 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

**41.8(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

**41.8(3)** A licensee seeking renewal shall:

- a. Meet the continuing education requirements of rule 645—44.2(272C) and the mandatory reporting requirements of subrule 41.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application, continuing education report form and renewal fee before the license expiration date.

**41.8(4)** Mandatory reporter training requirements.

*a.* A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

*b.* A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

*c.* A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels, or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years of condition(s) for waiver of this requirement as identified in paragraph "e."

Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

*d.* The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

*e.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 44.

*f.* The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

**41.8(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**41.8(6)** A person licensed to practice as a chiropractic physician shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

**41.8(7)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 46.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**41.8(8)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a chiropractor in Iowa until the license is reactivated. A licensee who practices as a chiropractor in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—41.9(272C) Exemptions for inactive practitioners.** Rescinded IAB 8/3/05, effective 9/7/05.

**645—41.10(272C) Lapsed licenses.** Rescinded IAB 8/3/05, effective 9/7/05.

**645—41.11(147) Duplicate certificate or wallet card.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—41.12(147) Reissued certificate or wallet card.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—41.13(17A,151,272C) License denial.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—41.14(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**41.14(1)** Submit a reactivation application on a form provided by the board.

**41.14(2)** Pay the reactivation fee that is due as specified in 645—Chapter 46.

**41.14(3)** Provide verification of current competence to practice as a chiropractic physician by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 60 hours of continuing education that comply with standards defined in 645—44.3(151,272C) within two years of the application for reactivation.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 60 hours of continuing education that comply with standards defined in 645—44.3(151,272C) within two years of application for reactivation; and

(3) Verification of passing the Special Purpose Examination for Chiropractic (SPEC) if the applicant does not have a current license and has not been in active practice in the United States during the past five years.

**645—41.15(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 41.14(17A,147,272C) prior to practicing as a chiropractic physician in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 151 and 272C.

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[Filed 7/17/08, Notice 5/7/08—published 8/13/08, effective 9/17/08]<sup>◇</sup>

<sup>◇</sup> Two or more ARCs

CHAPTER 43  
PRACTICE OF CHIROPRACTIC PHYSICIANS  
[Prior to 7/24/02, see 645—40.1(151) and 645—40.17(151) to 645—40.24(147,272C)]

**645—43.1(151) Definitions.** The following definitions shall be applicable to the rules of the Iowa board of chiropractic.

*“Active chiropractic physiotherapy”* means therapeutic treatment performed by the patient with the assistance and guidance of the chiropractic assistant including, but not limited to, exercises and functional activities that promote strength, endurance, flexibility, and coordination.

*“Acupuncture,”* pursuant to Iowa Code section 148E.1, means a form of health care developed from traditional and modern oriental medical concepts that employs oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

*“Adjustment/manipulation of neuromusculoskeletal structures”* means the use by a doctor of chiropractic of a skillful treatment based upon differential diagnosis of neuromusculoskeletal structures and procedures related thereto by the use of passive movements with the chiropractic physician’s hands or instruments in a manipulation of a joint by thrust so the patient’s volitional resistance cannot prevent the motion. The manipulation is directed toward the goal of restoring joints to their proper physiological relationship of motion and related function. Movement of the joint is by force beyond its active limit of motion, but within physiologic integrity. Adjustment or manipulation commences where mobilization ends and specifically begins when the elastic barrier of resistance is encountered by the doctor of chiropractic and ends at the limit of anatomical integrity. Adjustment or manipulation as described in this definition is directed to the goal of the restoration of joints to their proper physiological relationship of motion and related function, release of adhesions or stimulation of joint receptors. Adjustment or manipulation as described in this definition is by hand or instrument. The primary emphasis of this adjustment or manipulation is upon specific joint element adjustment or manipulation and treatment of the articulation and adjacent tissues of the neuromusculoskeletal structures of the body and nervous system, using one or more of the following:

1. Impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature that patient volitional resistance is overcome, commencing where the motion encounters the elastic barrier of resistance and ending at the limit of anatomical integrity.

2. Instrument adjusting, utilizing instruments specifically designed to deliver sudden, high velocity, short amplitude thrust.

3. Light force adjusting, utilizing sustained joint traction or applied directional pressure, or both, which may be combined with passive motion to restore joint mobility.

4. Long distance lever adjusting, utilizing forces delivered at some distance from the dysfunctional site and aimed at transmission through connected structures to accomplish joint mobility.

*“Anatomic barrier”* means the limit of motion imposed by anatomic structure, the limit of passive motion.

*“Chiropractic assistant”* means a person who has satisfactorily completed a chiropractic assistant training program to perform selected chiropractic health care services under the supervision of a chiropractic physician.

*“Chiropractic insurance consultant”* means an Iowa-licensed chiropractic physician registered with the board who serves as a liaison and advisor to an insurance company.

*“Chiropractic manipulation”* means care of an articular dysfunction or neuromusculoskeletal disorder by manual or mechanical adjustment of any skeletal articulation and contiguous articulations.

*“Differential diagnosis”* means to examine the body systems and structures of a human subject to determine the source, nature, kind or extent of a disease, vertebral subluxation, neuromusculoskeletal disorder or other physical condition, and to make a determination of the source, nature, kind, or extent of a disease or other physical condition.

*“Elastic barrier”* means the range between the physiologic and anatomic barrier of motion in which passive ligamentous stretching occurs before tissue disruption.

*“Extremity manipulation”* means a corrective thrust or maneuver by a doctor of chiropractic by hand or instrument based upon differential diagnosis of neuromusculoskeletal structures applied to a joint of the appendicular skeleton.

*“Malpractice”* means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a chiropractic physician in the practice of the profession.

*“Mobilization”* means movement applied singularly or repetitively within or at the physiological range of joint motion, without imparting a thrust or impulse, with the goal of restoring joint mobility.

*“Passive chiropractic physiotherapy”* means therapeutic treatment administered by the chiropractic assistant and received by the patient including, but not limited to, mechanical, electrical, thermal, or manual methods.

*“Physiologic barrier”* means the limit of active motion, which can be altered to increase range of active motion by warm-up activity.

*“Practice of acupuncture,”* pursuant to Iowa Code section 148E.1, means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medicine concepts.

*“Supervising chiropractic physician”* means the Iowa-licensed chiropractor responsible for supervision of services provided to a patient by a chiropractic assistant.

*“Supervision”* means the physical presence and direction of the supervising chiropractic physician at the location where services are rendered.

**645—43.2(147,272C) Principles of chiropractic ethics.** The following principles of chiropractic ethics are hereby adopted by the board relative to the practice of chiropractic in this state.

**43.2(1)** These principles are intended to aid chiropractic physicians individually and collectively in maintaining a high level of ethical conduct. These are standards by which a chiropractic physician may determine the propriety of the chiropractic physician’s conduct in the chiropractic physician’s relationship with patients, with colleagues, with members of allied professions, and with the public.

**43.2(2)** The principal objective of the chiropractic profession is to render service to humanity with full respect for the dignity of the person. Chiropractic physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

**43.2(3)** Chiropractic physicians should strive continually to improve chiropractic knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

**43.2(4)** A chiropractic physician should practice a method of healing founded on a scientific basis, and should not voluntarily associate professionally with anyone who violates this principle.

**43.2(5)** The chiropractic profession should safeguard the public and itself against chiropractic physicians deficient in moral character or professional competence. Chiropractic physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

**43.2(6)** A chiropractic physician may choose whom to serve. In an emergency, however, services should be rendered to the best of the chiropractic physician’s ability. Having undertaken the case of a patient, the chiropractic physician may not neglect the patient; and, unless the patient has been discharged, the chiropractic physician may discontinue services only after giving adequate notice.

**43.2(7)** A chiropractic physician should not dispose of services under terms or conditions which tend to interfere with or impair the free and complete exercise of professional judgment and skill or tend to cause a deterioration of the quality of chiropractic care.

**43.2(8)** A chiropractic physician should seek consultation upon request, in doubtful or difficult cases, or whenever it appears that the quality of chiropractic service may be enhanced thereby.

**43.2(9)** A chiropractic physician may not reveal the confidences entrusted in the course of chiropractic attendance, or the deficiencies observed in the character of patients, unless required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

**43.2(10)** The honored ideals of the chiropractic profession imply that the responsibilities of the chiropractic physician extend not only to the individual, but also to society where these responsibilities deserve interest and participation in activities which have the purpose of improving both the health and well-being of the individual and the community.

**645—43.3(514F) Utilization and cost control review.**

**43.3(1)** The board shall establish utilization and cost control review (UCCR) committee(s). A UCCR committee shall be established by approval of the board upon a showing that the committee meets the requirements of this rule. The name of each committee and a list of committee members shall be on file with the board and available to the public. As a condition of board approval, each committee shall agree to submit to the board an annual report which meets the requirements of this rule.

**43.3(2)** Each member of a UCCR committee shall:

- a.* Hold a current license in Iowa.
- b.* Have practiced chiropractic in the state of Iowa for a minimum of five years prior to appointment.
- c.* Be actively involved in a chiropractic practice during the term of appointment as a UCCR committee member.
- d.* Have no pending disciplinary action, no disciplinary action taken during the three years prior to appointment, and no disciplinary action pending or taken during the period of appointment.
- e.* Have no malpractice judgment awarded or settlement paid during the three years prior to appointment or during the period of appointment.
- f.* Not assist in the review or adjudication of claims in which the committee member may reasonably be presumed to have a conflict of interest.
- g.* Rescinded IAB 5/10/06, effective 6/14/06.

**43.3(3)** Procedures for utilization and cost control review. A request for review may be made to the UCCR committee by any person governed by the various chapters of Title XIII, subtitle 1, of the Iowa Code, self-insurers for health care benefits to employees, other third-party payers, chiropractic patients or licensees.

*a.* There shall be a reasonable fee, as established by the UCCR committee and approved by the board, for services rendered, which will be made payable directly to the UCCR committee that conducts the review. Each UCCR committee approved by the board shall make a yearly accounting to the board.

*b.* A request for service shall be submitted to the executive director of the UCCR committee on a submission form approved by the board, and shall be accompanied by the number of copies required by the UCCR committee.

*c.* The UCCR committee shall respond in writing to the parties involved with its findings and recommendations within 90 days of the date the request for review was submitted. The committee shall review the appropriateness of levels of treatment and give an opinion as to the reasonableness of charges for diagnostic or treatment services rendered as requested.

**43.3(4)** Types of cases reviewed shall include:

- a.* Utilization.
  - (1) Frequency of treatment;
  - (2) Amount of treatment;
  - (3) Necessity of service;
  - (4) Appropriateness of treatment.
- b.* Usual and customary service.

**43.3(5)** Criteria for review may include but are not limited to:

- a.* Was diagnosis compatible and consistent with information?

- b. Were X-ray and other examination procedures adequate, or were they insufficient or unrelated to history or diagnosis?
- c. Were clinical records adequate, complete, and of sufficient frequency?
- d. Was treatment consistent with diagnosis?
- e. Was treatment program consistent with scientific knowledge and with academic and clinical training provided in accredited chiropractic colleges?
- f. Were charges reasonable and customary for the service?

**43.3(6) Confidentiality.** Members of the UCCR committee shall observe the requirements of confidentiality imposed by Iowa Code chapter 272C.

**43.3(7) Annual report.** Each UCCR committee shall annually submit a report to the board, and shall meet to review that report with the board chairperson or designee upon the board's request. The annual report shall include the following information:

- a. The fee to be charged the party requesting UCCR review.
- b. A report regarding the activities of the committee for the past year, including a report regarding each review conducted, the conclusions reached regarding that review, and any recommendations made following the review.

**43.3(8)** A conclusion or recommendation, or both, made by a UCCR committee does not constitute a decision of the board.

**645—43.4(151) Chiropractic insurance consultant.**

**43.4(1)** A chiropractic insurance consultant advises insurance companies, third-party administrators and other similar entities of Iowa standards of (a) recognized and accepted chiropractic services and procedures permitted by the Iowa Code and administrative rules and (b) the propriety of chiropractic diagnosis and care.

**43.4(2)** All licensees who review chiropractic records for the purposes of determining the adequacy or sufficiency of chiropractic treatments, or the clinical indication for those treatments, shall notify the board annually that they are engaged in those activities and of the location where those activities are performed.

**43.4(3)** Licensed chiropractic physicians shall not hold themselves out as chiropractic insurance consultants unless they meet the following requirements:

- a. Hold a current license in Iowa.
- b. Have practiced chiropractic in the state of Iowa during the immediately preceding five years.
- c. Are actively involved in a chiropractic practice during the term of appointment as a chiropractic insurance consultant. Active practice includes but is not limited to maintaining an office location and providing clinical care to patients.

**645—43.5(151) Acupuncture.** A chiropractic physician who engages in the practice of acupuncture shall maintain documentation that shows the chiropractic physician has successfully completed the education and examination requirements required by the board and shall make such documentation available to the board upon request. Requirements include:

1. Completion of 100 hours of classroom instruction; and
2. Completion of the certification examination given by a board-approved continuing education sponsor for acupuncture.

**645—43.6(151) Nonprofit nutritional product sales.** Rescinded IAB 11/26/03, effective 12/31/03.

**645—43.7(151) Adjunctive procedures.**

**43.7(1)** Adjunctive procedures are defined as procedures related to differential diagnosis.

**43.7(2)** For any applicant for licensure to practice chiropractic in the state of Iowa who chooses to be tested in limited adjunctive procedures, those limited procedures must be adequate for the applicant to come to a differential diagnosis in order to pass the examination.

**43.7(3)** Applicants for licenses to practice chiropractic who refuse to utilize any of the adjunctive procedures which they have been taught in approved colleges of chiropractic must adequately show the board that they can come to an adequate differential diagnosis without the use of adjunctive procedures.

**645—43.8(151) Physical examination.** The chiropractic physician is to perform physical examinations to determine human ailments, or the absence thereof, utilizing principles taught by chiropractic colleges. Physical examination procedures shall not include prescription drugs or operative surgery.

**645—43.9(151) Gonad shielding.** Gonad shielding of not less than 0.25 millimeter lead equivalent shall be used for chiropractic patients who have not passed the reproductive age during radiographic procedures in which the gonads are in the useful beam, except for cases in which this would interfere with the diagnostic procedures.

**645—43.10(151) Record keeping.**

**43.10(1)** Chiropractic physicians shall maintain clinical records in a manner consistent with the protection of the welfare of the patient. Records shall be timely, dated, chronological, accurate, signed or initialed, legible, and easily understandable. Record-keeping rules apply to all patient records whether handwritten, typed or maintained electronically. Electronic signatures are acceptable when the record has been reviewed by the physician whose signature appears on the record.

**43.10(2)** Chiropractic physicians shall maintain clinical records for each patient. The clinical records shall, at a minimum, include all of the following:

*a. Personal data.*

- (1) Name;
- (2) Date of birth;
- (3) Address; and
- (4) Name of parent or guardian if a patient is a minor.

*b. Health history.* Records shall include information from the patient or the patient's parent or guardian regarding the patient's health history.

*c. Patient's reason for visit.* When a patient presents with a chief complaint, clinical records shall include the patient's stated health concerns.

*d. Clinical examination progress notes.* Records shall include chronological dates and descriptions of the following:

- (1) Clinical examination findings, tests conducted, a summary of all pertinent diagnoses, and updated health assessments;
- (2) Plan of intended treatment, including description of treatment, frequency and duration;
- (3) Services rendered and any treatment complications;
- (4) All testing ordered or performed;
- (5) Diagnostic imaging report if imaging procedure is ordered or performed;
- (6) Sufficient data to support the recommended treatment plan.

*e. Clinical record.* Each page of the clinical record shall include the patient's name, the date information was recorded and the doctor's name or facility's name.

**43.10(3)** Retention of records. A chiropractic physician shall maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements.

**43.10(4)** Electronic record keeping. When electronic records are utilized, a chiropractic physician shall maintain either a duplicate hard-copy record or a backup electronic record.

**43.10(5)** Correction of written records. Notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

**43.10(6)** Correction of electronic records. Any alterations made after the date of service shall be visibly recorded. All alterations shall include a notation setting forth the date of alteration and identification of the author. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

**43.10(7)** Abbreviations shall be standard and common to all health care disciplines. Nonstandard abbreviations shall be referenced with a key that is included in the record when the record is requested.

**43.10(8)** Confidentiality and transfer of records. Chiropractic physicians shall preserve the confidentiality of patient records. Upon signed request of the patient, the chiropractic physician shall furnish such records or copies of the records as directed by the patient within 30 days. A notation indicating the items transferred, date and method of transfer shall be maintained in the patient record. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees. In certain instances a summary of the record may be more beneficial for the future treatment of the patient; however, if a third party requests copies of the original documentation, that request must be honored.

**43.10(9)** Retirement or discontinuance of practice. A licensee, upon retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community, shall:

*a.* Notify all active patients, in writing and by publication, once a week for three consecutive weeks in a newspaper of general circulation in the community. The notification shall include the following information:

(1) That the licensee intends to discontinue the practice of chiropractic in the community and that patients are encouraged to seek the services of another licensee; and

(2) How patients can obtain their records, including the name and contact information of the records custodian.

*b.* Make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee.

*c.* For the purposes of this subrule, “active patient” means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the one-year period prior to retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community.

**43.10(10)** Record-keeping procedures and standards shall be utilized for all individuals who receive treatment from a chiropractic physician in all sites where care is provided.

**43.10(11)** A chiropractic physician who offers a prepayment plan for chiropractic services shall:

*a.* Have a written prepayment policy statement that is maintained in the office and available to patients upon request. The policy statement, at a minimum, shall include provisions that:

(1) Prepaid funds will not be expended until services are provided; and

(2) The patient shall receive a prompt refund of any unused funds upon request. The refund shall be calculated based on a defined method, which shall be clearly set forth in the written prepayment policy statement.

*b.* Require the patient to sign and date a prepayment document that incorporates the conditions and descriptions of the written prepayment policy statement.

*c.* Maintain the signed and dated written prepayment policy statement in the patient’s record.

#### **645—43.11(151) Billing procedures.**

**43.11(1)** Chiropractic physicians shall maintain accurate billing records for each patient. Records may be stored on paper or electronically. The records shall contain all of the following:

*a.* Name, date of birth and address.

*b.* Diagnosis indicated with description or ICD code.

*c.* Services provided with description or CPT code.

*d.* Dates of services provided.

*e.* Charges for each service provided.

*f.* Payments made for each service and indication of the party providing payment.

*g.* Dates payments are made.

*h.* Balance due for any outstanding charges.

**43.11(2)** Chiropractic physicians shall preserve the confidentiality of billing records.

**43.11(3)** Upon signed request of the patient, the chiropractic physician shall furnish billing records or copies of the records as directed by the patient within 30 days. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

**43.11(4)** Each chiropractic physician is responsible for the accuracy and validity of billings submitted under the chiropractic physician's name.

**43.11(5)** Chiropractic physicians:

*a.* Who are owners, operators, members, partners, shareholders, officers, directors, or managers of a chiropractic clinic will be responsible for the policies, procedures and billings generated by the clinic.

*b.* Who provide clinical services are required to familiarize themselves with the clinic's billing practices to ensure that the services rendered are accurately reflected in the billings generated. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by an employer, agent or any other individual or business entity responsible for such error.

**43.11(6)** A chiropractic physician has a right to review and correct all billings submitted under the chiropractic physician's name or identifying number(s). Signature stamps or electronically generated signatures shall be utilized only with the authorization of the chiropractic physician whose name or signature is designated. Such authorization may be revoked at any time in writing by the chiropractic physician.

**43.11(7)** Chiropractic physicians shall not knowingly:

*a.* Increase charges when a patient utilizes a third-party payment program.

*b.* Report incorrect dates or types of service on any billing documents.

*c.* Submit charges for services not rendered.

*d.* Submit charges for services rendered which are not documented in a patient's record.

*e.* Bill patients or make claims under a third-party payer contract for chiropractic services that have not been performed.

*f.* Bill patients or make claims under a third-party payer contract in a manner which misrepresents the nature of the chiropractic services that have been performed.

**43.11(8)** For cases not involving third-party payers, nothing in this rule shall prevent a chiropractic physician from providing a fee reduction for reasonable time of service or substantiated hardship cases. The chiropractic physician shall document time of service or hardship case fee reduction provisions in the patient record.

**43.11(9)** The chiropractic physician shall not enter into an agreement to waive, abrogate, or rebate the deductible or copayment amounts of any third-party payer contract by forgiving any or all of any patient's obligation for payment thereunder, except in substantiated hardship cases, unless the third-party payer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness in accordance with the third-party payer contract. The chiropractic physician shall document any hardship case fee reduction provisions in the patient record.

**645—43.12(151) Chiropractic assistants.** The requirements of this rule shall become effective on July 1, 2009.

**43.12(1)** *Supervisory responsibilities of the chiropractic physician.*

*a.* The supervising chiropractic physician shall ensure at all times that the chiropractic assistant has the necessary training and skills as required by these rules to competently perform the delegated services.

*b.* The supervising chiropractic physician may delegate services to a chiropractic assistant that are within the scope of practice of the chiropractic physician in a manner consistent with these rules. Violation of these rules shall be grounds for discipline under 645—Chapter 45.

*c.* A chiropractic physician shall not delegate to the chiropractic assistant the following:

(1) Services outside the chiropractic physician's scope of practice;

- (2) Initiation, alteration, or termination of chiropractic treatment programs;
- (3) Chiropractic manipulation and adjustments;
- (4) Diagnosis of a condition.

*d.* A supervising chiropractic physician shall ensure that a chiropractic assistant is informed of the supervisor and chiropractic assistant relationship and is responsible for all services performed by the chiropractic assistant.

**43.12(2) Education requirements for chiropractic assistants.**

*a.* The supervising chiropractic physician shall ensure that a chiropractic assistant has completed a chiropractic assistant training program. A chiropractic assistant training program shall include training and instruction on the use of chiropractic physiotherapy procedures related to services to be provided by the chiropractic assistant. Any chiropractic assistant training program shall be provided by an approved CCE-accredited chiropractic college.

*b.* Chiropractic assistants performing active chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours shall be clinical experience under the supervision of the chiropractic physician.

*c.* Chiropractic assistants performing passive chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours shall be clinical experience under the supervision of the chiropractic physician.

*d.* If both paragraphs “*b*” and “*c*” apply, then 12 hours of instruction for active chiropractic physiotherapy procedures and 12 hours of instruction for passive chiropractic physiotherapy procedures shall be required for a total of 24 hours of instruction.

*e.* The supervising chiropractic physician shall provide a written attestation to the chiropractic college that the chiropractic assistant has completed the clinical experience. The college shall issue a separate certificate of completion for the active or passive chiropractic training program as defined in paragraphs “*b*,” “*c*” and “*d*” of this subrule.

*f.* The chiropractic physician shall maintain in the chiropractic physician’s primary place of business proof of the chiropractic assistant’s completion of the training program. Copies of such documents shall be provided to the board upon request.

These rules are intended to implement Iowa Code chapter 151.

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CHAPTER 44  
CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS  
[Prior to 7/24/02, see 645—Ch 43]

**645—44.1(151) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of chiropractic.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest or certificate of completion.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a chiropractic physician in the state of Iowa.

**645—44.2(272C) Continuing education requirements.**

**44.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of each even-numbered year two years later. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 60 hours of continuing education approved by the board.

**44.2(2)** Rescinded IAB 8/3/05, effective 9/7/05.

**44.2(3)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses with the exception of two hours in the content areas of Iowa Administrative Code, 645—Chapters 40 through 46 and Iowa Code chapter 151. Continuing education hours acquired anytime from the initial licensing until the second license renewal with the exception of two hours in the content areas of Iowa Administrative Code, 645—Chapters 40 through 46 and Iowa Code chapter 151 may be used. The new licensee will be required to complete a minimum of 60 hours of continuing education per biennium for each subsequent license renewal.

**44.2(4)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

**44.2(5)** No hours of continuing education shall be carried over into the next biennium except as stated in 44.2(3) and 44.3(2)“a”(3). A licensee whose license is reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**44.2(6)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—44.3(151,272C) Standards.**

**44.3(1) General criteria.** A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;  
c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program clock hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**44.3(2) *Specific criteria.***

a. Continuing education hours of credit shall be obtained by completing:

(1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. Beginning with the July 1, 2008, to June 30, 2010, renewal cycle, at least 24 of these hours shall be earned by completing a program in which an instructor conducts the class employing either a traditional in-person classroom-type presentation or a live presentation through the Iowa Communications Network (ICN). The remaining 12 hours may be obtained by independent study, including on-line instruction.

(2) A minimum of two hours per biennium in professional boundaries regarding ethical issues related to professional conduct that may include but are not limited to sexual harassment, sensitivity training and ethics.

(3) Starting with the 2006 renewal cycle, a minimum of 12 hours per biennium of continuing education in the field of acupuncture if the chiropractic physician is engaged in the practice of acupuncture. Continuing education hours in the field of acupuncture earned between December 31, 2003, and June 30, 2004, up to a maximum of 12 hours may be used to satisfy licensure renewal requirements for either the 2004 or 2006 renewal cycle. The licensee may use the earned continuing education credit hours only once. Credit can not be duplicated for both the 2004 and 2006 compliance periods.

(4) Classes on child abuse, dependent adult abuse, and OSHA training that meet the criteria in subrule 44.3(1).

(5) Two hours of continuing education credit at the time of the first biennial renewal period and one hour every biennial renewal period after that in the content areas of Iowa Administrative Code, 645—Chapters 40 through 46 and Iowa Code chapter 151.

b. Continuing education hours of credit may be obtained by:

(1) Teaching at a Council on Chiropractic Education (CCE)-approved program or board of chiropractic-approved institution. A maximum of 15 hours per biennium may be obtained for each course taught.

(2) Completing electronically transmitted programs/activities or independent study programs/activities that have a certificate of completion that meets criteria in 645—44.3(151,272C).

(3) A licensee who is a presenter of a continuing education program that meets criteria in 645—44.3(151,272C) may receive credit once per biennium for the initial presentation of the program.

(4) Completing continuing education that meets criteria in 645—44.3(151,272C) or a program provided by a CCE-accredited chiropractic college in the United States, the Iowa Chiropractic Society, American Chiropractic Association or International Chiropractors Association.

(5) Completing continuing education courses/programs that are certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB).

(6) Proctoring at the NBCE examination. Fifteen hours of continuing education hours per NBCE examination event may be claimed up to a maximum of 30 hours of continuing education credit per biennium. The proctoring hours may apply toward the clinical requirement.

c. Continuing education may not be obtained by completing or teaching classes in basic anatomy and physiology or undergraduate level coursework.

**44.3(3) *Specific criteria for presenters.*** All instructors/presenters of a continuing education activity must include, as part of the continuing education activity, verbal and written statements to the participants regarding any affiliations or employment relationships with any entity promoting, developing or marketing products, services, procedures or treatment methods.

**645—44.4(151,272C) Audit of continuing education report.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—44.5(151,272C) Automatic exemption.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—44.6(272C) Continuing education exemption for disability or illness.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—44.7(151,272C) Grounds for disciplinary action.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—44.8(272C) Continuing education exemption for inactive practitioners.** Rescinded IAB 8/3/05, effective 9/7/05.

**645—44.9(272C) Continuing education exemption for disability or illness.** Rescinded IAB 8/3/05, effective 9/7/05.

**645—44.10(272C) Reinstatement of inactive practitioners.** Rescinded IAB 8/3/05, effective 9/7/05.

**645—44.11(272C) Hearings.** Rescinded IAB 8/3/05, effective 9/7/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 151.

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<sup>◇</sup> Two or more ARCs

<sup>1</sup> Effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held January 29, 2001; delay lifted by the committee at its meeting held February 9, 2001, effective 2/10/01.



CHAPTER 45  
DISCIPLINE FOR CHIROPRACTIC PHYSICIANS  
[Prior to 7/24/02, see 645—Ch 44]

**645—45.1(151) Definitions.**

“*Board*” means the board of chiropractic.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as a chiropractic physician in Iowa.

**645—45.2(151,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—45.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

**45.2(1) Fraud in procuring a license.** Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

*a.* False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

*b.* Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

**45.2(2) Professional incompetency.** Professional incompetency includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other chiropractic physicians in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care which is ordinarily exercised by the average chiropractic physician acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a chiropractic physician in this state.

*e.* Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

*f.* Being adjudged mentally incompetent by a court of competent jurisdiction.

*g.* Failure to maintain for a minimum of six years from one of the following dates, as applicable, clinical and fiscal records in support of services rendered. For the purposes of this rule, clinical records shall include all laboratory and diagnostic imaging studies.

(1) For an adult patient, the last office visit.

(2) Records for minors shall be maintained for a minimum of either (a) one year after the patient reaches the age of majority (18), or (b) five years, whichever is longer.

**45.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public.** This includes representations utilizing the term “physical therapy” when informing the public of the services offered by the chiropractic physician unless a licensed physical therapist is performing such services. Nothing herein shall be construed as prohibiting a chiropractic physician from making representations regarding physiotherapy that may be the same as, or similar to, physical therapy or physical medicine as long as treatment is appropriate as authorized in Iowa Code chapter 151. Proof of actual injury need not be established.

**45.2(4) Practice outside the scope of the profession.**

**45.2(5) Use of untruthful or improbable statements in advertisements.** Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted

through fraud or misrepresentation or representations that are likely to cause the average person to misunderstand.

**45.2(6)** Habitual intoxication or addiction to the use of drugs.

**45.2(7)** Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

**45.2(8)** Falsification of client records.

**45.2(9)** Acceptance of any fee by fraud or misrepresentation.

**45.2(10)** Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**45.2(11)** Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

**45.2(12)** Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

**45.2(13)** Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

**45.2(14)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

**45.2(15)** Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

**45.2(16)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

**45.2(17)** Engaging in any conduct that subverts or attempts to subvert a board investigation.

**45.2(18)** Failure to comply with a subpoena issued by the board, or otherwise fail to cooperate with an investigation of the board.

**45.2(19)** Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

**45.2(20)** Failure to pay costs assessed in any disciplinary action.

**45.2(21)** Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

**45.2(22)** Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

**45.2(23)** Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a chiropractic physician.

**45.2(24)** Failure to report a change of name or address within 30 days after it occurs.

**45.2(25)** Representing oneself as a chiropractic physician when one's license has been suspended or revoked, or when one's license is on inactive status.

**45.2(26)** Permitting another person to use the licensee's license for any purposes.

**45.2(27)** Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

**45.2(28)** Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

*a.* Verbally or physically abusing a patient, client or coworker.

*b.* Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.

**45.2(29)** Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

**45.2(30)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

**645—45.3(147,272C) Method of discipline.** The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

**645—45.4(272C) Discretion of board.** The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

**645—45.5(151) Order for mental, physical, or clinical competency examination or alcohol or drug screening.** Rescinded IAB 8/13/08, effective 9/17/08.

These rules are intended to implement Iowa Code chapters 147, 151 and 272C.

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<sup>◇</sup> Two or more ARCs

<sup>1</sup> Effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held January 29, 2001; delay lifted by the committee at its meeting held February 9, 2001, effective 2/10/01.



CHAPTER 46

FEEES

[Prior to 7/24/02, see 645—40.14(151)]

Rescinded IAB 8/13/08, effective 9/17/08

CHAPTERS 47 and 48

Reserved

CHAPTER 49

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTERS 50 to 58

Reserved



CHAPTER 306  
CHILD SUPPORT NONCOMPLIANCE  
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 307  
IMPAIRED PRACTITIONER REVIEW COMMITTEE  
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 308  
Reserved

CHAPTER 309  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES  
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 310 to 324  
Reserved

*PHYSICIAN ASSISTANTS*

CHAPTER 325  
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF  
PHYSICIAN ASSISTANTS  
Rescinded IAB 8/13/08, effective 9/17/08



CHAPTER 326	LICENSURE OF PHYSICIAN ASSISTANTS
CHAPTER 327	PRACTICE OF PHYSICIAN ASSISTANTS
CHAPTER 328	CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS
CHAPTER 329	DISCIPLINE FOR PHYSICIAN ASSISTANTS

CHAPTER 326  
LICENSURE OF PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.2(148C) to 645—325.5(148C) and 645—325.16(148C)]

**645—326.1(148C) Definitions.**

“*Active license*” means a license that is current and has not expired.

“*Approved program*” means a program for the education of physician assistants which has been accredited by the American Medical Association’s Committee on Allied Health Education and Accreditation, by its successor, the Commission on Accreditation of Allied Health Education Programs, or by its successor, the Accreditation Review Commission on Education for the Physician Assistant, or its successor.

“*Board*” means the board of physician assistants.

“*CME*” means continuing medical education.

“*Department*” means the department of public health.

“*Direction*” means authoritative policy or procedural guidance for the accomplishment of a function or activity.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means a person licensed by the board as a physician assistant to provide medical services under the supervision of one or more physicians.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice as a physician assistant to an applicant who is or has been licensed in another state.

“*Locum tenens*” means the temporary substitution of one licensed physician assistant for another.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of physician assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*NCCPA*” means the National Commission on Certification of Physician Assistants.

“*Physician*” means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy. A physician supervising a physician assistant practicing in a federal facility or under federal authority shall not be required to obtain licensure beyond licensure requirements mandated by the federal government for supervising physicians.

“*Physician assistant*” means a person licensed as a physician assistant by the board.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 326.19(17A,147,272C) by which an inactive license is restored to active status.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*Remote medical site*” means a medical clinic for ambulatory patients which is away from the main practice location of a supervising physician and in which a supervising physician is present less than 50 percent of the time the site is open. “Remote medical site” will not apply to nursing homes,

patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided (e.g., diet center, free clinic, site for athletic physicals, jail facility).

“*Supervising physician*” means a physician who supervises the medical services provided by the physician assistant and who accepts ultimate responsibility for the medical care provided by the physician/physician assistant team.

“*Supervision*” means that a supervising physician retains ultimate responsibility for patient care, although a physician need not be physically present at each activity of the physician assistant or be specifically consulted before each delegated task is performed. Supervision shall not be construed as requiring the personal presence of a supervising physician at the place where such services are rendered except insofar as the personal presence is expressly required by these rules or by Iowa Code chapter 148C.

“*Supply prescription drugs*” means to deliver to a patient or the patient’s representative a quantity of prescription drugs or devices that are properly packaged and labeled.

#### **645—326.2(148C) Requirements for licensure.**

**326.2(1)** The following criteria shall apply to licensure:

*a.* An applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to the Board of Physician Assistants, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

*b.* An applicant shall complete the application form according to the instructions contained in the application.

*c.* Each application shall be accompanied by the appropriate fees payable by check or money order to the Iowa Board of Physician Assistants. The fees are nonrefundable.

*d.* Each applicant shall provide official copies of academic transcripts that have been sent to the board directly from an approved program for the education of physician assistants. EXCEPTION: An applicant who is not a graduate of an approved program but who passed the NCCPA initial certification examination prior to 1986 is exempt from the graduation requirement.

*e.* An applicant shall provide a copy of the initial certification from NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency.

*f.* Prior to beginning practice, the physician assistant shall notify the board of the identity of the supervising physician(s) on the board-approved form.

*g.* In lieu of paragraphs “*d*” and “*e*,” an applicant for licensure may provide documentation from the Federation Credentials Verification Service (FCVS) of the Federation of State Medical Boards as primary source verification for identity, education and national certification information.

**326.2(2)** Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

**326.2(3)** Incomplete applications that have been on file in the board office for more than two years shall be:

- a.* Considered invalid and shall be destroyed; or
- b.* Maintained upon written request of the candidate.

#### **645—326.3(148C) Temporary licensure.**

**326.3(1)** A temporary license may be issued for an applicant who has not taken the NCCPA initial certification examination or successor agency examination or is waiting for the results of the examination.

**326.3(2)** The applicant must comply with subrule 326.2(1), with the exception of paragraphs “*d*” and “*e*.”

**326.3(3)** A temporary license shall be valid for one year from the date of issuance.

**326.3(4)** The temporary license shall be renewed only once upon the applicant’s showing proof that, through no fault of the applicant, the applicant was unable to take the certification examination recognized by the board. Proof of inability to take the certification examination shall be submitted to

the board office with written request for renewal of a temporary license, accompanied by the temporary license renewal fee.

**326.3(5)** If the temporary licensee fails the certification examination, the temporary licensee must cease practice immediately and surrender the temporary license by the next business day.

**326.3(6)** There is no additional fee for converting temporary licensure to permanent licensure.

**326.3(7)** The applicant shall ensure that certification of completion is sent to the board directly from an approved program for the education of physician assistants. The certification of completion must be signed by a designee from the approved program.

**645—326.4(148C) Licensure by endorsement.** An applicant who has been licensed under the laws of another jurisdiction shall file an application for licensure by endorsement. An applicant shall:

**326.4(1)** Submit to the board a completed application according to the instructions on the application.

**326.4(2)** Pay the nonrefundable licensure fee.

**326.4(3)** Provide an official copy of the transcript sent directly to the board from an approved program for the education of physician assistants or qualify for the exception stated in paragraph 326.2(1)“d.”

**326.4(4)** Provide a copy of the initial certification from NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency. Additionally, provide one of the following documents:

*a.* Copy of current certification from the NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency; or

*b.* Proof of completion of 100 CME hours for each biennium since initial certification.

**326.4(5)** Provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

*a.* Licensee’s name;

*b.* Date of initial licensure;

*c.* Current licensure status; and

*d.* Any disciplinary action taken against the license.

**326.4(6)** Prior to beginning practice, the physician assistant shall notify the board of the identity of the supervising physician(s) on the board-approved form.

**645—326.5(148C) Licensure by reciprocal agreement.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—326.6(148C) Examination requirements.** The applicant for licensure as a physician assistant shall successfully pass the certifying examination for physician assistants conducted by the National Commission on Certification of Physician Assistants or a successor examination approved by the board.

**645—326.7(148C) Educational qualifications.** An applicant for licensure as a physician assistant shall submit official copies of academic transcripts from an approved program for education of physician assistants, or the applicant shall qualify for the exception stated in paragraph 326.2(1)“d.”

**645—326.8(148C) Supervision requirements.**

**326.8(1)** Notification requirements. Physician assistants shall use the board-approved forms to notify the board of the identity of their supervising physicians at the following times:

*a.* Prior to beginning practice in Iowa.

*b.* At the time of license renewal. The physician assistant shall notify the board of the identity of each of the physician assistant’s supervising physicians and of any change in the status of the supervisory relationships during the physician assistant’s current biennium. In addition, the physician assistant shall maintain a list of supervising physicians to provide to the board upon request.

*c.* At the time of license reactivation.

**326.8(2)** The physician assistant shall maintain documentation of current supervising physicians, which shall be made available to the board upon request.

**326.8(3)** A physician assistant who provides medical services shall be supervised by one or more physicians; but a physician shall not supervise more than two physician assistants at the same time.

**326.8(4)** It shall be the responsibility of the physician assistant and a supervising physician to ensure that the physician assistant is adequately supervised. Upon agreeing to supervise a physician assistant, a supervising physician will be advised that the physician's name will be listed with the board as a supervising physician. In regard to scheduling, the physician assistant may not practice if supervision is unavailable, except as otherwise provided in Iowa Code chapter 148C or these rules, and must be in compliance with the requirement that no more than two physician assistants shall be supervised by a physician at one time, pursuant to 645—subrule 326.8(3). The physician assistant and the supervising physician are each responsible for knowing and complying with the supervision provisions of these rules.

*a.* Patient care provided by the physician assistant shall be reviewed with a supervising physician on an ongoing basis as indicated by the clinical condition of the patient. Although every chart need not be signed nor every visit reviewed, nor does the supervising physician need to be physically present at each activity of the physician assistant, it is the responsibility of the supervising physician and physician assistant to ensure that each patient has received the appropriate medical care.

*b.* Patient care provided by the physician assistant may be reviewed with a supervising physician in person, by telephone or by other telecommunicative means.

*c.* When signatures are required, electronic signatures are allowed if:

(1) The signature is transcribed by the signer into an electronic record and is not the result of electronic regeneration; and

(2) A mechanism exists allowing confirmation of the signature and protection from unauthorized reproduction.

*d.* When the physician assistant is being trained to perform new medical procedures, the training shall be carried out under the supervision of a physician or another qualified individual. Upon completing the supervised training, a physician assistant may perform the new medical procedures if delegated by a supervising physician, except as otherwise provided in Iowa Code chapter 148C or these rules. New medical procedures may be delegated to a physician assistant after a supervising physician determines that the physician assistant is competent to perform the task.

#### **645—326.9(148C) License renewal.**

**326.9(1)** The biennial license renewal period for a license to practice as a physician assistant shall begin on October 1 and end on September 30 two years later. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

**326.9(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

**326.9(3)** A licensee seeking renewal shall:

*a.* Meet the continuing education requirements of rule 645—328.2(148C) and the mandatory reporting requirements of subrule 326.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

**326.9(4)** Mandatory reporter training requirements.

*a.* A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

*b.* A licensee who, in the course of employment responsibilities, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in

dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

Training may be completed through separate courses as identified in paragraphs “a” and “b” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “a” to “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 328.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

**326.9(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**326.9(6)** A person licensed to practice as a physician assistant shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

**326.9(7)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 330.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**326.9(8)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a physician assistant in Iowa until the license is reactivated. A licensee who practices as a physician assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—326.10(272C) Exemptions for inactive practitioners.** Rescinded IAB 8/17/05, effective 9/21/05.

**645—326.11(272C) Lapsed license.** Rescinded IAB 8/17/05, effective 9/21/05.

**645—326.12(147) Duplicate certificate or wallet card.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—326.13(147) Reissued certificate or wallet card.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—326.14(272C) License denial.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—326.15(148C) Use of title.** A physician assistant licensed under Iowa Code chapter 148C may use the words “physician assistant” after the person’s name or signify the same by the use of the letters “PA.”

**645—326.16(148C) Address change.** The physician assistant shall notify the board of any change in permanent address within 30 days of its occurrence.

**645—326.17(148C) Student physician assistant.**

**326.17(1)** Any person who is enrolled as a student in an approved program shall comply with the rules set forth in this chapter. A student is exempted from licensure requirements.

**326.17(2)** Notwithstanding any other provisions of these rules, a student may perform medical services when they are rendered within the scope of an approved program.

**645—326.18(148C) Recognition of an approved program.** The board shall recognize a program for education and training of physician assistants if it is accredited by the American Medical Association's Committee on Allied Health Education and Accreditation, by its successor, the Commission on Accreditation of Allied Health Educational Programs, or by its successor, the Accreditation Review Commission on Education for the Physician Assistant, or its successor.

This rule is intended to implement Iowa Code section 148C.2.

**645—326.19(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**326.19(1)** Submit a reactivation application on a form provided by the board.

**326.19(2)** Pay the reactivation fee that is due as specified in 645—Chapter 330.

**326.19(3)** Provide verification of current competence to practice as a physician assistant by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 100 hours of continuing education within two years of application for reactivation or NCCPA or successor agency certification.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 200 hours of continuing education within two years of application for reactivation, of which at least 40 percent of the hours completed shall be in Category I, or NCCPA or successor agency certification; and

(3) Information on each supervising physician.

**645—326.20(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in

accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 326.19(17A,147,272C) prior to practicing as a physician assistant in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148C and 272C.

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<sup>0</sup> Two or more ARCs

<sup>1</sup> Effective date of 326.1, “remote medical site,” delayed 70 days by the Administrative Rules Review Committee at its meeting held June 7, 2004.



CHAPTER 328  
CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS

**645—328.1(148C) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of physician assistants.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a physician assistant in the state of Iowa.

**645—328.2(148C) Continuing education requirements.**

**328.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on October 1 of each year and ending on September 30 two years later. Each biennium, each licensee shall be required to complete a minimum of 100 hours of continuing education approved by the board.

**328.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. The new licensee will be required to complete a minimum of 100 hours of continuing education per biennium for each subsequent license renewal.

**328.2(3)** A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**645—328.3(148C,272C) Standards.**

**328.3(1) General criteria.** A continuing education activity is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program;
- d. Fulfills stated program goals, objectives, or both; and
- e. Provides an individual certificate of completion or evidence of successful completion of the course provided by the course sponsor. This documentation must contain the course title, date(s), contact hours, sponsor and licensee’s name.

**328.3(2) Specific criteria.** Continuing education requirements are as follows:

- a. The licensee shall complete a minimum of 50 hours of credit designated as Category I by the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association Council on Continuing Medical Education, the American Academy of Family

Physicians or other organizations accredited by the Accreditation Council on Continuing Medical Education (ACCME).

*b.* For the remaining 50 hours of required continuing medical education (CME), Category I or Category II (elective) credit, as accepted by the National Commission on Certification for Physician Assistants, shall satisfy the CME requirements.

*c.* Licensees who maintain certification by the National Commission on Certification for Physician Assistants (NCCPA) may show proof of meeting the board's CME requirements by providing proof of current certification by the NCCPA.

**645—328.4(148C,272C) Audit of continuing education report.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—328.5(148C,272C) Automatic exemption.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—328.6(148C,272C) Continuing education exemption for disability or illness.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—328.7(148C,272C) Grounds for disciplinary action.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—328.8(148C) Continuing education exemption for inactive practitioners.** Rescinded IAB 8/17/05, effective 9/21/05.

**645—328.9(148C) Reinstatement of inactive practitioners.** Rescinded IAB 8/17/05, effective 9/21/05.

**645—328.10(272C) Hearings.** Rescinded IAB 8/17/05, effective 9/21/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 148C.

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CHAPTER 329  
DISCIPLINE FOR PHYSICIAN ASSISTANTS  
[Prior to 8/7/02, see 645—325.11(148C,272C)]

**645—329.1(148C) Definitions.**

“Board” means the board of physician assistants.

“Discipline” means any sanction the board may impose upon licensees.

“Licensee” means a person licensed to practice as a physician assistant in Iowa.

**645—329.2(148C,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—329.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses.

**329.2(1) *Fraud in procuring a license.*** Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state which includes the following:

*a.* False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

*b.* Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

**329.2(2) *Professional incompetency.*** Professional incompetency includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physician assistants in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care which is ordinarily exercised by the average physician assistant acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a physician assistant in this state.

*e.* Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

*f.* Being adjudged mentally incompetent by a court of competent jurisdiction.

**329.2(3)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

**329.2(4)** Practice outside the scope of the profession.

**329.2(5)** Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

**329.2(6)** Habitual intoxication or addiction to the use of drugs.

**329.2(7)** Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

**329.2(8)** Falsification of client records.

**329.2(9)** Acceptance of any fee by fraud or misrepresentation.

**329.2(10)** Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**329.2(11)** Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

**329.2(12)** Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

**329.2(13)** Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

**329.2(14)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

**329.2(15)** Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

**329.2(16)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

**329.2(17)** Engaging in any conduct that subverts or attempts to subvert a board investigation.

**329.2(18)** Failure to comply with a subpoena issued by the board, or to otherwise fail to cooperate with an investigation of the board.

**329.2(19)** Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

**329.2(20)** Failure to pay costs assessed in any disciplinary action.

**329.2(21)** Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

**329.2(22)** Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

**329.2(23)** Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a physician assistant.

**329.2(24)** Failure to report a change of name or address within 30 days after it occurs.

**329.2(25)** Representing oneself as a physician assistant when one's license has been suspended or revoked, or when one's license is on inactive status.

**329.2(26)** Permitting another person to use the licensee's license for any purpose.

**329.2(27)** Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

**329.2(28)** Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

*a.* Verbally or physically abusing a patient or client or coworker.

*b.* Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

*c.* Betrayal of a professional confidence.

*d.* Engaging in a professional conflict of interest.

**329.2(29)** Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

**329.2(30)** The performance of a medical function without approved supervision except in cases requiring performance of evaluation and treatment procedures essential to providing an appropriate response to an emergency situation.

**329.2(31)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

**645—329.3(147,272C) Method of discipline.** The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a mental, physical, or clinical competency examination, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

**645—329.4(272C) Discretion of board.** The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

**645—329.5(148C) Order for mental, physical, or clinical competency examination or alcohol or drug screening.** Rescinded IAB 8/13/08, effective 9/17/08.

These rules are intended to implement Iowa Code chapters 147, 148C and 272C.

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CHAPTER 330

FEES

Prior to 8/7/02, see 645—Ch 325]

Rescinded IAB 8/13/08, effective 9/17/08

CHAPTERS 331 to 349

Reserved

*ATHLETIC TRAINERS*

CHAPTER 350

ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE  
BOARD OF ATHLETIC TRAINING EXAMINERS

Rescinded IAB 8/13/08, effective 9/17/08



CHAPTER 351	LICENSURE OF ATHLETIC TRAINERS
CHAPTER 352	CONTINUING EDUCATION FOR ATHLETIC TRAINERS
CHAPTER 353	DISCIPLINE FOR ATHLETIC TRAINERS

CHAPTER 351  
LICENSURE OF ATHLETIC TRAINERS  
[Prior to 4/17/02, see rules 645—350.6(147,152D) to 645—350.10(147,152D)]

**645—351.1(152D) Definitions.** For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Athlete*” means a person who participates in a sanctioned amateur or professional sport or other recreational sports activity.

“*Athletic injury*” means any of the following:

1. An injury or illness sustained by an athlete as a result of the athlete’s participation in sports, games, or recreational sports activities.

2. An injury or illness that impedes or prevents an athlete from participating in sports, games, or recreational sports activities.

“*Athletic trainer*” means a person licensed under this chapter to practice athletic training under the direction of a licensed physician.

“*Athletic training*” means the practice of prevention, recognition, assessment, physical evaluation, management, treatment, disposition, and physical reconditioning of athletic injuries that are within the professional preparation and education of a licensed athletic trainer and under the direction of a licensed physician. The term “athletic training” includes the organization and administration of educational programs and athletic facilities, and the education and counseling of the public on matters relating to athletic training.

“*Board*” means the board of athletic training created under Iowa Code chapter 147.

“*BOC*” means the Board of Certification or its successor organization.

“*Directing physician*” means a physician who supervises the athletic training services provided by a licensed athletic trainer.

“*Direction*” means that a physician directs the performance of a licensed athletic trainer in the development, implementation, and evaluation of an athletic training service plan as set out in 645—351.6(152D). Direction shall not be construed as requiring the personal presence of that physician at each activity of the licensed athletic trainer. It is the responsibility of the licensed athletic trainer to ensure that the practice of athletic training is carried out only under the direction of a licensed physician.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Licensee*” means any person licensed to practice as an athletic trainer in the state of Iowa.

“*License expiration date*” means February 28 of each odd-numbered year.

“*Physical reconditioning*” means the part of the practice of athletic training which combines physical treatment, rehabilitation and exercise and is carried out under the orders of a physician or physician assistant. Physical treatment is part of a service plan which includes but is not limited to the continued use of any of the following: cryotherapy, thermotherapy, hydrotherapy, electrotherapy, or the use of mechanical devices.

“*Physician*” means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, or podiatry under the laws of this state.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 351.15(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice athletic training to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of athletic training to license persons who have the same or similar qualifications to those required in Iowa.

*“Reinstatement”* means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

**645—351.2(152D) Requirements for licensure.** The following criteria shall apply to licensure:

**351.2(1)** The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Athletic Training, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**351.2(2)** The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

**351.2(3)** Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Athletic Training. The fees are nonrefundable.

**351.2(4)** No application will be considered by the board until official copies of academic transcripts have been sent directly from the school to the board of athletic training.

**351.2(5)** The applicant shall successfully complete the BOC examination. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted to the Iowa board of athletic training.

**351.2(6)** Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

**351.2(7)** Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

**351.2(8)** An applicant for licensure who has not successfully completed the BOC examination by July 1, 2004, but who complies with subrules 351.2(1) through 351.2(4) shall be issued a temporary license to practice athletic training for a period not to extend beyond July 1, 2007, provided that the applicant satisfies all of the following requirements:

a. Submits to the board a letter of recommendation from the applicant’s most recent employer when the applicant was employed as an athletic trainer. The letter shall include the dates of employment and the employee’s job description and shall provide the name of the physician or physician assistant responsible for direction of the care.

b. Submits to the board a letter of recommendation from two licensed physicians who were responsible for the direction of care provided by the applicant attesting to the competency of the applicant. The letters of recommendation shall include the dates the physician was responsible for the direction of the care provided by the applicant and the athletic training service plan. The letter shall also include the name of the employer at the time the physician was responsible for direction of care.

c. Submits to the board satisfactory evidence of current cardiopulmonary resuscitation and first-aid certification.

d. Official academic transcripts sent directly from the school are received by the board showing applicant possesses a baccalaureate degree from an accredited college or university.

**351.2(9)** An applicant issued a temporary license must successfully complete the BOC examination by July 1, 2007, and satisfy licensure requirements specified in Chapter 351 in order to maintain licensure. The licensee will be issued an initial license following submission of proof of successful completion of the examination received directly from the BOC and satisfying licensure requirements. No fee will be assessed for this initial license. Once the initial license is issued, the licensee will be eligible for license renewal in the next biennial renewal period and shall be subject to requirements specified in 645—351.9(147), except as noted in 351.2(10).

**351.2(10)** A licensee who obtain an initial license following a temporary license as specified in subrule 351.2(8) is not eligible for the exception in 351.9(2), paragraph “b,” and must pay the license renewal fee specified in 645—subrule 354.1(2) for the biennial license renewal.

**351.2(11)** As with licensed athletic trainers, applicants issued temporary licenses are accountable for meeting the criteria in Iowa Code chapters 147 and 152D and 645—Chapters 351 through 353, with the exception of 351.2(8), 351.2(9) and 351.2(10).

**645—351.3(152D) Educational qualifications.**

**351.3(1)** A new applicant for licensure to practice as an athletic trainer shall possess a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university.

**351.3(2)** Foreign-trained athletic trainers shall:

*a.* Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site [www.ierf.org](http://www.ierf.org) or E-mail at [info@ierf.org](mailto:info@ierf.org). The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

*b.* Provide a notarized copy of the certificate or diploma awarded to the applicant from an athletic training program in the country in which the applicant was educated.

*c.* Receive a final determination from the board regarding the application for licensure.

*d.* Pass the BOC examination. Official results are to be submitted directly to the board from the BOC.

**645—351.4(152D) Examination requirements.**

**351.4(1)** The examination required by the board shall be the BOC examination. Application and information may be obtained from the BOC Offices, 4223 S. 143rd Circle, Omaha, NE 68137, telephone (402)559-0091, Web site [www.bocatc.org](http://www.bocatc.org).

**351.4(2)** The applicant has responsibility for:

*a.* Making arrangements to take the national examination; and

*b.* Arranging to have the examination scores sent directly to the board from BOC.

**645—351.5(152D) Documentation of physician direction.** Each licensee must maintain documentation of physician direction. It is the responsibility of the licensee to ensure that documentation of physician direction is obtained and maintained, including the following:

1. Athletic training service plan as set out in 645—351.6(152D);
2. Dates and names of physician and physician assistant orders or referrals;
3. Initial evaluations and assessments;
4. Treatments and services rendered, with dates; and
5. Dates of subsequent follow-up care.

**645—351.6(152D) Athletic training plan for direct service.** Athletic training service plans shall be composed of the following components as taken from the Board of Certification 2000 Standards of Athletic Training for Direct Service and for Service Programs or standards from its successor as determined by the board of athletic training.

**351.6(1) Standards for athletic training—direct service.**

*a. Standard 1—direction.* The athletic trainer renders service or treatment under the direction of a physician.

*b. Standard 2—injury and ongoing care services.* All services shall be documented in writing by the athletic trainer and shall become part of the athlete’s permanent records.

*c. Standard 3—documentation.* The athletic trainer shall accept responsibility for recording details of the athlete’s health status. Documentation shall include:

- (1) Athlete’s name and any other identifying information.
- (2) Referral source (doctor, dentist).

- (3) Date, initial assessment, results and database.
- (4) Program plan and estimated length.
- (5) Program methods, results and revisions.
- (6) Date of discontinuation and summary.
- (7) Athletic trainer's signature.

*d. Standard 4—confidentiality.* The athletic trainer shall maintain confidentiality as determined by law and shall accept responsibility for communicating assessment results, program plans, and progress with other persons involved in the athlete's program.

*e. Standard 5—initial assessment.* Prior to treatment, the athletic trainer shall assess the athlete's level of functioning. The athlete's input shall be considered an integral part of the initial assessment.

*f. Standard 6—program planning.* The athletic training program objectives shall include long-and short-term goals and an appraisal of those which the athlete can realistically be expected to achieve from the program. Assessment measures to determine the effectiveness of the program shall be incorporated into the plan.

*g. Standard 7—program discontinuation.* The athletic trainer, with the collaboration of the physician, shall recommend discontinuation of the athletic training service when the athlete has received optimal benefit of the program. The athletic trainer, at the time of discontinuation, shall note the final assessment of the athlete's status.

**351.6(2) Standards for athletic training—service program.** Rescinded IAB 2/2/05, effective 3/9/05.

**645—351.7(152D) Licensure by endorsement.** An applicant who has been a licensed athletic trainer under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Has the academic transcript(s) sent directly from the school(s) to the board;
4. Shows evidence of licensure requirements that are similar to those required in Iowa;
5. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
  - Licensee's name;
  - Date of initial licensure;
  - Current licensure status; and
  - Any disciplinary actions taken against the license.
6. Submits evidence:
  - From BOC of current certification status sent directly from BOC to the board, or
  - Of a passing score on the examination of the BOC sent directly from BOC to the board.

**645—351.8(147) Licensure by reciprocal agreement.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—351.9(147) License renewal.**

**351.9(1)** The biennial license renewal period for a license to practice athletic training shall begin on March 1 of each odd-numbered year and end on February 28 of the next odd-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

**351.9(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

**351.9(3)** A licensee seeking renewal shall:

*a.* Meet the continuing education requirements of rule 645—352.2(152D) and the mandatory reporting requirements of subrule 351.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

**351.9(4) Mandatory reporter training requirements.**

*a.* A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

*b.* A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

*c.* A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

*d.* The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

*e.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 352.

*f.* The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

**351.9(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**351.9(6)** A person licensed to practice as an athletic trainer shall keep the license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

**351.9(7)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**351.9(8)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an athletic trainer in Iowa until the license is reactivated. A licensee who practices as an athletic trainer in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

**645—351.10(272C) Exemptions for inactive practitioners.** Rescinded IAB 7/20/05, effective 8/24/05.

**645—351.11(147) Duplicate certificate or wallet card.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—351.12(147) Reissued certificate or wallet card.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—351.13(272C) Lapsed licenses.** Rescinded IAB 7/20/05, effective 8/24/05.

**645—351.14(17A,147,272C) License denial.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—351.15(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**351.15(1)** Submit a reactivation application on a form provided by the board.

**351.15(2)** Pay the reactivation fee that is due as specified in 645—Chapter 5.

**351.15(3)** Provide verification of current competence to practice as an athletic trainer by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 50 hours of continuing education within two years of the application for reactivation.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 50 hours of continuing education within two years of application for reactivation; and

(3) Verification of current BOC certification.

**645—351.16(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 351.15(17A,147,272C) prior to practicing as an athletic trainer in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

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CHAPTER 352  
CONTINUING EDUCATION FOR ATHLETIC TRAINERS

**645—352.1(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means the license is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of athletic training created under Iowa Code chapter 147.

“*BOC*” means the Board of Certification or its successor organization.

“*Continuing education*” means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as an athletic trainer in the state of Iowa.

**645—352.2(152D) Continuing education requirements.**

**352.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on March 1 of each odd-numbered year and ending on February 28 of the next odd-numbered year. Each biennium, each person who is licensed to practice as an athletic trainer in this state shall be required to complete a minimum of 50 hours of continuing education approved by the board.

**352.2(2)** Requirements for new licensees. Those persons licensed for the first time or being licensed for the first time after a temporary license shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 50 hours of continuing education per biennium for each subsequent license renewal.

**352.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

**352.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**352.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—352.3(152D,272C) Standards.**

**352.3(1) General criteria.** A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**352.3(2) *Specific criteria.*** Continuing education hours of credit shall be obtained by participating in a course provided by a BOC-approved provider of continuing education.

**645—352.4(152D,272C) Audit of continuing education report.** In addition to the requirements of 645—4.11(272C), proof of current BOC certification shall be accepted in lieu of individual certificates of completion for an audit.

**645—352.5(152D,272C) Automatic exemption.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—352.6(272C) Grounds for disciplinary action.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—352.7(152D,272C) Continuing education waiver for active practitioners.** Rescinded IAB 7/20/05, effective 8/24/05.

**645—352.8(152D,272C) Continuing education exemption for inactive practitioners.** Rescinded IAB 7/20/05, effective 8/24/05.

**645—352.9(272C) Continuing education exemption for disability or illness.** Rescinded IAB 8/13/08, effective 9/17/08.

**645—352.10(152D,272C) Reinstatement of inactive practitioners.** Rescinded IAB 7/20/05, effective 8/24/05.

**645—352.11(272C) Hearings.** Rescinded IAB 7/20/05, effective 8/24/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 152D.

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CHAPTER 353  
DISCIPLINE FOR ATHLETIC TRAINERS  
[Prior to 4/17/02, see 645—350.13(272C)]

**645—353.1(152D) Definitions.**

“*Board*” means the board of athletic training.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as an athletic trainer in Iowa.

**645—353.2(152D,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—353.3(152D,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

**353.2(1)** Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to:

*a.* An intentional perversion of the truth in making application for a license to practice in this state;

*b.* False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

*c.* Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

**353.2(2)** Professional incompetency. Professional incompetency includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other athletic trainers in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care which is ordinarily exercised by the average athletic trainer acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed athletic trainer in this state.

**353.2(3)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

**353.2(4)** Practice outside the scope of the profession.

**353.2(5)** Use of untruthful or improbable statements in advertisements. The use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

**353.2(6)** Habitual intoxication or addiction to the use of drugs.

*a.* The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

*b.* The excessive use of drugs which may impair a licensee’s ability to practice with reasonable skill or safety.

**353.2(7)** Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

**353.2(8)** Falsification of client or patient records.

**353.2(9)** Acceptance of any fee by fraud or misrepresentation.

**353.2(10)** Misappropriation of funds.

**353.2(11)** Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including improper delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**353.2(12)** Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice as an athletic trainer. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

**353.2(13)** Violation of a regulation, rule or law of this state, another state, or the United States, which relates to the practice of athletic training.

**353.2(14)** Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

**353.2(15)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of athletic training in another state, district, territory or country.

**353.2(16)** Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

**353.2(17)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

**353.2(18)** Engaging in any conduct that subverts or attempts to subvert a board investigation.

**353.2(19)** Failure to respond within 30 days to a communication of the board which was sent by registered or certified mail.

**353.2(20)** Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

**353.2(21)** Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

**353.2(22)** Failure to pay costs assessed in any disciplinary action.

**353.2(23)** Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

**353.2(24)** Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

**353.2(25)** Knowingly aiding, assisting, or advising a person to unlawfully practice as an athletic trainer.

**353.2(26)** Failure to report a change of name or address within 30 days after the occurrence.

**353.2(27)** Representing oneself as a licensed athletic trainer when one's license has been suspended or revoked, or when one's license is on inactive status.

**353.2(28)** Permitting another person to use the licensee's license for any purpose.

**353.2(29)** Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

**353.2(30)** Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a patient or client.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.
- c. Betrayal of a professional confidence.
- d. Engaging in a professional conflict of interest.
- e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction.

**353.2(31)** Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

**353.2(32)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

**645—353.3(152D,272C) Method of discipline.** The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

**645—353.4(272C) Discretion of board.** The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

**645—353.5(152D) Order for mental, physical, or clinical competency examination or alcohol or drug screening.** Rescinded IAB 8/13/08, effective 9/17/08.

These rules are intended to implement Iowa Code chapters 147, 152D and 272C.

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CHAPTER 354

FEEES

Rescinded IAB 8/13/08, effective 9/17/08

CHAPTER 355

PETITIONS FOR RULE MAKING

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 356

DECLARATORY RULINGS

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 357

AGENCY PROCEDURE FOR RULE MAKING

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 358

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 359

Reserved



CHAPTER 1  
ADMINISTRATIVE AND REGULATORY AUTHORITY  
[Prior to 5/4/88, see 470—135.1 to 135.10]

**653—1.1(17A,147) Definitions.** The following definitions shall be applicable to the rules of the board of medicine:

“*Acupuncture*” shall mean a form of health care developed from traditional and modern oriental medical concepts that employs oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

“*Acupuncturist*” shall mean a person licensed to practice acupuncture in this state.

“*Alternate member*” shall mean a person who is qualified under Iowa Code section 148.2A to substitute for a board member who is disqualified or becomes unavailable for any other reason for a contested case hearing. An alternate board member is deemed a member of the board only for the hearing panel(s) for which the alternate board member serves.

“*Board*” shall mean the board of medicine of the state of Iowa.

“*Department*” shall mean the Iowa department of public health.

“*Director*” shall mean the director of the department.

“*Disciplinary proceeding*” shall mean any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

“*License*” shall mean a certificate issued to a person licensed to practice medicine and surgery, osteopathic medicine and surgery or osteopathy, or acupuncture under the laws of the state of Iowa.

“*Licensee*” shall mean a person licensed to practice medicine and surgery, osteopathic medicine and surgery or osteopathy, or acupuncture under the laws of the state of Iowa.

“*Licensee discipline*” or “*discipline*” shall mean any sanction the board may impose upon its licensees for conduct which threatens or denies citizens of this state a high standard of professional care.

“*Malpractice*” shall mean any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a physician in the practice of the physician’s profession.

“*Medical practice Acts*” shall refer to Iowa Code chapters 147, 148, 150 and 150A.

“*Order*” shall mean a requirement, procedure or standard of specific or limited application adopted by the board relating to any matter the board is authorized to act upon, including the professional conduct of licensees and the examination for licensure and licensure of any person under the laws of this state.

“*Peer review*” shall mean evaluation of professional services rendered by a professional practitioner.

“*Peer reviewer(s)*” shall mean one or more persons acting in a peer review capacity who have been appointed by the board for such purpose.

“*Physician*” shall mean a person licensed to practice medicine and surgery, osteopathic medicine and surgery or osteopathy under the laws of this state.

“*Practice of acupuncture*” means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medical concepts.

“*The practice of medicine and surgery*” shall mean holding one’s self out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical or mental condition and who shall either offer or undertake, by any means or methods, to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical or mental condition. This rule shall not apply to licensed podiatrists, chiropractors, physical therapists, nurses, dentists, optometrists, acupuncturists, pharmacists, and other licensed health professionals who are exclusively engaged in the practice of their respective professions.

“*Prescription drugs*” means drugs, medicine and controlled substances which by law can only be prescribed for human use by persons authorized by law.

*“Profession”* shall mean medicine and surgery, osteopathic medicine and surgery or osteopathy, or acupuncture.

*“Respondent”* shall mean a licensee charged by the board in a complaint and statement of charges with violations of statutes or rules relating to the practice of medicine and surgery, osteopathic medicine and surgery or osteopathy, or acupuncture.

*“Rule”* shall mean a regulation, requirement, procedure, or standard of general application prescribed by the board relating to either the administration or enforcement of Iowa Code chapters 147, 148, 148E, 150 and 150A.

**653—1.2(17A) Purpose of board.** The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 147, 148, 148E, 150, 150A, and 272C with regard to the practice of medicine and surgery, osteopathic medicine and surgery, osteopathy, and acupuncture, including, but not limited to, the examination of applicants; determining the eligibility of applicants for licensure by examination or endorsement; the granting of permanent, temporary, resident or special licenses to physicians; determining the ineligibility of physicians to provide supervision to physician assistants; the investigation of violations or alleged violations of statutes and rules relating to the practice of medicine and surgery, osteopathic medicine and surgery, osteopathy, and acupuncture; the imposition of discipline upon licensees as provided by statute or rule; and the operation of a licensee review committee for the purpose of evaluating and monitoring licensees who are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability and who self-report or who are referred by the board to the committee.

**653—1.3(17A) Organization of board.** The board:

**1.3(1)** Makes policy relative to matters involving medical and acupuncture education, licensure, practice, and discipline.

**1.3(2)** Conducts business according to board-approved policy.

**1.3(3)** Elects a chairperson, vice chairperson and a secretary from its membership at the last regular board meeting prior to May 1 or at another date in April scheduled by the board.

**1.3(4)** A majority of the members of the board shall constitute a quorum. Official action, including filing of formal charges or imposition of discipline, requires a majority vote of members present.

**1.3(5)** Has the authority to:

*a.* Administer the statutes and rules relating to the practice of medicine and surgery, osteopathic medicine and surgery, osteopathy, and the practice of acupuncture by acupuncturists.

*b.* Review or investigate, upon receipt of a complaint or upon its own initiation, based upon information or evidence received, alleged violations of statutes or rules which relate to the practice of medicine and surgery, osteopathic medicine and surgery, osteopathy, and the practice of acupuncture by licensed acupuncturists.

*c.* Determine in any case whether an investigation or a disciplinary action is warranted.

*d.* Initiate and prosecute disciplinary proceedings.

*e.* Impose licensee discipline.

*f.* Request that the attorney general file appropriate court action for enforcement of the board’s authority relating to licensees or other persons who are charged with violating statutes or rules the board administers or enforces.

*g.* Establish and register peer reviewers.

*h.* Refer to one or more registered peer reviewers for investigation, review, and report to the board any complaint or other evidence of an act or omission which the board has reasonable grounds to believe may constitute cause for licensee discipline. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

*i.* Determine eligibility for license renewal and administer the renewal of licenses.

*j.* Establish and administer rules for continuing education and mandatory training requirements as a condition of license renewal.

*k.* Establish fees for examination, fees for the issuance of licenses and fees for other services provided by the board with the intention of producing sufficient revenue to cover the expenses involved with operation of the board and the board office.

*l.* Establish committees of the board, the members of which, except for the executive committee, shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons. Committees of the board may include:

(1) Executive committee. The membership shall be composed of the elected officers of the board and two at-large members appointed by the chairperson. At least one public member shall be appointed to the executive committee. The executive committee duties may include, but are not limited to:

- Guidance and supervision of the executive director.
- Budgetary review and recommendations to the board.
- Review and recommendations to the board on rules and legislative proposals.
- Study and recommendations to the board on practice issues and policy.

(2) Screening committee. The committee reviews:

● Complaints and makes recommendations to the board on appropriate action including further investigation or referral to the board for closure.

(3) Licensure committee. Its duties may include:

● Recommending appropriate action on completed applications for licensure.

● Conducting interviews with applicants when appropriate.

● Reviewing licensure examination matters.

● Reviewing and recommending to the board appropriate changes in licensure application forms.

● Reviewing and making recommendations to the board regarding volunteer physician applicants who wish to participate in the state-indemnified volunteer physician program and who are under investigation or who have or have had disciplinary action against a license in the present or in the past.

- Making recommendations on licensure policy issues.

(4) Monitoring committee. The committee oversees the monitoring of licensees under board orders and makes recommendations to the board on these matters.

*m.* Establish the Iowa physician health committee as its licensee review committee.

*n.* Hire and supervise the executive director.

*o.* Adopt administrative rules and pursue legislation where necessary to conduct the board's business.

*p.* Establish a pool of up to ten alternate board members to serve on a hearing panel when a sufficient number of board members is unavailable to hear a contested case.

**1.3(6)** Appoints a full-time executive director who:

*a.* Is not a member of the board.

*b.* Under the guidance or direction of the board performs administrative duties of the board including, but not limited to: staff supervision and delegation; administration and enforcement of the statutes and rules relating to the practice of medicine and surgery, osteopathic medicine and surgery, osteopathy, and the practice of acupuncture; issuance of subpoenas on behalf of the board or a committee of the board during the investigation of possible violations; enunciation of policy on behalf of the board.

**1.3(7)** Establishes, in accordance with Iowa Code section 148.2A, a pool of alternate board members.

*a.* At the beginning of each fiscal year, the executive director presents a list of persons who are qualified under Iowa Code section 148.2A to serve as alternate board members for the year beginning September 1.

*b.* The executive director shall present the board-approved list of alternate board members to the governor for approval.

*c.* Once the governor approves an alternate board member, the executive director or designee may assign the approved member to hear a contested case when an approved number of board members is unavailable.

**653—1.4(17A) Official communications.** All official communications, including submissions and requests, should be addressed to the Executive Director, Iowa Board of Medicine, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686.

**653—1.5(17A) Office hours.** The office of the board is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

**653—1.6(17A) Meetings.** The board shall meet at least six times per year. Dates and location of board meetings may be obtained from the board's office or on the board's Web site at [www.medicalboard.iowa.gov](http://www.medicalboard.iowa.gov).

Except as otherwise provided by statute, all board meetings shall be open, and the public shall be permitted to attend the meetings.

**653—1.7(17A,147) Petition to promulgate, amend or repeal a rule.**

**1.7(1)** An interested person or other legal entity may petition the board requesting the promulgation, amendment or repeal of a rule.

**1.7(2)** The petition shall be in writing, signed by or on behalf of the petitioner and contain a detailed statement of:

*a.* The rule that the petitioner is requesting the board to promulgate, amend or repeal. The petitioner shall indicate deletions to the current rule with brackets and additions to the current rule with underlining.

*b.* Facts in sufficient detail to show the reasons for the proposed action.

*c.* All propositions of law to be asserted by petitioner.

**1.7(3)** The petition shall be in typewritten or printed form, captioned BEFORE THE IOWA BOARD OF MEDICINE and shall be deemed filed when received by the executive director.

**1.7(4)** Upon receipt of the petition the executive director shall:

*a.* Mail within ten days a copy of the petition to any parties named in it. The petition shall be deemed served on the date of mailing to the last-known address of the party being served.

*b.* Advise petitioner that petitioner has 30 days within which to submit written views.

*c.* Schedule oral presentation of petitioner's view if the board so directs.

*d.* Within 60 days after date of submission of the petition, either deny the petition or initiate rule-making proceedings in accordance with Iowa Code chapter 17A.

**1.7(5)** In the case of a denial of a petition to promulgate, amend or repeal a rule, the board or its executive director shall issue an order setting forth the reasons in detail for denial of the petition. The order shall be mailed to the petitioner and all other persons upon whom a copy of the petition was served.

**653—1.8(17A) Public hearings prior to the adoption, amendment or repeal of any rule.**

**1.8(1) *Scheduling a public hearing.*** The board may at its discretion hold a public hearing, or it shall hold a public hearing upon the written request of at least 25 interested persons, a governmental subdivision, an agency, or an association of 25 persons.

*a.* If the board chooses to hold a public hearing, it will announce the date, time, and location in the Iowa Administrative Bulletin.

*b.* If the board has not scheduled a public hearing and a person or an organization wishes to request one, a written request for a public hearing shall be received by the executive director within 20 days after the notice of intended action has been published.

(1) The executive director shall schedule a public hearing if the request(s) meets the requirements of this rule.

(2) The executive director shall set the date, time, and location of the public hearing.

(3) The individual or organization requesting the public hearing shall be notified of the date, time, and location of the public hearing by certified mail.

**1.8(2) *Proceedings at the public hearing.*** The chairperson of the board shall serve as the presiding officer or appoint a presiding officer over the public hearing.

a. Any individual(s) may present either written or oral comments pertinent to the rule(s) for which the public hearing has been scheduled.

(1) Any individual(s) desiring to make written comments in advance of the hearing shall submit these comments to the executive director. The presiding officer shall accept written comments at the hearing.

(2) Any individual(s) desiring to make an oral presentation shall be present at the hearing and ask to speak.

b. The authority of the presiding officer during the public hearing includes:

- (1) Setting a time limit on oral presentations if necessary;
- (2) Excluding any individual(s) who may be either disruptive or obstructive to the hearing;
- (3) Ruling that the oral presentation or discussion is not pertinent to the hearing; and
- (4) Accepting any written testimony.

c. The conduct of the presiding officer during the public hearing shall include but need not be limited to:

- (1) Open the hearing and receive appearances.
- (2) Enter the notice of hearing into the public record.
- (3) Review rule(s) under adoption, amendment or repeal and provide rationale for the proposed action by the board.
- (4) Receive written and oral presentations.
- (5) Read into the official public record written comments which have been submitted.
- (6) Inform those individuals present that within 30 days of the date of hearing the board shall issue a written statement of the principal reasons for and against the rule it adopted, incorporating therein the reasons either for accepting or overruling considerations urged against the rule.
- (7) Adjourn the hearing.

**653—1.9(17A) Declaratory orders.**

**1.9(1)** *Petition for declaratory order.* Any person may file a petition with the board of medicine for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board. A petition is deemed filed when it is received by the board office. The board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board office with an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BOARD OF MEDICINE	
Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	} PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

- 1. A clear and concise statement of all relevant facts on which the order is requested.
- 2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
- 3. The questions petitioner wants answered, stated clearly and concisely.
- 4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
- 5. The reasons for requesting the declaratory order and disclosure of the petitioner’s interest in the outcome.
- 6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
- 7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.

8. Any request by petitioner for a meeting provided for by 1.9(7).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

**1.9(2) Notice of petition.** Within 15 days after receipt of a petition for a declaratory order, the board shall give notice of the petition to all persons not served by the petitioner pursuant to 1.9(6) "c" to whom notice is required by any provision of law. The board may also give notice to any other persons.

**1.9(3) Intervention.**

a. Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

b. Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the board.

c. A petition for intervention shall be filed with the executive director at the board office. Such a petition is deemed filed when it is received by that office. The board will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BOARD OF MEDICINE		
Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

**1.9(4) Briefs.** The petitioner or any intervenor may file a brief in support of the position urged. The board may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

**1.9(5) Inquiries.** Inquiries concerning the status of a declaratory order proceeding may be made to the executive director at the board office.

**1.9(6) Service and filing of petitions and other papers.**

a. *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

*b. Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the executive director at the board office. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the board.

*c. Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by 653—25.11(17A).

**1.9(7) Consideration.** Upon request by petitioner, the board must schedule a brief and informal meeting between the original petitioner, all intervenors, and the board, a member of the board, or a member of the staff of the board, to discuss the questions raised. The board may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the board by any person.

**1.9(8) Action on petition.**

*a.* Within the time allowed by Iowa Code section 17A.9(5), after receipt of a petition for a declaratory order, the board shall take action on the petition as required by Iowa Code section 17A.9(5).

*b.* The date of issuance of an order or of a refusal to issue an order is as defined in 653—subrule 25.11(4).

**1.9(9) Refusal to issue order.**

*a.* The board shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

(1) The petition does not substantially comply with the required form.

(2) The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board to issue an order.

(3) The board does not have jurisdiction over the questions presented in the petition.

(4) The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.

(5) The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

(6) The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.

(7) There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

(8) The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.

(9) The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.

(10) The petitioner requests the board to determine whether a statute is unconstitutional on its face.

*b.* A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

*c.* Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

**1.9(10) Contents of declaratory order—effective date.** In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion. A declaratory order is effective on the date of issuance.

**1.9(11) Copies of orders.** A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

**1.9(12) Effect of a declaratory order.** A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the board, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts

and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the board of medicine. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code chapters 17A, 21, 68B, 148, 148E, 150, 150A, 252J, 261, and 272C.

**653—1.10(68B) Selling of goods or services by members of the board or Iowa physician health committee (IPHC).**

**1.10(1) *Application of the rule.*** The board members and members of the IPHC shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the department except as authorized by this rule.

**1.10(2) *Consent.*** Consent shall be given by a majority of the members of the board. Consent shall not be given to an official to sell goods or services to an individual, association, or corporation regulated by the department unless all of the following conditions are met:

*a.* The official requesting consent does not have authority to determine whether consent should be given.

*b.* The official's duties or functions are not related to the department's regulatory authority over the individual, association or corporation to whom the goods and services are being sold, or the selling of the good or service does not affect the official's duties or functions.

*c.* The selling of the good or service does not include acting as an advocate on behalf of the individual, association, or corporation to the department.

*d.* The selling of the good or service does not result in the official's selling a good or service to the department on behalf of the individual, association, or corporation.

**1.10(3) *Authorized sales.*** Sales may be authorized under the following conditions:

*a.* A member of the board or IPHC may sell goods or services to any individual, association, or corporation regulated by any division within the department, other than the board or committee on which that official serves. This consent is granted because the sale of such goods or services does not affect the member's duties or functions on the board or IPHC.

*b.* A member of the board may sell goods or services to any individual, association, or corporation regulated by the board if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale of such goods or services does not affect the board or IPHC member's duties or functions on the board or IPHC, respectively. In the event an individual, association, or corporation regulated by the board, to whom a board or IPHC member sells goods or services is directly involved in any matter pending before the board, including a disciplinary matter, that board or IPHC member shall not participate in any deliberation or decision concerning that matter. In the event a complaint is filed with the board concerning the services provided by the board or IPHC member to a member of the public, that board or IPHC member is otherwise prohibited by law from participating in any discussion or decision by the licensing board in that case.

*c.* Individual application and approval are not required for the sales authorized by this rule unless there are unique facts surrounding a particular sale which would cause the sale to affect the seller's duties or functions, would give the buyer an advantage in dealing with the board or IPHC, or would otherwise present a conflict of interest.

**1.10(4) *Application for consent.*** Prior to selling a good or service to an individual, association, or corporation subject to the regulatory authority of the department, an official must obtain prior written consent unless the sale is specifically allowed in subrule 1.10(3). The request for consent must be in writing and signed by the official requesting consent. The application must provide a clear statement of all relevant facts concerning the sale. The application should identify the parties to the sale and the amount of compensation. The application should also explain why the sale should be allowed.

**1.10(5) *Limitation of consent.*** Consent shall be in writing and shall be valid only for the activities and the time period specifically described in the consent. Consent can be revoked at any time by a majority vote of the members of the board upon written notice to the board. A consent provided under this chapter does not constitute authorization for any activity which is a conflict of interest under common

law or which would violate any other statute or rule. It is the responsibility of the official requesting consent to ensure compliance with all other applicable laws and rules.

This rule is intended to implement Iowa Code section 68B.4.

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## CHAPTER 8

## FEES

[Prior to 5/30/01, see 653—Chapter 11]

**653—8.1(147,148,272C) Definitions.**

*“Board”* means the Iowa board of medicine.

*“Service charge”* means the amount charged for making a service available on line and is in addition to the actual fee for a service itself. For example, one who renews a license on line will pay the license renewal fee and a service charge.

**653—8.2(147,148,272C) Application and licensure fees for acupuncturists.**

**8.2(1)** *Licensure provisions for acupuncturists.* For licensure provisions for acupuncturists, see 653—Chapter 17, “Licensure of Acupuncturists.”

**8.2(2)** *Fees for acupuncturists.* The following fees apply to licensure for acupuncturists.

a. Initial application fee for licensure as an acupuncturist, \$300.

b. Reactivation of application for licensure, \$100.

c. Renewal fee for licensure as an acupuncturist, \$300.

d. Upon written request and payment of the designated fee, the board shall provide the following information about the status of an acupuncturist’s license or acupuncturist’s past registration:

(1) Certified statement that verifies the status of licensure or past registration in Iowa that requires the board seal or a letter of good standing, \$25.

(2) Verification of the status of licensure or past registration in Iowa that does not require a certified statement or letter, \$20.

e. Fee for a duplicate wall certificate or renewal card, \$25. The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

**653—8.3(147,148,272C) Examination fees for physicians.** The fee for taking the United States Medical Licensing Examination Step 3 administered by the board’s designated testing service is the fee established by the Federation of State Medical Boards plus \$50. See 653—subrule 9.4(2) for information about the examination.

**653—8.4(147,148,272C) Application and licensure fees to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy.**

**8.4(1)** Fees for permanent licensure. For provisions for permanent licensure, see 653—Chapter 9, “Permanent Physician Licensure.” The following fees shall apply to permanent licensure.

a. Initial licensure, \$450 plus the fee for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

b. Reactivation of application for licensure, \$150.

c. Renewal of an active license to practice, \$550 if renewal is made via paper application or \$450 if renewal is made via on-line application, per biennial period or a prorated portion thereof if the current license was issued for a period of less than 24 months.

d. Penalty for failure to renew before expiration, \$100 per calendar month after the expiration date of the license up to \$200. For example, if the license expired on January 1, a penalty of \$100 shall be charged for January and an additional \$100, or a total of \$200, shall be charged for renewal in February.

e. There is no fee for placing a license on inactive status or allowing a license to become inactive.

f. Reinstatement of a license to practice one year or more after becoming inactive, \$500 plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

g. Reinstatement of a license within one year of becoming inactive, \$550 except when the license in the most recent license period had been granted for less than 24 months. In that case, the reinstatement fee is prorated according to the date of issuance and the physician’s month and year of birth.

**8.4(2)** Fees for resident physician licensure. For provisions for resident physician licensure, see 653—Chapter 10, “Resident, Special and Temporary Physician Licensure.” The following fees apply to resident physician licensure.

- a. Application for a resident physician license, \$150 plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.
- b. Extension of a resident physician license, \$25.
- c. Late fee for extension of a resident physician license, \$50, to be paid in addition to the extension fee.

**8.4(3)** Fees for special physician licensure. For provisions for special physician licensure, see 653—Chapter 10, “Resident, Special and Temporary Physician Licensure.” The following fees apply to special physician licensure.

- a. Application for a special physician license, \$300 plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.
- b. Renewal of a special physician license, \$200.

**8.4(4)** Fees for temporary physician licensure. For provisions for temporary physician licensure, see 653—Chapter 10, “Resident, Special and Temporary Physician Licensure.” The following fees apply to temporary physician licensure.

- a. Application for a temporary physician license, \$100 plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.
- b. Renewal of a temporary physician license, \$50.

**8.4(5)** Fee for photocopy of a licensure application. Fee for a photocopy of a licensure application is \$20.

**8.4(6)** Fee for a duplicate wall certificate or renewal card, \$25. The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

**8.4(7)** Fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks, \$55. The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

**653—8.5(147,148,272C) Fees for verification of physician licensure and certification of examination scores.**

**8.5(1) Verification fees.**

a. Physicians shall use VeriDoc to secure a certified statement that verifies Iowa licensure status for any state medical board that accepts VeriDoc. VeriDoc is accessible at <http://www.veridoc.org/>. The fee for this service is \$40.

b. A physician who needs a certified statement that verifies Iowa licensure status for a state medical board that does not accept verification from VeriDoc shall make a written request for a certified statement with payment of a \$40 verification fee to the Iowa Board of Medicine. The Iowa board shall provide a certified statement that verifies Iowa licensure status to the nonaccepting state medical board.

c. The fee for verification of Iowa licensure status that does not require a certified statement or letter is \$15.

d. The board shall provide an automated telephone verification service whereby callers can input the licensee’s license number or social security number and receive verbally the licensee’s current licensure status. There is no fee for this service.

The board shall provide a license number for an individual caller to use in the automated telephone verification service. Businesses that utilize verifications will be required to utilize the automated telephone verification service or the alternative outlined in 8.5(1) “c.”

**8.5(2) Fees for certification of physician examination scores.** Upon request and payment of the designated fee, the board may provide certification of scores of an examination given by the board in Iowa as permitted under Iowa Code section 147.21 and 653—paragraph 2.13(2) “f.” The scores available from the board are those from examinees who took the state-constructed examination.

- a. Certified statement of grades attained by examination, \$45.

b. Certified statement of grades attained by examination including examination history or additional documentation, \$55.

**653—8.6(147,148,272C) Public records.**

**8.6(1) *Public records available at no cost.*** The following records are available at no cost to the public:

a. Public action taken by the board against a licensee may be found under the licensee's name on the board's Web site, <http://medicalboard.iowa.gov>, under "Find A Physician." Public actions are posted on the board's Web site within approximately one week after the board has taken action.

b. Electronic files of press releases, statements of charges, final orders and consent agreements from each board meeting are available within approximately one week after the board has taken action. These files are available on the board's Web site, <http://medicalboard.iowa.gov>.

**8.6(2) *Purchase of public records.*** Public records are available according to 653—Chapter 2, "Public Records and Fair Information Practices." Payment made to the Iowa Board of Medicine shall be received in the board office prior to the release of the records.

a. Copies of public records shall be calculated at \$.25 per page plus labor. A \$16 per hour fee shall be charged for labor in excess of one-quarter hour for searching and copying documents or retrieving and copying information stored electronically. No additional fee shall be charged for delivery of the records by mail or fax. Fax is an option if the requested records are fewer than 30 pages. The board office shall not require payment when the fees for the request would be less than \$5 total.

b. Electronic copies of public records delivered by E-mail shall be calculated at \$.10 per page; the minimum charge shall be \$5. A \$16 per hour fee shall be charged for labor in excess of one-quarter hour for searching and copying documents or retrieving and copying information stored electronically. The board office shall not require payment when the fees for the requests would be less than \$5 total.

c. Printed copies of press releases, statements of charges, final orders and consent agreements from each board meeting shall be available for an annual subscription fee of \$192 or a prorated portion thereof based on the calendar year.

**653—8.7(147,148,272C) Purchase of a licensee data list.** A data list of all physicians and acupuncturists includes the following information about each licensee: full name, year of birth, mailing address, business telephone number, E-mail address, Iowa county (if applicable), medical school (if applicable), year of graduation from medical school (if applicable), two medical specialties (if available), license issue date, license expiration date, license number, license type, license status, and an indicator of whether the board has taken any public action on the license. The fee for an electronic file of the list is \$50. Payment made to the Iowa Board of Medicine shall be received in the board office prior to the release of a list. The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

**653—8.8(147,148,272C) Returned checks.** The board shall charge a fee of \$25 for a check returned for any reason. If a license had been issued by the board office based on a check that is later returned by the bank, the board shall request payment by certified check or money order. If the fees are not paid within two weeks of notification of the returned check by certified mail, the licensee shall be subject to disciplinary action for noncompliance with board rules.

**653—8.9(147,148,272C) Copies of the laws and rules.** Copies of laws and rules pertaining to the practice of medicine or acupuncture are available from the board for the following fees.

1. Iowa Code and Iowa Administrative Code access, no fee, available at [www.medicalboard.iowa.gov](http://www.medicalboard.iowa.gov).
2. Printed copies of the Iowa Code chapters that pertain to the practice of medicine or acupuncture, \$10.
3. Printed copies of board rules in the Iowa Administrative Code, \$10.

**653—8.10(147,148,272C) Refunds.** Application and licensure fees shall be collected by the board and shall not be refunded except by board action in unusual instances, e.g., documented illness or death of the applicant. The board shall consider the cost of the work completed on the application and the cost of the work to grant a refund in determining the amount of refund to be granted.

**653—8.11(17A,147,148,272C) Waiver or variance prohibited.** Licensure and examination fees in this chapter are not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law.

**653—8.12(8,147,148,272C) Request for reports.** The board may request a report from the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank regarding an applicant or licensee. The cost of obtaining the report is included within the fee for initial licensure or licensure reinstatement or renewal. However, that portion of the fee spent to obtain that report shall be considered a repayment receipt as defined in Iowa Code section 8.2.

**653—8.13(8,147,148,272C) Monitoring fee.** A provision for payment of \$100 per quarter to cover the board's expenses in monitoring a licensee's compliance with the settlement agreement may be included in the settlement agreement, and payments shall be considered repayment receipts as defined in Iowa Code section 8.2.

These rules are intended to implement Iowa Code sections 147.11, 147.80, 147.103A, 148.5, 148.10, and 148.11.

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CHAPTER 10  
RESIDENT, SPECIAL AND TEMPORARY PHYSICIAN LICENSURE

[Prior to 5/30/01, see 653—Chapter 11]

**653—10.1(147,148,150,150A) Definitions.**

“*ABMS*” means the American Board of Medical Specialties, which is an umbrella organization for at least 24 medical specialty boards in the United States that assists the specialty boards in developing and implementing educational and professional standards to evaluate and certify physician specialists in the United States. The board recognizes specialty board certification by ABMS.

“*ACGME*” means Accreditation Council for Graduate Medical Education, an accreditation body that is responsible for accreditation of post-medical school training programs in medicine and surgery in the United States of America.

“*AMA*” means the American Medical Association, a professional organization of physicians and surgeons.

“*Any jurisdiction*” means any state, the District of Columbia or territory of the United States of America or any other nation.

“*Any United States jurisdiction*” means any state, the District of Columbia or territory of the United States of America.

“*AOA*” means the American Osteopathic Association, which is the representative organization for osteopathic physicians (D.O.s) in the United States. The board approves osteopathic medical education programs with AOA accreditation; the board approves AOA-accredited resident training programs in osteopathic medicine and surgery at hospitals for graduates of accredited osteopathic medical schools. The board recognizes specialty board certification by AOA. The board recognizes continuing medical education accredited by the Council on Continuing Medical Education of AOA.

“*Applicant*” means a person who seeks authorization to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy in this state by making application to the board.

“*Approved abuse education training program*” means a training program using a curriculum approved by the abuse education review panel of the department of public health or a training program offered by a hospital, a professional organization for physicians, or the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

“*Board*” means Iowa board of medicine.

“*Board-approved activity*” means one of the following activities:

1. Covering for an Iowa-licensed physician who unexpectedly is unavailable to provide medical care to the physician’s patients;
2. Demonstrating or proctoring that involves providing hands-on patient care to patients in Iowa;
3. Conducting a procedure on a patient in Iowa when the consultant’s expertise in the procedure is greater than that of the Iowa-licensed physician who requested the procedure;
4. Providing medical care to patients in Iowa, if the physician is enrolled in an out-of-state resident training program and does not hold a resident or permanent license in the home state of the resident training program;
5. Serving as a camp physician;
6. Participating as a learner in a program of further medical education that allows hands-on patient care when the physician does not currently hold a license in good standing in any United States jurisdiction; or
7. Any other activity approved by the board.

“*Board-approved resident training program*” means a hospital-affiliated graduate medical education program accredited by ACGME, AOA, RCPSC, or CFPC at the time the applicant is enrolled in the program.

“*Category 1 activity*” means any formal education program which is sponsored or jointly sponsored by an organization accredited for continuing medical education by the Accreditation Council for Continuing Medical Education, the Iowa Medical Society, or the Council on Continuing Medical

Education of AOA that is of sufficient scope and depth of coverage of a subject area or theme to form an educational unit and is planned, administered and evaluated in terms of educational objectives that define a level of knowledge or a specific performance skill to be attained by the physician completing the program. Activities designated as formal cognates by the American College of Obstetricians and Gynecologists or as prescribed credit by the American Academy of Family Physicians are accepted as equivalent to category 1 activities.

“*CFPC*” means the College of Family Physicians of Canada.

“*Committee*” means the licensure and examination committee of the board.

“*ECFMG*” means the Educational Commission for Foreign Medical Graduates, an organization that assesses the readiness of international medical school graduates to enter ACGME-approved residency programs in the United States of America.

“*FCVS*” means the Federation Credentials Verification Service, a service under the Federation of State Medical Boards that verifies and stores core credentials for retrieval whenever needed.

“*FSMB*” means the Federation of State Medical Boards, the organization of medical boards of the United States of America.

“*Incidentally called into this state in consultation with a physician and surgeon licensed in this state*” as set forth in Iowa Code section 148.2(5) means all of the following shall be true:

1. The consulting physician shall be involved in the care of patients in Iowa only at the request of an Iowa-licensed physician.
2. The consulting physician has a license in good standing in another United States jurisdiction.
3. The consulting physician provides expertise and acts in an advisory capacity to an Iowa-licensed physician. The consulting physician may examine the patient and advise an Iowa-licensed physician as to the care that should be provided, but the consulting physician may not personally perform procedures, write orders, or prescribe for the patient.
4. The consulting physician practices in Iowa for a period not greater than 10 consecutive days and not more than 20 total days in any calendar year. Any portion of a day counts as one day.
5. The Iowa-licensed physician requesting the consultation retains the primary responsibility for the management of the patient’s care.

“*LCME*” means Liaison Committee on Medical Education, an organization that accredits educational institutions granting degrees in medicine and surgery. The board approves programs that are accredited by LCME.

“*Mandatory training for identifying and reporting abuse*” means training on identifying and reporting child abuse or dependent adult abuse required of physicians who regularly provide primary health care to children or adults, respectively. The full requirements on mandatory reporting of child abuse and the training requirements are in Iowa Code section 232.69; the full requirements on mandatory reporting of dependent adult abuse and the training requirements are in Iowa Code section 235B.16.

“*Medical degree*” means a degree of doctor of medicine and surgery, osteopathic medicine and surgery, or osteopathy, or comparable education from an international medical school.

“*Permanent licensure*” means licensure granted after review of the application and credentials to determine that the individual is qualified to enter into practice. The individual may only practice when the license is in current, active status.

“*Postgraduate training*” means graduate medical education, e.g., an internship, residency or fellowship, in a hospital-affiliated training program approved by the board at the time the applicant was enrolled in the program.

“*Practice*” means the practice of medicine and surgery, osteopathic medicine and surgery, or osteopathy.

“*RCPSC*” means the Royal College of Physicians and Surgeons of Canada.

“*Resident physician*” means a physician enrolled in an internship, residency or fellowship.

“*Resident training program*” means a hospital-affiliated graduate medical education program that enrolls interns, residents or fellows and may be referred to as a postgraduate training program for purposes of licensure.

“*Service charge*” means the amount charged for making a service available on line and is in addition to the actual fee for a service itself. For example, one who renews a license on line will pay the license renewal fee and a service charge.

**653—10.2(148,150,150A) Licensure required.** Licensure is required for practice in Iowa as identified in Iowa Code sections 148.1, 150.2, and 150A.1; the exceptions are identified in 653—subrule 9.2(2). Provisions for permanent physician licensure are found in 653—Chapter 9; provisions for resident, special and temporary physician licensure are found in this chapter.

**653—10.3(147,148,150,150A) Resident physician licensure.**

**10.3(1) General provisions.**

*a.* The resident physician license shall authorize the licensee to practice as an intern, resident or fellow while under the supervision of a licensed practitioner of medicine and surgery or osteopathic medicine and surgery in a board-approved resident training program in Iowa. When the ACGME, AOA, RCPSC, or CFPC fails to offer accreditation for a fellowship or the fellowship fails to seek accreditation, the board shall approve the program if the parent program is accredited by one of the aforementioned accrediting bodies. However, completion of one or more years of a program that itself lacks such accreditation does not fulfill the one-year resident training requirement for permanent licensure.

*b.* An Iowa resident physician license or an Iowa permanent physician license is required of any resident physician enrolled in an Iowa resident training program and practicing in Iowa.

*c.* A resident physician license issued on or after February 14, 2003, shall expire on the expected date of completion of the resident training program as indicated on the licensure application. A resident physician license may be extended thereafter at the discretion of the board.

*d.* A resident physician license is valid only for practice in the program designated in the application. When the physician leaves that program, the license shall immediately become inactive. The director of the resident training program shall notify the board within 30 days of the licensee’s terminating from the program.

*e.* A resident physician licensee who changes resident training programs shall apply for a new resident physician license as described in subrule 10.3(3). Such changes include a transfer to a different program in the same institution, a move to a program in another institution, or becoming a fellow after completing a residency in the same core program. An individual who contracts with an institution to be in two programs from the time of application for the resident license shall not be required to apply for another resident license for the second program. For example, if a residency requires one year in internal medicine prior to three years in dermatology, the individual may apply initially for a four-year resident license to cover the bundled program. Relicensure is not required if the individual holds a permanent physician license in Iowa.

*f.* A visiting resident physician may come to Iowa to practice as a part of the physician’s resident training program if the physician is under the supervision of an Iowa-licensed physician. An Iowa physician license is not required of a physician in training if the physician has a resident or permanent license in good standing in the home state of the resident training program. An Iowa temporary physician license is required of a physician in training if the physician does not hold a resident or permanent physician license in good standing in the home state of the resident training program (see rule 653—10.5(147,148,150,150A)).

*g.* An Iowa license is not required for residents when they are training in a federal facility in Iowa. An Iowa license is not required for faculty who are teaching in and employed by a federal facility in Iowa and who are licensed in another state.

*h.* The director of a resident training program that enrolls a resident with an Iowa resident physician license shall report annually on October 1 on the resident’s progress and whether any warnings have been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action. The board shall inform the program directors on September 1 of the impending deadline.

*i.* A resident physician licensee shall notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

*j.* A resident physician licensee's file shall be closed and labeled "deceased" when the board receives a copy of the physician's death certificate.

**10.3(2) Resident licensure eligibility.** To be eligible for a resident license, an applicant shall meet all of the following requirements:

*a.* Fulfill the application requirements specified in subrule 10.3(3).

*b.* Be at least 20 years of age.

*c.* Hold a medical degree from an educational institution approved by the board at the time the applicant graduated and was awarded the degree.

(1) Educational institutions approved by the board shall be fully accredited by an accrediting agency recognized by the board as schools of instruction in medicine and surgery or osteopathic medicine and surgery and empowered to grant academic degrees in medicine.

(2) The accrediting bodies currently recognized by the board are:

1. LCME for the educational institutions granting degrees in medicine and surgery; and

2. AOA for educational institutions granting degrees in osteopathic medicine and surgery.

(3) If the applicant holds a medical degree from an educational institution not approved by the board at the time the applicant graduated and was awarded the degree, the applicant shall:

1. Hold a valid certificate issued by ECFMG, or

2. Have successfully completed a fifth pathway program established in accordance with AMA criteria.

**10.3(3) Resident physician licensure application.**

*a. Requirements.* To apply for resident physician licensure, an applicant shall:

(1) Pay a nonrefundable application fee of \$150 plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI); and

(2) Complete and submit forms provided by the board, including required credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant. A completed fingerprint packet is not required if the applicant has held active physician licensure in Iowa within 12 months of applying for licensure and fingerprinting was done prior to the issuance of that license.

*b. Application.* The application shall require the following information:

(1) Name, date and place of birth, home address, and mailing address;

(2) A photograph of the applicant suitable for positive identification;

(3) A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance;

(4) A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

(5) A photocopy of the applicant's medical degree issued by an educational institution.

1. A complete translation shall be submitted for any diploma not written in English. An official transcript, written in English and received directly from the school, verifying graduation from medical school is a suitable alternative. An official FCVS Physician Information Profile is a suitable alternative.

2. If a copy of the medical degree cannot be provided because of extraordinary circumstances, the board may accept other reliable evidence that the applicant obtained a medical degree from a specific educational institution;

(6) If the educational institution awarding the applicant the degree has not been approved by the board, the applicant shall provide a valid ECFMG certificate or evidence of successful completion of a fifth pathway program in accordance with criteria established by the AMA. An official FCVS Physician Information Profile is a suitable alternative;

(7) A statement disclosing and explaining any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or

professional regulatory authority, an educational institution, training or research program, or health care facility in any jurisdiction;

(8) A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provide patients with safe and healthful care;

(9) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(10) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; and

(11) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

**10.3(4)** *Resident license application review process.* The process below shall be utilized to review each application for a resident license.

*a.* An application shall be considered open from the date the application form is received in the board office with the nonrefundable resident licensure fee.

*b.* After reviewing each application, staff shall notify the applicant or designee about how to resolve any problems identified by the reviewer.

*c.* If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may grant administratively a resident license.

*d.* If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, director of licensure and administration, and director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall grant administratively a resident license.

(2) If any concern exists, the application shall be referred to the committee.

*e.* Staff shall refer to the committee for review matters which include, but are not limited to, falsification of information on the application, criminal record, substance abuse, competency, physical or mental illness, or educational disciplinary history.

*f.* If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant administratively a resident license.

*g.* If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) Grant a resident physician license for a particular residency program;

(4) Grant a license under certain terms and conditions or with certain restrictions;

(5) Request that the applicant withdraw the licensure application; or

(6) Deny a license.

*h.* The board shall consider applications and recommendations from the committee and shall:

(1) Request an investigation;

(2) Request that the applicant appear for an interview;

(3) Grant a resident physician license for a particular residency program;

(4) Grant a license under certain terms and conditions or with certain restrictions;

(5) Request that the applicant withdraw the licensure application; or

(6) Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in 653—9.15(147,148,150,150A).

**10.3(5)** *Resident license application cycle.* If the applicant does not submit all materials within 90 days of the board office's last documented request for further information, the application shall be

considered inactive. The board office shall notify the applicant of this change in status. An applicant must reapply and submit a new nonrefundable application fee and a new application, documents and credentials.

**10.3(6) *Extension of a resident physician license.***

*a.* On or after February 14, 2003, the board shall issue a resident license for the full period of the resident training program. The board shall offer to all who hold a current, active resident license on February 13, 2003, an extension of the license to the expected completion date of the resident training program. A licensee who wishes to extend the license shall submit the extension application materials within two months of the offer.

*b.* If the licensee fails to complete the program by the expiration date on the license, the licensee has a one-month grace period in which to complete the program or secure an extension from the board.

*c.* The resident physician licensee is responsible for applying for an extension if the licensee has not been granted permanent physician licensure and the licensee will not complete the program within the grace period. The following extension application materials are due in the board office prior to the expiration of the license;

(1) A letter requesting an extension and providing an explanation of the need for an extension;

(2) The extension fee of \$25; and

(3) A statement from the director of the resident training program attesting to the new expected date of completion of the program and the individual's progress in the program and whether any warnings have been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action.

No documentation of continuing medical education or mandatory training on identifying and reporting abuse is required since a resident is in training.

*d.* Failure of the licensee to extend a license within one month following the expiration date shall cause the license to become inactive and invalid. For example, a license that expires on June 26 becomes inactive and invalid on July 26. A licensee whose license is inactive is prohibited from practice until the license is extended or replaced by a permanent physician or new resident physician license.

*e.* To extend an inactive resident license within one year of becoming inactive, an applicant shall submit the following:

(1) A letter requesting an extension and providing an explanation of the need for an extension;

(2) The extension fee of \$25;

(3) A \$50 late fee; and

(4) A statement from the director of the resident training program attesting to the new expected date of completion of the program and the individual's progress in the program and whether any warnings have been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action.

No documentation of continuing medical education or mandatory training on identifying and reporting abuse is required since a resident is in training.

*f.* If more than one year has passed since the resident license became inactive, the applicant shall apply for a new resident license as described in subrule 10.3(3).

**10.3(7) *Review process for extending a resident license.*** The process below shall be utilized to review each request for an extension of a resident license.

*a.* An extension request shall be considered open from the date the required letters and nonrefundable extension fee are received in the board office.

*b.* After reviewing each request for extension, staff shall notify the licensee or designee about how to resolve any problems identified by the reviewer.

*c.* If the final review indicates no questions or concerns regarding the applicant's qualifications for continued licensure, staff may grant administratively an extension to a resident license.

*d.* If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, the director of licensure and administration, and the director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall grant administratively an extension to a resident license.

(2) If any concern exists, the application shall be referred to the committee.

*e.* Staff shall refer to the committee for review matters which include, but are not limited to, falsification of information in the request, criminal record, substance abuse, competency, physical or mental illness, or educational disciplinary history.

*f.* If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant administratively an extension to a resident license.

*g.* If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request an investigation;

(2) Request that the licensee appear for an interview;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the licensee withdraw the request for an extension; or

(5) Deny a request for an extension of the license.

*h.* The board shall consider applications and recommendations from the committee and shall:

(1) Request an investigation;

(2) Request that the licensee appear for an interview;

(3) Grant an extension to the resident physician license;

(4) Grant an extension to the resident physician license under certain terms and conditions or with certain restrictions;

(5) Request that the licensee withdraw the request for an extension; or

(6) Deny a request for an extension of the license. The board may deny an extension of a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial of an extension is set forth in 653—9.15(147,148,150,150A).

**10.3(8)** *An Iowa resident physician who changes resident training programs in Iowa.* A resident physician who changes resident training programs shall acquire new resident physician licensure or permanent licensure prior to entering the new resident training program. Such changes include a transfer to a different program in the same institution, a move to a program in another institution, or becoming a fellow after completing a residency in the same core program. An individual who contracts with an institution to be in two programs from the time of application for the resident license shall not be required to apply for another resident license for the second program. A resident physician licensee applying for a new resident license shall submit the following:

*a.* A nonrefundable resident licensure application fee of \$100;

*b.* Materials required in subparagraphs 10.3(3)“*b*”(1) to (4) and (7) to (10);

*c.* A statement from the director of the applicant’s most recent residency program documenting the applicant’s progress in the program and whether any warnings had been issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action; and

*d.* The original resident license as soon as the applicant for relicensure leaves the residency program.

**10.3(9)** *Discipline of a resident license.* The board may discipline a license for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code section 147.55 or 148.6, Iowa Code chapter 272C, and 653—Chapter 23.

**10.3(10)** *Transition from a resident license to a permanent license.* When a resident physician receives a permanent Iowa license, the resident physician license shall immediately become inactive.

### **653—10.4(147,148,150,150A) Special licensure.**

#### **10.4(1)** *General provisions.*

*a.* The board may grant a special license to a physician who is an academic staff member of a college of medicine or osteopathic medicine if that physician does not meet the qualifications for permanent licensure, but is held in high esteem for unique contributions the individual has made to

medicine and will make by practicing in Iowa. The license is not designed for physicians in regular faculty positions that could be filled by a physician qualified for permanent licensure in Iowa or for the purpose of training the physician who receives the license, i.e., participating in a fellowship of any kind. The board will consider granting and renewing a special license on a case-by-case basis.

*b.* A special license may be issued for a period of not more than one year and may be renewed annually prior to expiration. The number of renewals granted by the board is not limited. The renewal of any special license granted for the first time after July 1, 2001, shall be limited to those physicians who continue to meet the requirements of paragraph “a” of this subrule and subrule 10.4(5). Academic institutions are encouraged to assist special licensees in qualifying for permanent licensure if the physician is to remain in Iowa long term.

*c.* A special license shall specifically limit the licensee to practice at the medical college and at any health care facility affiliated with the medical college.

*d.* A special license shall automatically expire when the licensee discontinues service on the academic medical staff for which the special license was granted.

*e.* The board may cancel a special license if the licensee has practiced outside the scope of this license or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55, 148.6, and 272C.10 and 653—Chapter 23. When cancellation of such a license is proposed, the board shall promptly notify the licensee by sending a statement of charges and notice of hearing by certified mail to the last-known address of the licensee. This contested case proceeding shall be governed by the provisions of 653—Chapter 25.

*f.* A special physician licensee shall notify the board of any change in home address or the address of the place of practice within one month of making an address change.

*g.* A special physician licensee shall notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

*h.* A special physician licensee file shall be closed and labeled “deceased” when the board receives a copy of the physician’s death certificate.

*i.* The board shall accept each 12 months of practice as a special licensee as equivalent to one year of postgraduate training in a hospital-affiliated program approved by the board for the purposes of permanent licensure.

**10.4(2) *Special license eligibility.*** To be eligible for a special license, an applicant shall meet all of the following requirements:

*a.* Fulfill the application requirements specified in subrule 10.4(3);

*b.* Be at least 21 years of age;

*c.* Be a physician in a medical specialty;

*d.* Present evidence of holding a medical degree from an educational institution that is located in a jurisdiction outside the United States or Canada and that is listed in the Directory of Medical Schools published by the International Medical Education Directory;

*e.* Have completed at least two years of postgraduate education in any jurisdiction;

*f.* Have practiced for five years after postgraduate education;

*g.* Demonstrate English proficiency as set forth in subparagraph 10.4(3) “a”(4); and

*h.* Be licensed in a jurisdiction outside the United States or Canada and present evidence that any licenses held in any jurisdiction are unrestricted.

**10.4(3) *Special license application.***

*a. Requirements.* To apply for a special license an applicant shall:

(1) Pay a nonrefundable special license fee of \$300 plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks;

(2) Complete and submit forms provided by the board, including required credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant;

(3) Provide verification of successful completion of a medical degree;

(4) Demonstrate proficiency in English by providing a valid ECFMG certificate or verification of a passing score on the TSE, the Test of Spoken English, or TOEFL, the Test of English as a Foreign Language, examinations administered by the Educational Testing Service. A passing score on TSE is a minimum of 50. A passing score on TOEFL is a minimum overall score of 550 on the paper-based TOEFL that was administered on a Friday or Saturday (formerly special or international administration), a minimum overall score of 213 on the computer-administered TOEFL, or a minimum overall score of 79 on the Internet-based examination;

(5) Present a letter from the dean of the medical college in which the applicant will be practicing that indicates all of the following:

1. The applicant has been invited to serve on the academic staff of the medical school and in what capacity;

2. The applicant's qualifications and the unique contributions the applicant has made to the practice of medicine;

3. The unique contributions the applicant is expected to make by practicing in Iowa and how these contributions will serve the public interest of Iowans; and

(6) Present at least two letters of recommendation from universities, other educational institutions, or research facilities that indicate the applicant's noteworthy professional attainment.

*b. Application.* The application shall request the following information:

(1) Name, date and place of birth, home address, and mailing address;

(2) A photograph of the applicant suitable for positive identification;

(3) A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including license numbers and dates of issuance;

(4) A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

(5) A photocopy of the applicant's medical degree issued by an educational institution and a sworn statement from an official of the educational institution certifying the date the applicant received the medical degree and acknowledging what, if any, derogatory comments exist in the institution's record about the applicant. A complete translation of any diploma not written in English shall be submitted;

(6) A statement disclosing and explaining any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health facility in any jurisdiction;

(7) A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provide patients with safe and healthful care;

(8) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

(9) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; and

(10) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

**10.4(4) *Special license application review process.*** The process below shall be utilized to review each application for a special license.

*a.* An application shall be considered open from the date the application form is received in the board office with the nonrefundable special licensure fee.

*b.* After reviewing each application, staff shall notify the applicant or the applicant's academic institution about how to resolve any problems identified by the reviewer.

*c.* If the final review indicates no questions or concerns regarding the applicant's qualifications for licensure, staff may administratively grant a special license.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, the executive director, director of licensure and administration, and director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for licensure.

(1) If there is no current concern, staff shall administratively grant a special license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters which include, but are not limited to, falsification of information on the application, criminal record, substance abuse, questionable competency, physical or mental illness, or educational disciplinary history.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to grant administratively a special license.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Request that the applicant appear for an interview;

(2) Grant a special license for practice at the medical college designated in the application;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the applicant withdraw the licensure application; or

(5) Deny a license.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Request that the applicant appear for an interview;

(2) Grant a special license for practice at the medical college designated in the application;

(3) Grant a license under certain terms and conditions or with certain restrictions;

(4) Request that the applicant withdraw the licensure application; or

(5) Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in 653—9.15(147,148,150,150A).

**10.4(5) *Special license application cycle.*** If the applicant does not submit all materials within 90 days of the board office's last documented request for further information, the application shall be considered inactive. The board office shall notify the applicant of this change in status. An applicant must reapply and submit a new nonrefundable application fee and a new application, documents and credentials.

**10.4(6) *Renewal of a special license.***

a. If the special physician licensee has not qualified for and received a permanent license, the board shall send a courtesy renewal notice by regular mail to the licensee's last-known address at least 60 days prior to the expiration date of the special physician license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of responsibility for renewing that license.

b. A special physician licensee shall apply for a one-year renewal by submitting the following:

(1) A completed renewal application;

(2) The renewal fee of \$200; and

(3) Evidence of continuing education and mandatory training on identifying and reporting abuse.

1. The requirement for continuing education is 20 hours of category 1 activity as specified in 653—Chapter 11.

2. The requirement for mandatory training on identifying and reporting abuse is specified in 653—Chapter 11.

The dean of the medical college shall submit a letter that addresses the individual's unique contribution to the practice of medicine in Iowa, how the anticipated contribution will serve the public interest of Iowans, and the need for renewal of this license. For a licensee who received the initial special license prior to July 1, 2001, the only statement needed from the dean is verification of the academic appointment the licensee continues to hold.

c. Failure of the licensee to renew a license within one month of the expiration date shall cause the license to become inactive. A licensee whose license is inactive is prohibited from practice until a new special license is granted according to subrules 10.4(3) and 10.4(4).

**653—10.5(147,148,150,150A) Temporary licensure.** The board may issue a temporary license authorizing a physician to participate in a board-approved activity in Iowa. Temporary licensure is granted on a case-by-case basis and depends upon the applicant's education and training, experience and licensure status elsewhere and upon the intended use of the temporary license.

**10.5(1) General provisions.**

a. The temporary license to practice is intended for a physician to participate in a board-approved activity, as defined in rule 653—10.1(147,148,150,150A), in Iowa that is short-term. Temporary licensure is not intended to be a way for a physician to practice before a permanent license is granted. Temporary licensure is not intended for locum tenens.

b. The board may issue a temporary license authorizing the physician to practice in a board-approved activity. The license may be restricted to the board-approved activity, location(s) or time period of up to one year.

(1) A physician who is granted a temporary license for a board-approved activity may qualify for renewal of that license if the physician needs an extension of the license for the original purpose or to pursue more than one board-approved activity within a year.

(2) A physician who wishes to continue in a board-approved activity in Iowa for short intervals beyond one year is eligible for a temporary license each year after reapplying and qualifying on an annual basis.

c. A physician incidentally called into this state in consultation with a physician and surgeon licensed in this state, as defined in rule 653—10.1(147,148,150,150A), is not required to obtain a temporary license in Iowa.

d. A physician who seeks to practice in Iowa and does not qualify for a temporary license may be eligible for permanent licensure under 653—Chapter 9.

e. The board may take disciplinary action on a temporary license if the licensee has practiced outside the scope of the temporary license or for any of the grounds for which licensure may be revoked or suspended as specified in Iowa Code sections 147.55, 148.6, and 272C.10 and 653—Chapter 23. Contested case proceedings shall be governed by the provisions of 653—Chapter 25.

f. A physician who holds a temporary license shall notify the board of any change in address within three days of making an address change.

g. A physician who holds a temporary license shall notify the board of any change in name within one month of making the name change. Notification requires a notarized copy of a marriage license or a notarized copy of court documents.

h. The file of a physician who holds a temporary license shall be closed and labeled "deceased" when the board receives a copy of the physician's death certificate.

**10.5(2) Eligibility for a temporary license.** To be eligible for a temporary license, an applicant shall meet all of the following requirements:

a. Fulfill the requirements specified in subrules 10.5(3) and 10.5(4);

b. Be at least 21 years of age;

c. Hold a medical degree from an educational institution approved by the board (if the applicant is an international medical graduate, the educational institution must be listed in the International Medical Education Directory);

d. Hold a current active, unrestricted license to practice medicine issued by any jurisdiction;

e. Be fluent in the English language;

f. Present a letter justifying the need for temporary licensure from the organization or individual seeking the applicant's participation in a board-approved activity.

**10.5(3) Requirements for a temporary license.** To apply for a temporary license, an applicant shall complete the requirements in paragraphs "a" and "b":

a. Pay a nonrefundable application fee of \$100 plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI). A physician who is serving as a camp physician and who is not receiving payment other than expenses shall be exempt from the license application fee and the fee for the criminal history background check.

b. Complete and submit forms provided by the board, including required credentials, documents, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant.

**10.5(4) Application.** The application shall require the following information:

a. The applicant's name, date and place of birth, home address, mailing address and principal business address;

b. A photograph of the applicant suitable for positive identification;

c. A statement listing every jurisdiction in which the applicant is or has been authorized to practice, including the applicant's license number and date of issuance of the license;

d. A chronology accounting for all time periods from the date the applicant entered medical school to the date of the application;

e. A statement by the applicant that discloses and explains any warnings issued, investigations conducted, or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health facility in any jurisdiction;

f. A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provide patients with safe and healthful care;

g. A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

h. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant, filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

i. A statement from the applicant that justifies the need for a temporary license, including where the applicant intends to practice and the type of practice involved;

j. A letter from the Iowa organization or individual seeking the applicant's services that explains the need for the applicant's participation in the board-approved activity in Iowa, the time period involved, the scope of practice, and the exact location and facilities where the board-approved activity will occur;

k. For an international medical graduate who does not hold a license in good standing in any United States jurisdiction, a statement, which shall be submitted by the Iowa organization or individual offering the board-approved activity, identifying who the applicant's immediate supervisor will be;

l. For an international medical graduate who does not hold a license in good standing in any United States jurisdiction:

(1) Verification, which shall be submitted from the licensing authority of the country in which the physician is licensed, that the physician has a license in good standing;

(2) Evidence of fluency in the English language;

m. For a resident physician who does not hold a current, active resident or permanent license in the home state of the resident training program, a statement, which shall be submitted by the resident director or individual offering the board-approved activity, identifying who the applicant's immediate supervisor will be.

**10.5(5) Standard application review process for a temporary license.** The standard review process shall be utilized to review each application for a temporary license, except that the process identified in subrule 10.5(6) shall be used for any international medical graduate who does not currently hold a license in good standing in any United States jurisdiction or for any physician who seeks temporary licensure for an activity not listed in paragraphs "1" through "6" of the definition of "board-approved activity" in rule 653—10.1(147,148,150,150A). The standard application review process is as follows:

a. An application shall be considered open from the date the application form and the nonrefundable fees are received in the board office.

b. After reviewing each application, staff shall notify the applicant or designee about how to resolve any problems identified by the reviewer.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for temporary licensure or the need for a temporary licensee, staff may administratively grant a temporary license to the applicant for a specific activity, location(s) or specified duration based on the nature of the board-approved activity. The license shall not be granted for a period longer than one year.

d. If the final review indicates questions or concerns that cannot be remedied by continued communication with the applicant, then the executive director, the director of licensure and administration, and the director of legal affairs shall determine if the questions or concerns indicate any uncertainty about the applicant's current qualifications for temporary licensure or the organization's or requesting individual's need for a licensee with a temporary license.

(1) If there is no current concern, staff shall administratively grant a temporary license.

(2) If any concern exists, the application shall be referred to the committee.

e. Staff shall refer to the committee for review matters that include, but are not limited to, falsification of information on the application, criminal record, malpractice, substance abuse, competency, physical or mental illness, educational disciplinary history, or questionable need on the part of the organization.

f. If the committee is able to eliminate questions or concerns without dissension from staff or a committee member, the committee may direct staff to administratively grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity.

g. If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

(1) Grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity;

(2) Grant a temporary license under certain terms and conditions or with certain restrictions;

(3) Deny a temporary license; or

(4) Request that the applicant withdraw the temporary licensure application.

h. The board shall consider applications and recommendations from the committee and shall:

(1) Grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity;

(2) Grant a temporary license under certain terms and conditions or with certain restrictions;

(3) Request that the applicant withdraw the temporary licensure application. The request shall not imply that the applicant is ineligible for permanent licensure if that application process is pursued; or

(4) Deny a temporary license. The board may deny a temporary license for any grounds on which the board may discipline a license or for lack of need for a physician's services by the organization or individual. The procedure for appealing a license denial is set forth in 653—9.15(147,148,150,150A).

**10.5(6)** *Application review process for applicants with certain exceptions.* This application process shall be used to review applications submitted by an international medical graduate who does not currently hold a license in good standing in any United States jurisdiction or by a physician seeking temporary licensure for an activity not listed in paragraphs "1" through "6" of the definition of "board-approved activity" in rule 653—10.1(147,148,150,150A). Following is the application review process for applicants with exceptions:

a. An application shall be considered open from the date the application form and the nonrefundable fees are received in the board office.

b. After reviewing each application, staff shall notify the applicant or designee about how to resolve any problems identified by the reviewer.

c. If the final review indicates no questions or concerns regarding the applicant's qualifications for temporary licensure or the need for a temporary license, staff shall submit the application to the committee for review and recommendation to the board about whether to grant a temporary license to

the physician and whether the license should be granted for a specific activity, location(s) or specified duration based on the nature of the board-approved activity.

*d.* The board shall consider applications and recommendations from the committee and shall:

(1) Grant a temporary license for a specific activity, location(s) or specified duration based on the nature of the board-approved activity;

(2) Grant a temporary license under certain terms and conditions or with certain restrictions;

(3) Request that the applicant withdraw the temporary licensure application. The request shall not imply that the applicant is ineligible for permanent licensure if that application process is pursued; or

(4) Deny a temporary license. The board may deny a temporary license for any grounds on which the board may discipline a license or for lack of need for a physician's services by the organization or individual. The procedure for appealing a license denial is set forth in 653—9.15(147,148,150,150A).

**10.5(7) *Temporary license application cycle.*** If the applicant does not submit all materials within 90 days of the board office's last documented request for further information, the application shall be considered inactive. The board office shall notify the applicant of this change in status. An applicant whose application is inactive must reapply and submit new nonrefundable fees and a new application, documents and credentials if the applicant wishes to pursue temporary licensure.

**10.5(8) *Renewal of a temporary license.***

*a.* When the temporary license is granted, the board shall inform the licensee that the license may be renewed within the year, if the same need for a temporary license continues. The board shall not send a notice of renewal.

*b.* To apply for renewal of a temporary license, the licensee shall submit the following:

(1) A request for renewal;

(2) The renewal fee of \$50; and

(3) Written justification for the renewal from the organization or individual seeking the applicant.

Failure of the licensee to renew a license by the expiration date shall cause the license to become inactive. The individual shall not practice in Iowa until securing a permanent medical license or until becoming eligible for a second temporary license.

**653—10.6(17A,147,148,272C) Waiver or variance requests.** Waiver or variance requests shall be submitted in conformance with 653—Chapter 3.

These rules are intended to implement Iowa Code chapters 17A, 147, 148, 150, 150A, and 272C.

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<sup>◇</sup> Two or more ARCs

CHAPTER 11  
CONTINUING EDUCATION AND MANDATORY TRAINING  
FOR IDENTIFYING AND REPORTING ABUSE

[Prior to 5/4/88, see 470—135.101 to 470—135.110 and 135.501 to 135.512]

**653—11.1(272C) Definitions.**

“*ABMS*” means the American Board of Medical Specialties, which is an umbrella organization for at least 24 medical specialty boards in the United States that assists the specialty boards in developing and implementing educational and professional standards to evaluate and certify physician specialists in the United States. The board recognizes specialty board certification by ABMS.

“*Accredited provider*” means an organization approved as a provider of category 1 activity by one of the following board-approved accrediting bodies: Accreditation Council for Continuing Medical Education, Iowa Medical Society, or the Council on Continuing Medical Education of the AOA.

“*Active licensee*” means any person licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy in Iowa who has met all conditions of licensure and maintains a current license to practice in Iowa.

“*AMA*” means the American Medical Association, a professional organization of physicians and surgeons.

“*AOA*” means the American Osteopathic Association, which is the representative organization for osteopathic physicians (D.O.s) in the United States. The board approves osteopathic medical education programs with AOA accreditation; the board approves AOA-accredited resident training programs in osteopathic medicine and surgery at hospitals for graduates of accredited osteopathic medical schools. The board recognizes specialty board certification by AOA. The board recognizes continuing medical education accredited by the Council on Continuing Medical Education of AOA.

“*Approved abuse education training program*” means a training program using a curriculum approved by the abuse education review panel of the department of public health or a training program offered by a hospital, a professional organization for physicians, or the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

“*Approved program or activity*” means any category 1 activity offered by an accredited provider or any other program or activity meeting the standards set forth in these rules.

“*Board*” means the Iowa board of medicine.

“*Carryover*” means hours of category 1 activity earned in excess of the required hours in a license period that may be applied to the continuing education requirement in the subsequent license period; carryover may not exceed 20 hours of category 1 activity per renewal cycle.

“*Category 1 activity*” means any formal education program which is sponsored or jointly sponsored by an organization accredited for continuing medical education by the Accreditation Council for Continuing Medical Education, the Iowa Medical Society, or the Council on Continuing Medical Education of the AOA that is of sufficient scope and depth of coverage of a subject area or theme to form an educational unit and is planned, administered and evaluated in terms of educational objectives that define a level of knowledge or a specific performance skill to be attained by the physician completing the program. Activities designated as formal cognates by the American College of Obstetricians and Gynecologists or as prescribed credit by the American Academy of Family Physicians are accepted as equivalent to category 1 activities.

“*Committee*” means the licensure and examination committee of the board.

“*COMVEX-USA*” means the Comprehensive Osteopathic Medical Variable-Purpose Examination for the United States of America. The National Board of Osteopathic Medical Examiners prepares the examination and determines its passing score. A licensing authority in any jurisdiction administers the examination. COMVEX-USA is the current evaluative instrument offered to osteopathic physicians who need to demonstrate current osteopathic medical knowledge.

“*Continuing education*” means education that is acquired by a licensee in order to maintain, improve, or expand skills and knowledge present at initial licensure or to develop new and relevant skills and knowledge.

“*Hour of continuing education*” means a clock hour spent by a licensee in actual attendance at or completion of an approved category 1 activity.

“*Inactive license*” means any license that is not a current, active license. Inactive license may include licenses formerly known as delinquent, lapsed, or retired. A physician whose license is inactive continues to hold the privilege of licensure in Iowa but may not practice medicine under an Iowa license until the license is reinstated.

“*Licensee*” means any person licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy in the state of Iowa.

“*Mandatory training for identifying and reporting abuse*” means training on identifying and reporting child abuse or dependent adult abuse required of physicians who regularly provide primary health care to children or adults, respectively. The full requirements on mandatory reporting of child abuse and the training requirements are in Iowa Code section 232.69; the full requirements on mandatory reporting of dependent adult abuse and the training requirements are in Iowa Code section 235B.16.

“*Service charge*” means the amount charged for making a service available on line and is in addition to the actual fee for a service itself. For example, one who renews a license on line will pay the license renewal fee and a service charge.

“*SPEX*” means Special Licensure Examination prepared by the Federation of State Medical Boards and administered by a licensing authority in any jurisdiction. The passing score on SPEX is 75.

**653—11.2(272C) Continuing education credit and alternatives.**

**11.2(1)** Continuing education credit may be obtained by attending category 1 activities as defined in this chapter.

**11.2(2)** The board shall accept the following as equivalent to 50 hours of category 1 activity: participation in an approved resident training program or board certification or recertification by an ABMS or AOA specialty board within the licensing period.

**653—11.3(272C) Accreditation of providers.** The board approves the Accreditation Council for Continuing Medical Education, the Iowa Medical Society, and the Council on Continuing Medical Education of the AOA as organizations acceptable to accredit providers of category 1 activity.

**653—11.4(272C) Continuing education and training requirements for renewal or reinstatement.** A licensee shall meet the requirements in this rule to qualify for renewal of a permanent or special license or reinstatement of a permanent license.

**11.4(1)** *Continuing education and mandatory training for identifying and reporting abuse.*

*a. Continuing education for permanent license renewal.* Except as provided in these rules, a total of 40 hours of category 1 activity or board-approved equivalent shall be required for biennial renewal of a permanent license. This may include up to 20 hours of credit carried over from the previous license period and category 1 activity acquired within the current license period.

(1) To facilitate license renewal according to birth month, a licensee’s first license may be issued for less than 24 months. The number of hours of category 1 activity required of a licensee whose license has been issued for less than 24 months shall be reduced on a pro-rata basis.

(2) A licensee desiring to obtain credit for carryover hours shall report the carryover, not to exceed 20 hours of category 1 activity, on the renewal application.

(3) A licensee shall maintain a file containing records documenting continuing education activities, including dates, subjects, duration of programs, registration receipts where appropriate and any other relevant material, for four years after the date of the activity. The board may audit this information at any time within the four years. If the board conducts an audit of continuing education activities, a licensee shall respond to the board and provide all materials requested, within 30 days of a request by

board staff or within the extension of time if one had been granted. Failure to comply with this provision is grounds for discipline.

*b. Continuing education for special license renewal.* A total of 20 hours of category 1 activity shall be required for annual renewal of a special license. No carryover hours are allowed.

*c. Mandatory training for identifying and reporting abuse for permanent or special license renewal.* The licensee shall complete the training as part of a category 1 activity or an approved training program. The licensee may utilize category 1 activity credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.4(1)“a.”

(1) A licensee who regularly provides primary health care to children shall indicate on the renewal application the completion of two hours of training in child abuse identification and reporting in the previous five years. “A licensee who regularly provides primary health care to children” means all emergency physicians, family practitioners, general practice physicians, pediatricians, and psychiatrists, and any other physician who regularly provides primary care to children.

(2) A licensee who regularly provides primary health care to adults shall indicate on the renewal application the completion of two hours of training in dependent adult abuse identification and reporting in the previous five years. “A licensee who regularly provides primary health care to adults” means all emergency physicians, family practitioners, general practice physicians, internists, obstetricians, gynecologists, and psychiatrists, and any other physician who regularly provides primary care to adults.

(3) A licensee who regularly provides primary health care to adults and children shall indicate on the renewal application the completion of training on the identification and reporting of abuse in dependent adults and children. This training may be completed through separate courses as identified in subparagraphs (1) and (2) above or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. “A licensee who regularly provides primary health care to children and adults” means all emergency physicians, family practitioners, general practice physicians, internists, and psychiatrists, and any other physician who regularly provides primary care to children and adults.

(4) A licensee shall maintain a file containing records documenting mandatory training for identifying and reporting abuse, including dates, subjects, duration of programs, and proof of participation, for five years after the date of the training. The board may audit this information at any time within the five-year period. If the board conducts an audit of mandatory training for identifying and reporting abuse, a licensee shall respond to the board and provide all materials requested, within 30 days of a request made by board staff or within the extension of time if one had been granted. Failure to comply with this provision is grounds for discipline.

**11.4(2) Exemptions from renewal requirements.**

*a.* A licensee shall be exempt from the continuing education requirements in subrule 11.4(1) when, upon license renewal, the licensee provides evidence for:

(1) Periods that the licensee served honorably on active duty in the military;

(2) Periods that the licensee resided in another state or district having continuing education requirements for the profession and the licensee met all requirements of that state or district for practice therein;

(3) Periods that the licensee was a government employee working in the licensee’s specialty and assigned to duty outside the United States; or

(4) Other periods of active practice and absence from the state approved by the board.

*b.* The requirements for mandatory training on identifying and reporting abuse for license renewal shall be suspended for a licensee who provides evidence for:

(1) Periods described in paragraph 11.4(2)“a,” subparagraph (1), (2), (3), or (4); or

(2) Periods that the licensee resided outside of Iowa and did not practice in Iowa.

**11.4(3) Extension for completion of or exemption from renewal requirements.** The board may, in individual cases involving physical disability or illness, grant an extension of time for completion of, or an exemption from, the renewal requirements in subrule 11.4(1).

*a.* A licensee requesting an extension or exemption shall complete and submit a request form to the board that sets forth the reasons for the request and has been signed by the licensee and attending physician.

*b.* The board may grant an extension of time to fulfill the requirements in subrule 11.4(1).

*c.* The board may grant an exemption from the educational requirements for any period of time not to exceed one calendar year.

*d.* If the physical disability or illness for which an extension or exemption was granted continues beyond the period of waiver, the licensee must reapply for a continuance of the extension or exemption.

*e.* The board may, as a condition of any extension or exemption granted, require the applicant to make up a portion of the continuing education requirement by methods it prescribes.

**11.4(4) Reinstatement requirement.** An applicant for license reinstatement shall provide proof of successful completion of 80 hours of category 1 activity completed within 24 months prior to submission of the application for reinstatement or proof of successful completion of SPEX or COMVEX-USA within one year immediately prior to the submission of the application for reinstatement.

**11.4(5) Cost of continuing education and mandatory training for identifying and reporting abuse.** It is the responsibility of each licensee to finance the costs of continuing education and training.

**653—11.5(272C) Failure to fulfill requirements for continuing education and mandatory training for identifying and reporting abuse.**

**11.5(1)** Disagreement over whether material submitted fulfills the requirements specified in rule 11.4(272C).

*a.* Staff will attempt to work with a licensee or applicant to resolve any discrepancy concerning credit for renewal or reinstatement.

*b.* When resolution is not possible, staff shall refer the matter to the committee.

(1) In the matter of a licensee seeking license renewal, staff shall renew the license if all other matters are in order and inform the licensee that the matter is being referred to the committee.

(2) In the matter of an applicant seeking reinstatement, staff shall reinstate the license if all other matters are in order and inform the applicant that the matter is being referred to the committee.

*c.* The committee shall consider the staff's recommendation for denial of credit for continuing education or mandatory training for identifying and reporting abuse.

(1) If the committee approves the credit, it shall authorize the staff to inform the licensee or applicant that the matter is resolved.

(2) If the committee disapproves the credit, it shall refer the matter to the board with a recommendation for resolution.

*d.* The board shall consider the committee's recommendations.

(1) If the board approves the credit, it shall authorize the staff to notify the licensee or applicant for reinstatement if all other matters are in order.

(2) If the board denies the credit, it shall:

1. Close the case;

2. Send the licensee or applicant an informal, nonpublic letter of warning, which may include recommended terms for complying with the requirements for continuing education or mandatory training for identifying and reporting abuse; or

3. File a statement of charges for noncompliance with the board's rules on continuing education or mandatory training for identifying and reporting abuse and for any other violations which may exist.

**11.5(2) Informal appearance for failure to complete requirements for continuing education or mandatory training for identifying and reporting abuse.**

*a.* The licensee or applicant may, within ten days after the date that the notification of the denial was sent by certified mail, request an informal appearance before the board.

*b.* At the informal appearance, the licensee or applicant will have the opportunity to present information, and the board will issue a written decision.

**653—11.6(17A,147,148E,272C) Waiver or variance requests.** Waiver or variance requests shall be submitted in conformance with 653—Chapter 3.

These rules are intended to implement Iowa Code chapters 147 and 272C and sections 232.69 and 235B.16.

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CHAPTER 23  
GROUNDS FOR DISCIPLINE  
[Prior to 7/19/06, see 653—Chapter 12]

**653—23.1(272C) Grounds for discipline.** The board has authority to impose discipline for any violation of Iowa Code chapter 147, 148, 148E, 150, 150A, 252J, 261 or 272C or the rules promulgated thereunder. The grounds for discipline apply to physicians and acupuncturists. This rule is not subject to waiver or variance pursuant to 653—Chapter 3 or any other provision of law. The board may impose any of the disciplinary sanctions set forth in 653—subrule 25.25(1), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

**23.1(1)** Violating any of the grounds for the revocation or suspension of a license as listed in Iowa Code section 147.55, 148.6, 148E.8 or 272C.10.

**23.1(2)** Professional incompetency. Professional incompetency includes, but is not limited to, any of the following:

*a.* Willful or repeated gross malpractice;

*b.* Willful or gross negligence;

*c.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;

*d.* A substantial deviation by the physician from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same or similar circumstances;

*e.* A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances;

*f.* A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery or osteopathy in the state of Iowa;

*g.* Failure to meet the acceptable and prevailing standard of care when delegating or supervising medical services provided by another physician, health care practitioner, or other individual who is collaborating with or acting as an agent, associate, or employee of the physician responsible for the patient's care, whether or not injury results.

**23.1(3)** Practice harmful or detrimental to the public. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a physician to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent physician acting in the same or similar circumstances in this state, or when a physician is unable to practice medicine with reasonable skill and safety as a result of a mental or physical impairment or chemical abuse.

**23.1(4)** Unprofessional conduct. Engaging in unethical or unprofessional conduct includes, but is not limited to, the committing by a licensee of an act contrary to honesty, justice or good morals, whether the same is committed in the course of the licensee's practice or otherwise, and whether committed within this state or elsewhere; or a violation of the standards and principles of medical ethics or 653—13.7(147,148,272C) or 653—13.20(147,148,150) as interpreted by the board.

**23.1(5)** Sexual misconduct. Engaging in sexual misconduct includes, but is not limited to, engaging in conduct set out at 653—subrule 13.7(4) or 13.7(6) as interpreted by the board.

**23.1(6)** Substance abuse. Substance abuse includes, but is not limited to, excessive use of alcohol, drugs, narcotics, chemicals or other substances in a manner which may impair a licensee's ability to practice the profession with reasonable skill and safety.

**23.1(7)** Indiscriminately or promiscuously prescribing, administering or dispensing any drug for other than lawful purpose includes, but is not limited to:

- a.* Self-prescribing or self-dispensing controlled substances.
- b.* Prescribing or dispensing controlled substances to members of the licensee's immediate family.

(1) Prescribing or dispensing controlled substances to members of the licensee's immediate family is allowable for an acute condition or on an emergency basis when the licensee conducts an examination, establishes a medical record, and maintains proper documentation.

(2) Immediate family includes the physician's spouse or domestic partner and either of the physician's, spouse's, or domestic partner's parents, stepparents or grandparents; the physician's natural or adopted children or stepchildren and any child's spouse, domestic partner or children; the siblings of the physician or the physician's spouse or domestic partner and the sibling's spouse or domestic partner; or anyone else living with the physician.

**23.1(8)** Physical or mental impairment. Physical or mental impairment includes, but is not limited to, any physical, neurological or mental condition which may impair a physician's ability to practice the profession with reasonable skill and safety. Being adjudged mentally incompetent by a court of competent jurisdiction shall automatically suspend a license for the duration of the license unless the board orders otherwise.

**23.1(9)** Felony criminal conviction. Being convicted of a felony in the courts of this state, another state, the United States, or any country, territory or other jurisdiction, as defined in Iowa Code section 148.6(2) "b."

**23.1(10)** Violation of the laws or rules governing the practice of medicine or acupuncture of this state, another state, the United States, or any country, territory or other jurisdiction. Violation of the laws or rules governing the practice of medicine includes, but is not limited to, willful or repeated violation of the provisions of these rules or the provisions of Iowa Code chapter 147, 148, 148E, 150, 150A or 272C or other state or federal laws or rules governing the practice of medicine.

**23.1(11)** Violation of a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violation of the terms and provisions of a consent agreement or settlement agreement entered into between a licensee and the board.

**23.1(12)** Violation of an initial agreement or health contract entered into with the Iowa physician health program (IPHP).

**23.1(13)** Failure to comply with an evaluation order. Failure to comply with an order of the board requiring a licensee to submit to evaluation under Iowa Code section 148.6(2) "h" or 272C.9(1).

**23.1(14)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, by a physician in the practice of medicine and surgery, osteopathic medicine and surgery or osteopathy or by an acupuncturist.

**23.1(15)** Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice acupuncture or medicine and surgery, osteopathic medicine and surgery or osteopathy in this state, and includes false representations of material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board any false or forged document submitted with an application for a license in this state.

**23.1(16)** Fraud in representations as to skill or ability. Fraud in representations as to skill or ability includes, but is not limited to, a licensee's having made misleading, deceptive or untrue representations as to the acupuncturist's or physician's competency to perform professional services for which the licensee is not qualified to perform by education, training or experience.

**23.1(17)** Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making known to the public information or intention which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

- a. Inflated or unjustified claims which lead to expectations of favorable results;
- b. Self-laudatory claims that imply that the licensee is skilled in a field or specialty of practice for which the licensee is not qualified;
- c. Representations that are likely to cause the average person to misunderstand; or

*d.* Extravagant claims or claims of extraordinary skills not recognized by the medical profession.

**23.1(18)** Obtaining any fee by fraud or misrepresentation.

**23.1(19)** Acceptance of remuneration for referral of a patient to other health professionals in violation of the law or medical ethics.

**23.1(20)** Knowingly submitting a false report of continuing education or failure to submit the required reports of continuing education.

**23.1(21)** Knowingly aiding, assisting, procuring, or advising a person in the unlawful practice of acupuncture or medicine and surgery, osteopathic medicine and surgery or osteopathy.

**23.1(22)** Failure to report disciplinary action. Failure to report a license revocation, suspension or other disciplinary action taken against the licensee by a professional licensing authority of another state, an agency of the United States government, or any country, territory or other jurisdiction within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

**23.1(23)** Failure to report voluntary agreements. Failure to report any voluntary agreement to restrict the practice of acupuncture or medicine and surgery, osteopathic medicine and surgery or osteopathy entered into with this state, another state, the United States, an agency of the federal government, or any country, territory or other jurisdiction.

**23.1(24)** Failure to notify the board within 30 days after occurrence of any settlement or adverse judgment of a malpractice claim or action.

**23.1(25)** Failure to file the reports required by 653—22.2(272C) within 30 days concerning wrongful acts or omissions committed by another licensee.

**23.1(26)** Failure to comply with a valid subpoena issued by the board pursuant to Iowa Code sections 17A.13 and 272C.6 and 653—subrule 24.2(6) and rule 653—25.12(17A).

**23.1(27)** Failure to submit to a board-ordered mental, physical, clinical competency, or substance abuse evaluation or drug or alcohol screening.

**23.1(28)** The inappropriate use of a rubber stamp to affix a signature to a prescription. A person who is unable, due to a disability, to make a written signature or mark, however, may substitute in lieu of a signature a rubber stamp which is adopted by the disabled person for all purposes requiring a signature and which is affixed by the disabled person or affixed by another person upon the request of the disabled person and in the presence of the disabled person.

**23.1(29)** Maintaining any presigned prescription which is intended to be completed and issued at a later time.

**23.1(30)** Failure to comply with the recommendations issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, or with the protocols established pursuant to Iowa Code chapter 139A.

**23.1(31)** Noncompliance with a support order or with a written agreement for payment of support as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 252J. Disciplinary proceedings initiated under this rule shall follow the procedures set forth in Iowa Code chapter 252J and 653—Chapter 15.

**23.1(32)** Student loan default or noncompliance with an agreement for payment of a student loan obligation as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 261 and 653—16.2(261).

**23.1(33)** Improper management of medical records. Improper management of medical records includes, but is not limited to, failure to maintain timely, accurate, and complete medical records.

**23.1(34)** Failure to transfer medical records to another physician in a timely fashion when legally requested to do so by the subject patient or by a legally designated representative of the subject patient.

**23.1(35)** Failure to respond to or comply with a board investigation initiated pursuant to Iowa Code section 272C.3 and 653—24.2(17A,147,148,272C).

**23.1(36)** Failure to comply with the direct billing requirements for anatomic pathology services established in Iowa Code Supplement section 147.106.

**23.1(37)** Failure to submit an additional completed fingerprint card and applicable fee, within 30 days of a request made by board staff, when a previous fingerprint submission has been determined to be unacceptable.

**23.1(38)** Failure to respond to the board or submit continuing education materials during a board audit, within 30 days of a request made by board staff or within the extension of time if one had been granted.

**23.1(39)** Failure to respond to the board or submit requested mandatory training for identifying and reporting abuse materials during a board audit, within 30 days of a request made by board staff or within the extension of time if one had been granted.

**23.1(40)** Voluntary agreements. The board may take disciplinary action against a physician if that physician has entered into a voluntary agreement to restrict the practice of medicine in another state, district, territory, or country.

*a.* The board will use the following criteria to determine if a physician has entered into a voluntary agreement within the meaning of Iowa Code section 148.12 and this rule.

(1) The voluntary agreement was signed during or at the conclusion of a disciplinary investigation, or to prevent a matter from proceeding to a disciplinary investigation.

(2) The agreement includes any or all of the following:

1. Education or testing that is beyond the jurisdiction's usual requirement for a license or license renewal.

2. An assignment beyond what is required for license renewal or regular practice, e.g., adoption of a protocol, use of a chaperone, completion of specified continuing education, or completion of a writing assignment.

3. A prohibition or limitation on practice privileges, e.g., a restriction on prescribing or administering controlled substances.

4. Compliance with an educational plan.

5. A requirement that surveys or reviews of patients or patient records be conducted.

6. A practice monitoring requirement.

7. A special notification requirement for a change of address.

8. Payment that is not routinely required of all physicians in that jurisdiction, such as a civil penalty, fine, or reimbursement of any expenses.

9. Any other activity or requirements imposed by the board that are beyond the usual licensure requirements for obtaining, renewing, or reinstating a license in that jurisdiction.

*b.* A certified copy of the voluntary agreement shall be considered prima facie evidence.

This rule is intended to implement Iowa Code chapters 17A, 147, 148 and 272C.

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- <sup>2</sup> Effective date of rules 135.206, 135.207 and 135.208 [renumbered 12.6, 12.7 and 12.8, IAC 5/4/88] delayed by the Administrative Rules Review Committee 70 days from December 12, 1984. Delay lifted by committee on January 9, 1985.



CHAPTER 25  
CONTESTED CASE PROCEEDINGS  
[Prior to 7/19/06, see 653—Chapter 12]

**653—25.1(17A) Definitions.** Except where otherwise specifically defined by law:

*“Appear personally”* means the ability to participate at a hearing or a prehearing conference through teleconference or videoconference or to be physically present.

*“Contested case”* means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

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

*“Party”* means the state of Iowa or the respondent.

*“Presiding officer”* means the board of medicine or a panel of the board. In a disciplinary contested case proceeding, the board may request that an administrative law judge make initial rulings on prehearing matters, and assist and advise the board in presiding at the disciplinary contested case hearing.

*“Proposed decision”* means a hearing panel’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the full board did not preside.

*“Quorum of the board”* means a majority of the members of the board. Official action, including filing of formal charges or imposition of discipline, requires a majority vote of the members present.

**653—25.2(17A) Scope and applicability.** These rules apply to contested case proceedings conducted by the board of medicine.

**653—25.3(17A) Combined statement of charges and settlement agreement.** Upon a determination by the board that probable cause exists to take formal disciplinary action, the board and the licensee may enter into a combined statement of charges and settlement agreement.

**25.3(1) Board discretion.** The board has the sole discretion to determine whether to offer a licensee a combined statement of charges and settlement agreement.

**25.3(2) Voluntary agreement.** Entering into a combined statement of charges and settlement agreement is completely voluntary.

**25.3(3) Contents.** The combined statement of charges and settlement agreement shall include a brief statement of the charges, the circumstances that led to the charges and the terms of settlement.

**25.3(4) Resolution of the contested case.** A combined statement of charges and settlement agreement shall constitute the resolution of a contested case proceeding.

**25.3(5) Open record.** A combined statement of charges and settlement agreement is an open record.

**653—25.4(17A) Statement of charges.**

**25.4(1) Probable cause.** In the event that the board finds there is probable cause for taking disciplinary action against a licensee, the board shall order that a contested case hearing be commenced by the filing of a statement of charges.

**25.4(2) Legal review.** Every statement of charges prepared by the board shall be reviewed by the office of the attorney general before it is filed.

**25.4(3) Time requirements.**

*a.* Time shall be computed as provided in Iowa Code section 4.1(34).

*b.* For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

**25.4(4) Delivery.** Delivery of the statement of charges constitutes the commencement of the contested case proceeding. Delivery may be executed by:

*a.* Personal service as provided in the Iowa Rules of Civil Procedure; or

*b.* Restricted certified mail, return receipt requested; or

*c.* Publication, as provided in the Iowa Rules of Civil Procedure.

**25.4(5) Contents.** The statement of charges shall contain the following information:

*a.* A statement by the board showing that there is probable cause to file the statement of charges;

*b.* A statement of the time, place, and nature of the hearing;

*c.* A statement of the legal authority and jurisdiction under which the hearing is to be held;

*d.* A reference to the particular sections of the statutes and rules involved;

*e.* A short and plain statement of the matters asserted. This statement shall contain sufficient detail to give the respondent fair notice of the allegations so the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;

*f.* A statement that the party may be represented by legal counsel at the party's own expense;

*g.* Identification of all parties including the name, address and telephone number of the person who will act as advocate for the board or the state and of parties' counsel where known;

*h.* Reference to the procedural rules governing conduct of the contested case proceeding;

*i.* Reference to the procedural rules governing informal settlement;

*j.* Identification of the board as the presiding officer;

*k.* A statement requiring the respondent to submit an answer pursuant to subrule 25.10(2) within 20 days after receipt of the statement of charges; and

*l.* When applicable, notification of the time period in which a party may request, pursuant to Iowa Code section 17A.11(1) "a" and rule 25.7(17A), that the presiding officer be an administrative law judge.

**653—25.5(17A) Legal representation.** Following the filing of the statement of charges, the office of the attorney general shall be responsible for the legal representation of the public interest in all proceedings before the board.

**653—25.6(17A) Presiding officer in a disciplinary contested case.** The presiding officer in a disciplinary contested case shall be the board or a panel of the board. The board may request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 25.23(17A). In addition, an administrative law judge may assist and advise the board presiding at the contested case hearing.

**653—25.7(17A) Presiding officer in a nondisciplinary contested case.**

**25.7(1)** A "nondisciplinary contested case" includes license denial proceedings. Any party in a nondisciplinary contested case, including an appeal of a denial of licensure, who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a statement of charges which identifies or describes the presiding officer as the board.

**25.7(2)** The board may deny the request only upon a finding that one or more of the following apply:

*a.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

*b.* An administrative law judge with the qualifications identified in subrule 25.7(4) is unavailable to hear the case within a reasonable time.

*c.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

*d.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

*e.* Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

*f.* The request was not timely filed.

*g.* The request is not consistent with a specified statute.

**25.7(3)** The board shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability

of an administrative law judge with the qualifications identified in subrule 25.7(4), the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

**25.7(4)** An administrative law judge assigned to act as presiding officer in a nondisciplinary contested case shall have a juris doctorate degree.

**25.7(5)** Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies. Such appeals must be filed within 10 days of the date of the issuance of the challenged ruling but no later than the time for compliance with the order or the date of hearing, whichever is first.

**25.7(6)** Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon intra-agency appeal, the board shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

### **653—25.8(17A) Disqualification.**

**25.8(1)** A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party.
- b. Has personally investigated, prosecuted, or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties. If the licensee elects to appear before the board in the investigative process pursuant to 653—paragraph 24.2(5) “d,” the licensee waives this provision.
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties.
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years.
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case.
- f. Has a spouse or relative within the third degree of relationship who:
  - (1) Is a party to the case, or an officer, director or trustee of a party;
  - (2) Is a lawyer in the case;
  - (3) Is known to have an interest that could be substantially affected by the outcome of the case; or
  - (4) Is likely to be a material witness in the case.
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

**25.8(2)** The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include:

- a. General direction and supervision of assigned investigators;
- b. Unsolicited receipt of information which is relayed to assigned investigators;
- c. Review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or
- d. Exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17(3) and subrules 25.8(3) and 25.21(8).

By electing to participate in an appearance before the board pursuant to 653—paragraph 24.2(5) “d,” the licensee waives any objection to a board member’s both participating in the appearance and later participating as a decision maker in a contested case proceeding on the grounds that the board member “personally investigated” the matter under this provision.

**25.8(3)** In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

**25.8(4)** If a party asserts disqualification on any appropriate ground, including those listed in subrule 25.8(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board shall determine the matter as part of the record in the case.

**653—25.9(17A) Consolidation—severance.**

**25.9(1) Consolidation.** The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

- a. The matters at issue involve common parties or common questions of fact or law;
- b. Consolidation would expedite and simplify consideration of the issues involved; and
- c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

**25.9(2) Severance.** The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

**653—25.10(17A) Pleadings.**

**25.10(1)** Pleadings may be required by rule, by the statement of charges, or by order of the presiding officer.

**25.10(2)** Answer or appearance. An answer or appearance may be filed by the respondent within 20 days of service of the statement of charges. The answer or appearance shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any. If the attorney is not licensed to practice law in Iowa, the attorney must fully comply with Iowa Court Rule 31.14.

**25.10(3)** Amendment. Amendments to the statement of charges and to an answer may be allowed with the consent of the parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

**653—25.11(17A) Service and filing.**

**25.11(1) Service—when required.** Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the assistant attorney general designated as prosecutor for the state, simultaneously with its filing. Except for the original statement of charges and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

**25.11(2) Service—how made.** Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

**25.11(3) Filing—when required.** After the statement of charges, all documents in a contested case proceeding shall be filed with the board. All documents that are required to be served upon a party shall be filed simultaneously with the board.

**25.11(4) Filing—when made.** Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Board of Medicine, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

**25.11(5) Proof of mailing.** Proof of mailing includes either:

- a. A legible United States Postal Service postmark on the envelope;
- b. A certificate of service;
- c. A notarized affidavit; or
- d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Board of Medicine, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

**653—25.12(17A) Discovery.**

**25.12(1)** Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, or by agreement of the parties, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

**25.12(2)** Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 25.12(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

**653—25.13(17A,272C) Subpoenas in a contested case.**

**25.13(1)** Subpoenas issued in a contested case may compel the attendance of witnesses at depositions or hearing and may compel the production of books, papers, records, or other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing or may be issued separately. Subpoenas shall be issued by the executive director or designee upon written request. A request for a subpoena of mental health records must confirm the conditions described in 653—paragraph 24.2(6)“d” have been satisfied prior to the issuance of the subpoena.

**25.13(2)** A request for a subpoena shall include the following information, as applicable, unless the subpoena is requested in order to compel testimony or documents for rebuttal or impeachment purposes:

- a. The name, address and telephone number of the person requesting the subpoena;
- b. The name and address of the person to whom the subpoena shall be directed;
- c. The date, time, and location at which the person shall be commanded to attend and give testimony;
- d. Whether the testimony is requested in connection with a deposition or hearing;
- e. A description of the books, papers, records or other real evidence requested;
- f. The date, time and location for production, or inspection and copying; and
- g. In the case of a subpoena request for mental health records, confirmation that the conditions described in 653—paragraph 24.2(6)“d” have been satisfied.

**25.13(3)** Each subpoena shall contain, as applicable:

- a. The caption of the case;
- b. The name, address and telephone number of the person who requested the subpoena;
- c. The name and address of the person to whom the subpoena is directed;
- d. The date, time, and location at which the person is commanded to appear;
- e. Whether the testimony is commanded in connection with a deposition or hearing;
- f. A description of the books, papers, records or other real evidence the person is commanded to produce;
- g. The date, time and location for production, or inspection and copying;
- h. The time within which a motion to quash or modify the subpoena must be filed;
- i. The signature, address and telephone number of the board administrator or designee;
- j. The date of issuance; and
- k. A return of service attached to the subpoena.

**25.13(4)** Unless a subpoena is requested in order to compel testimony or documents for rebuttal or impeachment purposes, the executive director or designee shall mail the subpoena to the requesting

party, with a copy to the opposing party. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

**25.13(5)** Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case, who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.

**25.13(6)** Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to hold a hearing and issue a decision, or the board may conduct the hearing and issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

**25.13(7)** A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving on the board's executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

**25.13(8)** If the person contesting the subpoena is not a party to the contested case, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

#### **653—25.14(17A) Motions.**

**25.14(1)** No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

**25.14(2)** Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

**25.14(3)** The presiding officer may schedule oral argument on any motion.

**25.14(4)** Motions pertaining to the hearing must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

#### **653—25.15(17A) Prehearing conferences.**

**25.15(1)** Any party may request a prehearing conference. Prehearing conferences shall be conducted by the executive director or designee, who may request the assistance of an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the executive director's own motion shall be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date.

**25.15(2)** The parties at a prehearing conference shall be prepared to discuss the following subjects, and the executive director or administrative law judge may issue appropriate orders concerning:

*a.* The possibility of settlement.

*b.* The entry of a scheduling order to include deadlines for completion of discovery.

*c.* Stipulations of law or fact.

*d.* Stipulations on the admissibility of exhibits.

*e.* Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the prehearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.

*f.* Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the prehearing conference. Other than rebuttal exhibits, exhibits that are not listed on the final exhibit list

may be excluded from admission into evidence unless there was good cause for the failure to include them.

- g.* Stipulations for waiver of any provision of law.
- h.* Identification of matters which the parties intend to request be officially noticed.
- i.* Consideration of any additional matters which will expedite the hearing.

**25.15(3)** Prehearing conferences may be conducted by telephone unless otherwise ordered.

**653—25.16(17A) Continuances.** Unless otherwise provided, applications for continuances shall be filed with the board at least seven days before the date scheduled for hearing. If the application for continuance is not contested, the executive director or designee shall issue the appropriate order. If the application for continuance is contested, the matter shall be heard by the board as presiding officer or may be delegated by the board to an administrative law judge. No continuance shall be granted within seven days of the date of hearing except for extraordinary, extenuating or emergency circumstances.

**25.16(1)** A written application for a continuance shall:

- a.* Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;
- b.* State the specific reasons for the request for continuance; and
- c.* Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the board or the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within two days after the oral request unless that requirement is waived by the board or the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible.

**25.16(2)** The board or presiding officer may require documentation of any grounds for continuance. In determining whether to grant a continuance, the presiding officer may consider:

- a.* Prior continuances;
- b.* The interests of all parties;
- c.* The public interest;
- d.* The likelihood of informal settlement;
- e.* The existence of an emergency;
- f.* Any objection;
- g.* Any applicable time requirements;
- h.* The existence of a conflict in the schedules of counsel, parties, or witnesses;
- i.* The timeliness of the request; and
- j.* Other relevant factors.

**653—25.17(272C) Settlement agreements.**

**25.17(1)** A contested case may be resolved by settlement agreement. Settlement negotiations may be initiated by any party at any stage of a contested case. No party is required to participate in the settlement process. The executive director, director of legal affairs, or prosecuting attorney shall have authority to negotiate on behalf of the board.

**25.17(2)** The full board shall not be involved in negotiations until a written proposed settlement is submitted to the full board for approval, unless both parties waive this prohibition.

**25.17(3)** Consent to negotiation by the respondent during settlement negotiation constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17. Thereafter, the prosecuting attorney is authorized to discuss settlement with the board chairperson or designee.

**25.17(4)** Settlement negotiations shall be completed at least seven days prior to the date scheduled for hearing whenever possible.

**25.17(5)** A settlement agreement is an open record.

**653—25.18(17A) Hearing procedures.**

**25.18(1)** A hearing may be conducted before the board or a panel of not less than three members of the board, at least two of whom are licensed by the board.

When a sufficient number of board members is unavailable to hear a contested case, the executive director, or the executive director's designee, may request alternate members, as defined in rule 653—1.1(17A,147) and Iowa Code section 148.2A, to serve on the hearing panel. A hearing panel containing alternate members must include at least six people, of whom the majority shall be members licensed to practice under Iowa Code chapter 148.

**25.18(2)** When, in the opinion of a majority of the board, it is desirable to obtain specialists within an area of practice when holding disciplinary hearings, the board may appoint a panel of three specialists who are not board members to make findings of fact and to report to the board. Such findings shall not include any recommendation for or against licensee discipline.

**25.18(3)** The presiding officer shall have the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The presiding officer may request that an administrative law judge perform any of these functions and may be assisted and advised by an administrative law judge.

**25.18(4)** All objections shall be timely made and stated on the record.

**25.18(5)** Parties have the right to appear personally and to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at the party's own expense.

**25.18(6)** Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

**25.18(7)** The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

**25.18(8)** Witnesses may be sequestered during the hearing.

**25.18(9)** The presiding officer shall have authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

**25.18(10)** The presiding officer shall conduct the hearing in the following manner:

*a.* The presiding officer shall give an opening statement briefly describing the nature of the proceedings.

*b.* The parties shall be given an opportunity to present opening statements.

*c.* The parties shall present their cases in the sequence determined by the presiding officer.

*d.* Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law.

*e.* When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

**25.18(11)** The board members and administrative law judge have the right to question a witness. Examination of witnesses by board members is subject to properly raised objections.

**25.18(12)** The hearing shall be open to the public unless the licensee requests that the hearing be closed. At the request of either party, or on the board's own motion, the presiding officer may issue a protective order to protect documents which are privileged or confidential by law.

**653—25.19(17A) Evidence.**

**25.19(1)** The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

**25.19(2)** Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

**25.19(3)** Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer

determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

**25.19(4)** The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

**25.19(5)** Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

**25.19(6)** Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

#### **653—25.20(17A) Default.**

**25.20(1)** If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

**25.20(2)** Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

**25.20(3)** Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by subrule 25.24(2). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

**25.20(4)** The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

**25.20(5)** Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

**25.20(6)** "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under the Iowa Rules of Civil Procedure.

**25.20(7)** A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 25.23(17A).

**25.20(8)** If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another statement of charges and the contested case shall proceed accordingly.

**25.20(9)** A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 25.27(17A).

**653—25.21(17A) Ex parte communication.**

**25.21(1)** Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the statement of charges, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 25.8(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

**25.21(2)** Prohibitions on ex parte communications commence with the issuance of the statement of charges in a contested case and continue for as long as the case is pending before the board.

**25.21(3)** Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

**25.21(4)** To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 25.11(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

**25.21(5)** Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate to the extent necessary to carry out their function as presiding officer.

**25.21(6)** The executive director or director of legal affairs may be present during deliberations as long as that person is not disqualified from participating under rule 25.8(17A). The executive director or director of legal affairs shall not attempt to influence the board’s decision in the proceeding.

**25.21(7)** Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 25.16(17A).

**25.21(8)** Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the contested case process must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified.

*a.* If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order.

*b.* If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

**25.21(9)** Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

**25.21(10)** The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure,

or suspension or revocation of the privilege to practice before the board. Violation of ex parte communication prohibitions by board personnel shall be reported to the board and its executive director for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

**653—25.22(17A) Recording costs.** Upon request, the board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

**653—25.23(17A) Interlocutory appeals.** Upon written request of a party or on its own motion, the board may review an interlocutory order of the executive director, administrative law judge, or hearing panel. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first. In determining whether to do so, the board shall consider:

1. The extent to which its granting the interlocutory appeal would expedite final resolution of the case; and
2. The extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy.

**653—25.24(17A) Decisions.**

**25.24(1) Final decisions.**

*a.* When a quorum of the board presides over the reception of the evidence at the hearing, its decision is a final decision. A majority of the members of the board shall constitute a quorum. A final decision of the board is an open record. Final decisions shall be served on the parties in accordance with subrule 25.11(2).

*b.* A decision of a hearing panel containing alternate members is considered a final decision of the board, in accordance with Iowa Code section 148.2A.

**25.24(2) Proposed panel decisions.**

*a. Panel of specialists.* When a panel of three specialists presides over the hearing, the panel shall issue a proposed panel decision which shall include findings of fact but shall not include conclusions of law. A proposed decision of a panel of specialists, together with a transcript of the proceedings and the exhibits presented, shall be reviewed by the board within 30 days of the date the proposed decision was issued.

*b. Panel of board members.* When a panel of three or more board members presides over the hearing, the panel shall issue a proposed panel decision which shall include proposed findings of fact, conclusions of law, and order. A proposed panel decision shall be reviewed by the board within 30 days of the date the proposed panel decision was issued. A proposed panel decision becomes a final decision without further proceedings unless appealed in accordance with paragraph 25.24(2) "c."

*c. Appeal of proposed panel decisions.* A proposed panel decision pursuant to paragraph 25.24(2) "a" or "b" may be appealed to the full board by either party by serving on the executive director, either in person or by certified mail, a notice of appeal within 30 days after service of the proposed decision on the appealing party.

(1) Following receipt of a notice of appeal, the board shall enter an order establishing a schedule for submission of briefs and oral argument. The parties shall serve their briefs on the board and shall furnish an additional copy to each party by first-class mail.

(2) Oral argument shall be heard by the board unless waived by both parties. The time granted each party for oral argument shall be established by the board.

(3) The record on appeal shall be the entire record made before the hearing panel or administrative law judge.

*d. Confidentiality.* At no time prior to the release of the final decision by the board shall a proposed decision be made public or distributed to any person other than the parties.

*e. Requests to present additional evidence.* A party may request the taking of additional evidence after the issuance of a proposed decision only by establishing that:

- (1) The evidence is material; and
- (2) The evidence arose after the completion of the original hearing; or
- (3) Good cause exists for failure to present the evidence at the original hearing; and
- (4) The party has not waived the right to present additional evidence.

A written request to present additional evidence must be filed with the notice of appeal or by a nonappealing party within 14 days of service of the notice of appeal. The board may remand a case to the hearing panel for further hearing or may itself preside at the taking of additional evidence.

**653—25.25(272C) Disciplinary sanctions.**

**25.25(1)** If the board concludes following a contested case hearing that discipline is warranted, the board has authority to impose any of the following disciplinary sanctions:

- a. Revocation.
- b. Suspension.
- c. Restriction.
- d. Probation.
- e. Additional education or training.
- f. Reexamination.
- g. Physical or mental evaluation or substance abuse evaluation, or alcohol or drug screening or clinical competency evaluation.
- h. Civil penalties not to exceed \$10,000.
- i. Citation and warning.
- j. Imposition of such other sanctions allowed by law as may be appropriate.

**25.25(2)** At the discretion of the board, the following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

- a. The relative seriousness of the violation.
- b. The facts of the particular violation.
- c. Any extenuating circumstances or other countervailing considerations.
- d. Number of prior complaints, informal letters or disciplinary charges.
- e. Seriousness of prior complaints, informal letters or disciplinary charges.
- f. Whether the licensee has taken remedial action.
- g. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee.

**653—25.26(17A) Application for rehearing.**

**25.26(1)** *Who may file.* Any party to a contested case proceeding may file an application for rehearing from a final order.

**25.26(2)** *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether, on the basis of the grounds enumerated in paragraph 25.24(2)“e” and subrule 25.26(5), the applicant requests an opportunity to submit additional evidence.

**25.26(3)** *Filing deadline.* The application shall be filed with the board within 20 days after issuance of the final decision.

**25.26(4)** *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.

**25.26(5)** *Additional evidence.* A request that additional evidence be considered on rehearing shall be governed by paragraph 25.24(2)“e.”

**25.26(6)** *Disposition.* Any application for a rehearing shall be deemed denied unless the agency grants the application within 20 days after its filing.

**25.26(7)** *Only remedy.* Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

**653—25.27(17A) Stays of agency actions.**

**25.27(1) *When available.*** Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy.

**25.27(2) *When granted.*** In determining whether to grant a stay, the board shall consider the factors listed in Iowa Code section 17A.19(5)“c.” The board shall not grant a stay in any case in which the district court would be expressly prohibited by statute from granting a stay.

**653—25.28(17A) No factual dispute contested cases.** If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

**653—25.29(17A) Emergency adjudicative proceedings.**

**25.29(1) *Emergency action.*** To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order, the board shall consider factors including, but not limited to, the following:

*a.* Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;

*b.* Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

*c.* Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

*d.* Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

*e.* Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

**25.29(2) *Issuance of order.***

*a.* An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger and the board’s decision to take immediate action. The order is an open record.

*b.* The written emergency adjudicative order shall be immediately delivered to the person who is required to comply with the order, by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the agency;

(3) Certified mail to the last address on file with the agency; or

(4) Fax, which may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax and has provided a fax number for that purpose.

*c.* To the degree practicable, the board shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

**25.29(3) *Oral notice.*** Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order is issued, the board shall make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

**25.29(4) *Completion of proceedings.*** After the issuance of an emergency adjudicative order, the board shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order shall include notification of the date on which board proceedings are scheduled for hearing. The licensee subject to the emergency adjudicative order may request a continuance of the hearing at any time upon written application to the board. The board will be granted a continuance only in compelling circumstances upon written application.

**653—25.30(17A) Appeal of license denial.** An applicant may appeal a preliminary notice of denial of license by filing a written notice of appeal and request for hearing with the board within 30 days of the date that the preliminary notice of denial of license was mailed by the board. The hearing shall be a contested case and shall be conducted in accordance with this chapter.

**653—25.31(17A) Judicial review and appeal.** Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act, from and after the date of the board's order.

**653—25.32(17A) Open record.** The final decision of the board is an open record. The board shall report final decisions to the appropriate organizations, including but not limited to the National Practitioner Data Bank, the Federation of State Medical Boards and all media and other organizations that have filed a request for public information.

**653—25.33(272C) Disciplinary hearings—fees and costs.**

**25.33(1) Definitions.** As used in this rule in relation to a formal disciplinary action filed by the board against a licensee:

*“Deposition”* means the testimony of a person taken pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

*“Evaluation fees”* means actual costs incurred by the board in a physical, mental, chemical abuse, other impairment-related examination or evaluation or clinical competency evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

*“Expenses”* means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

*“Transcript”* means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

*“Witness fees”* means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purpose of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72, as applicable.

**25.33(2) Disciplinary hearing fee.** The board may charge a fee not to exceed \$75 for conducting a disciplinary hearing which results in disciplinary action taken against the licensee by the board.

An order assessing a fee shall be included as part of the board's final decision. The order shall direct the licensee to deliver payment directly to the board as provided in subrule 25.33(6).

**25.33(3) Recovery of related hearing costs.** The board may also recover from the licensee the costs for transcripts, witness fees and expenses, depositions, and medical examination fees. The board may assess these costs in the manner it deems most equitable in accordance with the following:

*a. Transcript costs.* The board may recover the costs for the court reporter and assess the transcript costs against the licensee pursuant to Iowa Code section 272C.6(6) or against the requesting party pursuant to Iowa Code section 17A.12(7).

(1) The cost of the transcript includes the transcript of the original contested case hearing before the board, as well as transcripts of any other formal proceedings before the board which occur after the notice of the contested case hearing is filed.

(2) In the event of an appeal to the full board from a proposed decision, the appealing party shall timely request and pay for the transcript necessary for use in the agency appeal process.

*b. Witness fees and expenses.* The parties in a contested case shall be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing. In addition, the board may assess a licensee the witness fees and expenses incurred by witnesses called to testify on behalf of the state of Iowa, provided that the costs are calculated as follows:

(1) The costs for lay witnesses shall be determined in accordance with Iowa Code section 622.69. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(2) The costs for expert witnesses shall be determined in accordance with Iowa Code section 622.72. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(3) The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences of failure to make such payment are applicable with regard to witnesses who are subpoenaed by either party to testify at the hearing.

(4) The board may assess as costs the meal and lodging expenses necessarily incurred by witnesses testifying at the request of the state of Iowa. Meal and lodging costs shall not exceed the reimbursement employees of the state of Iowa receive for these expenses under the department of revenue guidelines in effect on January 1, 2005.

*c. Deposition costs.* Deposition costs for purposes of allocating costs against a licensee include only those deposition costs incurred by the state of Iowa. The licensee is directly responsible for the payment of deposition costs incurred by the licensee.

(1) The costs for depositions include the cost of transcripts, the daily charge of the court reporter for attending and transcribing the deposition, and all mileage and travel time charges of the court reporter for traveling to and from the deposition which are charged in the ordinary course of business.

(2) If the deposition is of an expert witness, the deposition cost includes a reasonable fee for an expert witness. This fee shall not exceed the expert's customary hourly or daily fee, and shall include the time reasonably and necessarily spent in connection with such deposition, including the time spent in travel to and from the deposition, but excluding time spent in preparation for that deposition.

*d. Medical examination fees.* All costs of physical or mental examinations or substance abuse evaluations or drug screening or clinical competency evaluations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation of a pending complaint or as a sanction following a contested case shall be paid directly by the licensee.

**25.33(4) Certification of reimbursable costs.** The executive director or designee shall certify any reimbursable costs incurred by the board. The executive director shall calculate the specific costs, certify the cost calculated, and file the certification as part of the record in the contested case. A copy of the certification shall be served on the party responsible for payment of the certified costs at the time of the filing.

**25.33(5) Assessment of fees and costs.** A final decision of the board imposing disciplinary action against a licensee shall include the amount of any disciplinary hearing fee assessed, which shall not exceed \$75. If the board also assesses reimbursable costs against the licensee, the board shall file a Certification of Reimbursable Costs which includes a statement of costs delineating each category of costs and the amount assessed. The board shall specify the time period in which the fees and costs must be paid by the licensee.

*a.* Prior to seeking judicial review, a party shall file an objection to any fees or costs imposed by the board in order to exhaust administrative remedies. An objection shall be filed in the form of an application for rehearing pursuant to Iowa Code section 17A.16(2).

*b.* The application shall be resolved by the board consistent with the procedures for ruling on an application for rehearing. Any dispute regarding the calculations of any fees or costs to be assessed may be resolved by the board upon receipt of the parties' written objections.

**25.33(6) *Payment of fees and costs.*** All fees and costs assessed pursuant to this rule shall be made in the form of a check or money order made payable to Iowa Board of Medicine and delivered by the licensee to the board office.

**25.33(7) *Failure to make payment.*** Failure of a licensee to pay any fees and costs within the time specified in the board's decision shall constitute a violation of an order of the board and shall be grounds for disciplinary action.

**25.33(8) *Repayment receipts.*** Fees and costs collected by the board pursuant to this rule shall be considered repayment receipts as defined in Iowa Code section 8.2.

These rules are intended to implement Iowa Code chapters 17A, 147, 148, and 272C.

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◇ Two or more ARCs

<sup>1</sup> Effective date of subrule 135.204(10) [renumbered 12/4(10), IAC 5/4/88] delayed by the Administrative Rules Review Committee 70 days from November 2, 1983.

<sup>2</sup> Effective date of rules 135.206, 135.207 and 135.208 [renumbered 12.6, 12.7 and 12.8, IAC 5/4/88] delayed by the Administrative Rules Review Committee 70 days from December 12, 1984. Delay lifted by committee on January 9, 1985.

CHAPTER 221  
FLAMMABLE AND COMBUSTIBLE LIQUIDS

**661—221.1(101) Scope.** This chapter provides the rules of the fire marshal for safe transportation, storage, handling, and use of flammable and combustible liquids. IFC, 2006 edition, sections 102.1 and 102.2, is adopted by reference.

**661—221.2(101) Definitions.** The following definitions shall apply to rules 661—221.1(101) through 661—221.8(101). These definitions are adopted in addition to those which appear in the International Fire Code, 2006 edition; NFPA 30, Flammable and Combustible Liquids Code, 2003 edition; and NFPA 30A, Code for Motor Fuel Dispensing and Repair Garages, 2003 edition. If a definition adopted in this rule conflicts with a definition included in a code or standard adopted by reference in this chapter, the definition found in this rule shall apply.

*“Fire code official”* means any employee of the fire marshal division of the department of public safety, of any local fire department, or of the department of natural resources if the employee is operating under an agreement between the department of public safety and the department of natural resources.

*“ICC”* means the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.

*“IFC”* means the International Fire Code, published by the ICC. *“IFC”* will be followed by a year (e.g., IFC, 2006), which indicates the specific edition of the IFC to which reference is made.

*“Mobile air-conditioning system”* means mechanical vapor compression equipment which is used to cool the driver or passenger compartment of any motor vehicle.

*“NFPA”* means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form *“NFPA xx,”* where *“xx”* is a number, refer to the NFPA standard or pamphlet of the corresponding number.

*“SPCC plan”* means a spill prevention, control and countermeasure plan, as defined in 40 CFR 112, published January 1, 2007.

*“Under dispenser containment”* or *“UDC”* means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater.

**661—221.3(101) Flammable and combustible liquids.** The International Fire Code, 2006 edition, published by the ICC, Chapter 34 and references contained therein, and NFPA 30, Flammable and Combustible Liquids Code, 2003 edition and references contained therein, are adopted by reference as the rules for transportation, storage, handling, and use of flammable and combustible liquids. In any case in which a provision of the IFC conflicts with a provision of NFPA 30, the IFC provision shall apply. Any refinery shall comply with the provisions of this rule and with any applicable provisions of 661—Chapter 201.

**221.3(1)** The IFC, 2006 edition, is adopted with the following amendments:

*a.* In section 3402.1, amend the following definitions:

(1) Delete the definition of combustible liquid and insert in lieu thereof the following:

COMBUSTIBLE LIQUID. A liquid having a closed cup flash point at or above 100°F (38°C) and below 200°F (93°C). Combustible liquids shall be subdivided as follows:

Class II. Liquids having a closed cup flash point at or above 100°F (38°C) and below 140°F (60°C).

Class IIIA. Liquids having a closed cup flash point at or above 140°F (60°C) and below 200°F (93°C).

The category of combustible liquids does not include compressed gases or cryogenic fluids.

(2) Delete the definition of refinery and insert in lieu thereof the following:

REFINERY. A plant in which flammable or combustible liquids are produced on a commercial scale from crude petroleum, natural gasoline or other sources, or in which flammable or combustible liquids are used to produce on a commercial scale fuels intended for use in motor vehicles, whether or not those fuels are flammable or combustible liquids.

*b.* Delete section 3403.1 and insert in lieu thereof the following:

3403.1 Electrical. Electrical wiring and equipment shall be installed and maintained in accordance with NFPA 70, National Electrical Code, 2005 edition, published by NFPA.

*c.* Add the following new sections:

3403.6.12 Each connection to an aboveground tank through which liquid can normally flow shall be provided with an external control valve that is located as close as practical to the shell of the tank. In addition to the control valve or any other normal tank valves, there shall be an emergency internal check valve at each pipe connection to any tank opening below normal liquid level. The emergency internal check valve shall be effectively located inside the tank shell and shall be operable both manually and by an effective heat-activated device that, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank even though the pipelines from the tank are broken.

3403.6.13 Any new or replacement piping connected to an aboveground storage tank shall be double-walled unless it lies entirely within the area of secondary containment.

3403.6.14 Any device dispensing Class I or Class II flammable liquids shall not be constructed or installed less than 100 feet from any existing dwelling unit.

*d.* Delete section 3404.2.8.12 and insert in lieu thereof the following:

3404.2.8.12 Liquid removal. Means shall be provided to recover liquid from the vault. Where a pump is used to meet this requirement, the pump shall not be permanently installed in the vault. Electric-powered portable pumps shall be suitable for use in Class I, Division 1 locations, as defined in NFPA 70, National Electrical Code, 2005 edition.

*e.* Delete section 3404.2.8.17 and insert in lieu thereof the following:

3404.2.8.17 Classified area. The interior of a vault containing a tank that stores a Class I liquid shall be designated a Class I, Division 1 location, as defined in NFPA 70, National Electrical Code, 2005 edition.

*f.* Delete section 3404.2.9.1.1, introductory paragraph, and insert in lieu thereof the following:

3404.2.9.1.1 Required foam fire protection systems. Foam fire protection shall be provided at any refinery and for aboveground tanks, other than pressure tanks operating at or above 1 pound per square inch gauge (psig) (6.89 kPa) when such tank, or group of tanks spaced less than 50 feet (15,240 mm) apart measured shell to shell, has a liquid surface area in excess of 1,500 square feet (139 m<sup>2</sup>), and is in accordance with any of the following:

*g.* Delete section 3404.2.9.1.2.1, introductory paragraph, and insert in lieu thereof the following:

3404.2.9.1.2.1 Where foam fire protection is required, it shall be provided in accordance with NFPA 11, 2005 edition, and shall be of a type or types and amount appropriate to suppress fires involving types and amounts of flammable and combustible liquids found on the premises. Where the flammable or combustible liquid contains more than 10 percent alcohol, the foam shall be alcohol-resistant. Fire-fighting foam shall be stored separately from any area in which flammable and combustible liquids are stored and in an area or areas that will be readily accessible to fire fighters responding to a fire at the facility.

*h.* Amend the exception to section 3404.2.9.1.2.1 by adding the following new numbered paragraphs:

6. The premises is not a refinery.

7. The premises does not include bulk storage of flammable or combustible liquids.

8. The premises does not contain total storage capacity to store one million gallons or more of flammable or combustible liquids.

*i.* Delete section 3404.3.1.1 and insert in lieu thereof the following:

3404.3.1.1 Approved containers. Only approved containers and portable tanks shall be used. No flammable or combustible liquid shall be placed into, stored in, or carried in any container other than one which is metal or hard plastic. No flammable or combustible liquid shall be placed into, stored in, or carried in any temporary or disposable container.

**221.3(2)** Amend NFPA 30, section 4.3.2.3.3, by adding the following new paragraphs:

(10) Each secondary containment tank shall have top-only openings and shall be either a steel double-walled tank or a steel inner tank with an outer containment tank wall constructed in accordance with nationally accepted industry standards, such as those codified by the American Petroleum Institute,

the Steel Tank Institute and the American Concrete Institute. Each tank shall be listed by an independent testing laboratory.

(11) Each fill opening in a secondary containment tank shall be provided with a spill container that will hold at least 5 gallons.

(12) For any secondary containment tank, interstitial tank space shall be monitored by an approved, continuous, automatic detection system that is capable of detecting liquids, including water. An automatic detection system may be either electronically or mechanically operated.

**221.3(3) Plans and plan review fees.**

*a.* The owner of any premises on which flammable or combustible liquids are or will be stored or used is required to submit construction plans to the fire marshal division, prior to commencing initial construction of the facility or prior to commencing any construction at an existing facility which includes the addition or replacement of an aboveground flammable or combustible liquid storage tank. The construction plans shall be sealed by a licensed professional engineer if the facility at which the construction will occur is or will be a refinery or if preparation of the plans by a licensed professional engineer is required by another provision of Iowa law.

Construction for which plans are required to be submitted for review shall not commence until approval of the plan has been received from the fire marshal.

EXCEPTION 1: Submission of construction plans is not required if the total flammable and combustible liquid storage capacity on the premises is or will be 1,100 gallons or less.

EXCEPTION 2: If an SPCC plan has been prepared pursuant to 40 CFR 112 for a facility other than a refinery, a copy of the SPCC plan may be submitted to the fire marshal in lieu of submission of separate construction plans, provided that the SPCC plan includes all of the elements required to be included in construction plans for the specific facility in this subrule. If the fire marshal agrees, copies of portions of the SPCC plan may be submitted in lieu of a copy of the complete plan provided that all elements of construction plans which are required for the specific facility by this subrule are included. If an SPCC plan or portions thereof are submitted to the fire marshal, the person making the submission shall provide any additional information required by the fire marshal to evaluate compliance with the provisions of this chapter and Iowa Code chapter 101. The copy of the SPCC plan or portions thereof submitted to the fire marshal shall clearly identify the licensed professional engineer who prepared the plan or shall be accompanied by a letter making this identification.

*b.* Minimum requirements for plans submitted for review include the following:

(1) Drawings shall show the name of the person, firm or corporation proposing the installation, the location, and the adjacent streets or highways.

(2) In the case of refineries or bulk plants, the drawings shall show, in addition to any applicable features required under subparagraphs (4) and (5), the plot of ground to be utilized and its immediate surroundings on all sides; and a complete layout of buildings, tanks, loading and unloading docks, and heating devices, if any.

(3) In the case of service stations, the drawings shall show, in addition to any applicable features required under subparagraphs (4), (5), and (6), the plot of ground to be utilized; the complete layout of buildings, drives, dispensing equipment, and greasing or washing stalls; and the type and location of any heating device.

(4) In the case of aboveground storage, the drawings shall show the location and capacity of each tank; dimensions of each tank whose capacity exceeds 50,000 gallons; the class of liquid to be stored in each tank; the type of tank supports; the clearances; the type of venting and pressure relief relied upon and the combined capacity of all venting and pressure relief valves on each tank; and the tank control valves and the location of pumps and other facilities by which liquid is filled into or withdrawn from the tanks.

(5) In the case of underground storage, the drawings shall show the location and capacity of each tank; the class of liquids to be stored; and the location of fill, gauge, vent pipes, openings and clearances.

(6) In the case of an installation for storage, handling or use of flammable or combustible liquids within buildings or enclosures at any establishment or occupancy covered in this chapter, the drawing shall be in detail sufficient to show whether applicable requirements are to be met.

c. Fees for plan reviews shall apply as follows:

(1) \$100 plus \$25 for each new or replacement tank included in the plan, for any site or facility at which flammable or combustible liquids are or will be stored, except for new construction of a refinery.

(2) \$500 for review of the initial construction plans of a refinery if the projected construction costs are \$100,000,000 or less and \$1,000 for the initial construction plans for a refinery if the projected construction costs are greater than \$100,000,000.

(3) The owner shall submit payment of plan review fees in the form of a check, money order, or warrant payable to Treasurer, State of Iowa.

d. Plan review fees shall be refunded to the submitter if the plan review has not been completed and the submitter has not been notified of approval or disapproval of the plans within 60 days of receipt of the complete plans by the fire marshal division.

**221.3(4) Inspections.**

a. Any facility at which flammable or combustible liquids are stored is subject to inspection by any fire code official during the regular business hours of the facility. If the facility does not operate under regular business hours, a fire official shall have access to the facility between 8 a.m. and 4 p.m. on any day which is a business day for the state of Iowa, within four hours of notifying the owner of intent to inspect the facility.

b. Any inspection of a facility pursuant to this subrule conducted by an employee of the fire marshal division of the department of public safety shall result in an inspection fee of \$100 plus \$25 for each aboveground flammable or combustible liquid storage tank, except that there shall be no fee for an initial inspection or the first reinspection after an initial inspection that is conducted pursuant to the receipt of a complaint alleging that the facility is in violation of any provision of this chapter, 661—Chapter 224 or Iowa Code chapter 101.

c. Inspections may be initiated by the inspecting official at random or on any other basis; may be conducted at the request of the owner, operator, or manager of a facility; or may be conducted to investigate allegations made in a complaint. Such a complaint shall be in writing and shall specify the location and nature of the alleged violations. The complainant may or may not be identified. Complainants who identify themselves may request to be notified of the outcome of the inspection conducted in response to the complaint.

**661—221.4(101) Motor fuel dispensing facilities and repair garages.** The International Fire Code, 2006 edition, published by the ICC, Chapter 22 and references contained therein, and NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2003 edition and references contained therein, are adopted by reference as the rules for motor fuel dispensing facilities and repair garages. If any provision of the International Fire Code adopted herein is in conflict with any provision of NFPA 30A, the International Fire Code provision shall apply. The International Fire Code, 2006 edition, Chapter 22, is adopted with the following amendments:

**221.4(1)** Amend Table 2206.2.3 so that:

Each tank with a capacity of not more than 6,000 gallons for motor vehicle fuel dispensing systems and storing a Class I liquid, or with a capacity of not more than 12,000 gallons and storing a Class II or Class III liquid, that is located at a commercial, industrial, governmental, or manufacturing establishment, and that is intended for fueling vehicles used in connection with the establishment, is required to be located at least:

(a) 40 feet away from the nearest important building on the same property;

EXCEPTION: Tanks may be located closer than 40 feet to a building of noncombustible construction.

(b) 40 feet away from any property that is or may be built upon, including the opposite side of a public way;

EXCEPTION: No minimum separation shall be required for any tank that complies with NFPA 30A, section 4.3.2.6.

(c) 100 feet away from any residence or place of assembly.

**221.4(2)** Add the following new section:

2206.7.1.1 Dispensing of E-blend.

**2206.7.1.1.1 Definitions.**

"E-10" means a blend of petroleum and ethanol including no more than 15 percent ethanol intended for use as a motor vehicle fuel.

"E-blend" means a blend of petroleum and ethanol including more than 15 percent ethanol intended for use as a motor vehicle fuel.

2206.7.1.1.2 E-blend may only be dispensed if both of the following apply:

(a) Only a dispenser listed by an independent testing laboratory as compatible with ethanol blended gasoline shall be used to dispense E-blend.

(b) The owner or operator or a person authorized by the owner or operator shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the retail dealer and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

**221.4(3)** Add the following new section:

2206.7.10 Under dispenser containment (UDC). When installing a new motor fuel dispenser or replacing a motor fuel dispenser, UDC shall be installed whenever any of the following occurs:

(1) UDC is required by a rule adopted by the environmental protection commission.

NOTE: See 567—subrule 135.3(9), paragraph "h."

(2) A motor fuel dispenser is installed at a location where there previously was no dispenser; or

(3) An existing motor fuel dispenser is removed and replaced with another dispenser. UDC is not required when only the emergency shutoff, shear valves or check valves are replaced.

UDC shall:

- Be intact and liquid tight on its sides and bottom and at any penetrations;
- Be compatible with the substance conveyed by the piping; and
- Allow for visual inspection and monitoring and access to the components in the containment system.

EXCEPTION: UDC shall not be required for a dispenser which sits directly upon a solid concrete apron.

**221.4(4)** Temporary storage in disaster emergencies. Notwithstanding any provision to the contrary found in this chapter or found in the International Fire Code or NFPA 30A as adopted by reference herein, aboveground petroleum storage tanks may be used to store flammable and combustible liquids in motor fuel dispensing operations, provided that all of the following apply:

a. The facility is in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 or, if not in such an area, the facility has applied to the fire marshal and has been approved for storage of flammable and combustible liquids in compliance with this subrule.

b. The facility has suffered damage which has rendered the storage tanks normally used by the facility for flammable and combustible liquids inoperable. Storage of flammable and combustible liquids in compliance with this subrule shall continue only for as long as the normal storage tanks are inoperable and in no event for more than 90 days.

EXCEPTION: In extraordinary circumstances, storage of flammable and combustible liquids in compliance with this subrule may continue for more than 90 days if the facility has sought and received specific written approval from the fire marshal for such storage.

c. The facility has written confirmation from the facility's insurance provider that insurance coverage will apply while storage of flammable and combustible liquids in compliance with this subrule is occurring.

d. Any aboveground petroleum storage tank used pursuant to this subrule shall be rated or listed by an independent testing laboratory for aboveground storage of flammable and combustible liquids.

e. Any aboveground petroleum storage tank used pursuant to this subrule shall be of no more than 1,000 gallons capacity.

EXCEPTION: A storage tank larger than 1,000 gallons capacity may be used pursuant to this subrule if the facility has received specific written approval from the fire marshal for its use. In reviewing such a request, the fire marshal shall consider, but is not limited to considering, the following factors:

- (1) Volume of throughput of the facility.
- (2) Ability to meet setback requirements appropriate to the size of the tanks used.

*f.* All electrical service proximate to the storage area shall comply with applicable provisions of NFPA 70, National Electrical Code, 2005 edition. An emergency shutoff control or electrical disconnect shall be installed no less than 20 feet nor more than 100 feet from any fuel-dispensing device at the facility. The control shall be clearly marked "Emergency Shutoff."

*g.* A 20-pound fire extinguisher with a minimum B:C rating of 40 shall be located no more than 50 feet from the location of any storage tank being used in compliance with this subrule.

*h.* Precautions shall be taken to prevent the ignition of flammable or combustible liquids, including the conspicuous posting of warning signs saying "NO SMOKING" and "NO OPEN FLAME."

*i.* Aboveground petroleum storage tanks used pursuant to this subrule shall be plumbed into existing dispensers, if practical. If this is impractical, all fueling at the facility shall be by attendant only; no self-service dispensing shall be allowed at the facility.

*j.* Any aboveground petroleum storage tank used in compliance with this subrule shall be located so as to be protected from prospective damage from vehicle collisions and shall be located with due regard to vehicular traffic patterns and the location of property lines and significant buildings, particularly those which are frequently occupied by humans.

**661—221.5(101) Aircraft fueling.** The International Fire Code, 2006 edition, published by the ICC, sections 1106 through 1106.21.1 and references contained therein, and NFPA 407, Standard for Aircraft Fuel Servicing, 2007 edition and references contained therein, are adopted by reference as the rules for aircraft fueling facilities. If any provision of the IFC adopted herein conflicts with any provision of NFPA 407, 2007 edition, the IFC provision shall apply.

**661—221.6(101) Helicopter fueling.** The International Fire Code, 2006 edition, published by the ICC, sections 1107 through 1107.8 and references contained therein, is adopted by reference as the rules for helicopter fueling facilities.

**661—221.7(101) Fuel-fired appliances.** The International Fire Code, 2006 edition, published by the ICC, sections 603 through 603.9 and references contained therein, is adopted by reference as the rules for fuel-fired appliances, except for LP-gas fired appliances, which are subject to the provisions of 661—Chapter 226.

**661—221.8(101) Stationary combustion engines and gas turbines.** The International Fire Code, 2006 edition, Chapter 6 and references contained therein, and NFPA 37, "Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines," 2006 edition, are adopted by reference as the rules governing the installation and use of stationary combustion engines and gas turbines. If any provision of the IFC, 2006 edition, Chapter 6, adopted herein is in conflict with any provision of NFPA 37, 2006 edition, the provision of the IFC shall apply.

These rules are intended to implement Iowa Code chapter 101.

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CHAPTER 21  
ELECTION FORMS AND INSTRUCTIONS

[Prior to 7/13/88, see Secretary of State(750), Ch 11]

DIVISION I  
GENERAL ADMINISTRATIVE PROCEDURES

**721—21.1(47) Emergency election procedures.** The state commissioner of elections may exercise emergency powers over any election being held in a district in which either a natural or other disaster or extremely inclement weather has occurred. The state commissioner may also exercise emergency powers during an armed conflict involving United States armed forces, or mobilization of those forces, or if an election contest court finds that there were errors in the conduct of an election making it impossible to determine the result.

**21.1(1) Definitions.**

“*Commissioner*” means the county commissioner of elections.

“*Election contest court*” means any of the courts specified in Iowa Code sections 57.1, 58.4, 61.1, 62.1 and 376.10.

“*Extremely inclement weather*” means a natural occurrence, such as a rainstorm, windstorm, ice storm, blizzard, tornado or other weather conditions, which makes travel extremely dangerous or which threatens the public peace, health and safety of the people or which damages and destroys public and private property.

“*Natural disaster*” means a natural occurrence, such as a fire, flood, blizzard, earthquake, tornado, windstorm, ice storm, or other events, which threatens the public peace, health and safety of the people or which damages and destroys public and private property.

“*Other disaster*” means an occurrence caused by machines or people, such as fire, hazardous substance or nuclear power plant accident or incident, which threatens the public peace, health and safety of the people or which damages and destroys public and private property.

“*State commissioner*” means the state commissioner of elections.

**21.1(2) Notice of natural or other disaster or extremely inclement weather.** The county commissioner of elections, or the commissioner’s designee, may notify the state commissioner of elections that due to a natural or other disaster or extremely inclement weather an election cannot safely be conducted in the time or place for which the election is scheduled to be held. If the commissioner or the commissioner’s designee is unable to transmit notice of the hazardous conditions, the notice may be given by any elected county official. Verification of the commissioner’s agreement with the severity of the conditions and the danger to the election process shall be transmitted to the state commissioner as soon as possible. Notice may be given by telephone or by facsimile machine, but a signed notice shall also be delivered to the state commissioner.

**21.1(3) Declaration of emergency due to natural or other disaster or extremely inclement weather.** After receiving notice of hazardous conditions, the state commissioner of elections, or the state commissioner’s designee, may declare that an emergency exists in the affected precinct or precincts. A copy of the declaration of the emergency shall be provided to the commissioner.

**21.1(4) Emergency modifications to conduct of elections.** When the state commissioner of elections has declared that an emergency exists due to a natural or other disaster or to extremely inclement weather, the county commissioner of elections, or the commissioner’s designee, shall consult with the state commissioner to develop a plan to conduct the election under the emergency conditions. All modifications to the usual method for conducting elections shall be approved in advance by the state commissioner unless prior approval is impossible to obtain.

Modifications may be made to the method for conducting the election including relocation of the polling place, postponement of the hour of opening the polls, postponement of the date of the election if no candidates for federal offices are on the ballot, reduction in the number of precinct election officials in nonpartisan elections, or other reasonable and prudent modifications that will permit the election to be conducted.

**21.1(5) *Relocation of polling place.*** The substitute polling place shall be as close as possible to the usual polling place and shall be within the same precinct if possible. Preference shall be given to buildings which are accessible to the elderly and disabled. Buildings supported by taxation shall be made available without charge by the authorities responsible for their administration. If it is necessary, more than one precinct may be located in the same room.

A notice of the location of the substitute polling place shall be posted on the door of the former polling place not later than one hour before the scheduled time for opening the polls or as soon as possible. If it is unsafe or impossible to post the sign on the door of the former polling place, the notice shall be posted in some other visible place at or near the site of the former polling place. If time permits, notice of the relocation of the polling place shall be published in the same newspaper in which notice of election was published, otherwise notice of relocation may be published in any newspaper of general circulation in the political subdivision which will appear on or before election day. The commissioner shall inform all broadcast media and print news organizations serving the jurisdiction of the modifications.

**21.1(6) *Postponement of election.*** An election may be postponed until the following Tuesday. If the election involves more than one precinct, the postponement must include all precincts within the political subdivision. If the election is postponed, ballots shall not be reprinted to reflect the modification in the election date. The date of the close of voter registration for the election shall not be extended. Precinct election registers prepared for the original election date may be used or reprinted at the commissioner's discretion.

On the day that the postponed election is actually held all election day procedures must be repeated.

**21.1(7) *Absentee voting in postponed elections.*** Absentee ballots shall be delivered to voters until the date the election is actually held. Absentee ballots shall be accepted at the commissioner's office until the hour the polls close on the date the election is held. Absentee ballots which are postmarked no later than the day before the election is actually held shall be accepted if received no later than the time prescribed by the Iowa Code for the usual conduct of the election. The time shall be calculated from the date on which the election is held, not the date for which the election was originally scheduled.

**21.1(8) *Special precinct board in postponed elections.*** The special precinct board shall meet to consider special ballots at the times specified in Iowa Code sections 50.22 and 52.23, calculated from the date the election is held. No absentee ballots shall be counted until the date the election is held.

**21.1(9) *Canvass of votes in postponed elections.*** The canvass of votes shall also be rescheduled for one week following the original date.

**21.1(10) *Postponements made on election day.*** If the emergency is declared while the polls are open and the decision is made to postpone the election, each precinct polling place in the political subdivision shall be notified to close its doors and to halt all voting immediately. People present in the polling place who are waiting to vote shall not be given ballots or admitted to the voting machines, as appropriate. People who have received ballots shall deposit them in the ballot box; unmarked ballots may be returned to the precinct election officials.

The precinct election officials shall seal all ballots which were cast before the declaration of the emergency in secure containers. The containers shall be clearly marked as ballots from the postponed election. If it is safe to do so, the ballot containers, election register, and other election supplies shall be transported to the commissioner's office. The ballots shall be stored in a secure place. If it is unsafe to travel to the commissioner's office, the chairperson of the precinct election board shall see that the ballots and the election register are securely stored until it is safe to return them to the commissioner. If no contest is pending six months after the canvass for the election is completed, the unopened ballot containers shall be destroyed.

If voting machines or automatic tabulating equipment is used, the machines or automatic tabulating equipment shall be closed and sealed without printing the results. Before the date the election is held, the machines or automatic tabulating equipment shall be reset to zero. Any documents showing the progress of the count, including paper records required by 2007 Iowa Acts, Senate File 369, section 7, subsection 2, shall be sealed and stored. No one shall reveal the progress of the count. After six months, the envelope containing the vote totals shall be destroyed if no contest is pending.

**21.1(11) Records kept.** The state commissioner of elections shall maintain records of each emergency declaration. The records shall include the following information:

- a. The county in which the emergency occurred.
- b. The date and time the emergency declaration was requested.
- c. The name and title of the person making the request.
- d. Name and date of the election affected.
- e. The jurisdiction for which the election is to be conducted (school, city, county, or other).
- f. The number of precincts in the jurisdiction.
- g. The number of precincts affected by the emergency.
- h. The nature of the emergency, i.e., natural or other disaster, or extremely inclement weather.
- i. The date or dates of the occurrence of the natural or other disaster or extremely inclement weather.
- j. Conditions affecting the conduct of the election.
- k. Whether the polling places may safely be opened on time.
- l. Action taken: such as moving the polling place, change voting system, postpone election until the following Tuesday.
- m. Method to be used to inform the public of changes made in the election procedure.
- n. The signature of the state commissioner or the state commissioner's designee who was responsible for declaring the emergency.

**21.1(12) Federal elections.**

a. If an emergency occurs that will adversely affect the conduct of an election at which candidates for federal office will appear on the ballot, the election shall not be postponed or delayed. Emergency measures shall be limited to relocation of polling places, modification of the method of voting, reduction of the number of precinct election officials at a precinct and other modifications of prescribed election procedures which will enable the election to be conducted on the date and during the hours required by law.

The primary election held in June of even-numbered years and the general election held in November of even-numbered years shall not be postponed. Special elections called by the governor pursuant to Iowa Code section 69.14 shall not be postponed unless no federal office appears on the ballot.

b. If a federal or state court order or any other order extends the time established for closing the polls pursuant to Iowa Code section 49.73, any person who votes after the statutory hour for closing the polls shall vote only by casting a provisional ballot pursuant to Iowa Code section 49.81. Provisional ballots cast after the statutory hour for closing the polls shall be sealed in a separate envelope from provisional ballots cast during the statutory polling hours. The absentee and special voters precinct board shall tabulate and report the results of the two sets of provisional ballots separately.

**21.1(13) Report to state commissioner.** A report of the actions taken and recommendations for future situations shall be prepared by the commissioner and sent to the state commissioner of elections not later than one week following the canvass of the election.

**21.1(14) Military emergencies.** A voter who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, "Absent Voting by Armed Forces," may return an absentee ballot via electronic transmission only if the voter is located in an area designated by the U.S. Department of Defense to be an imminent danger pay area. The list of imminent danger pay areas can be found at [www.defenselink.mil/comptroller/fmr/07a/07a\\_10.pdf](http://www.defenselink.mil/comptroller/fmr/07a/07a_10.pdf). Procedures for the return of absentee ballots by electronic transmission are described in subrule 21.320(4).

**21.1(15) Election contest emergency.** If an election contest court finds that there were errors in the conduct of an election which make it impossible to determine the result of the election, the contest court shall notify the state commissioner of elections of its finding. The state commissioner shall order a new election to be held. The election date shall be set by the state commissioner. The repeat election shall be conducted under the state commissioner's supervision.

The repeat election shall be held at the earliest possible time, but it shall not be held earlier than 14 days after the date the election was set aside. Voter registration, publication, equipment testing and other applicable deadlines shall be calculated from the date of the repeat election.

The repeat election shall be conducted under the same procedures required for the election that was set aside, except that all known errors in preparation and procedure shall be corrected. The nominations from the initial election shall be used in the repeat election unless the contest court specifically rejects the initial nomination process in its findings. Precinct election officials for the repeat election may be replaced at the discretion of the auditor.

The following materials prepared for the original election shall be used or reconstructed for the repeat election:

Ballots (showing the date of repeat election). This may be stamped on ballots printed for the original election.

Notice of election (showing the date of repeat election).

This rule is intended to implement Iowa Code section 47.1.

**721—21.2(47) Facsimile documents.** Certain documents may be submitted via facsimile machine.

**21.2(1) *Facsimile documents accepted for filing.*** Assuming that all other legal requirements are met, the following documents may be submitted by facsimile machine if presented to the appropriate filing officer as facsimiles of the original and if subrule 21.2(2) is complied with:

*a.* Affidavits of candidacy required by Iowa Code chapters 43, 44, 45, 161A, 260C, 277, 376, and 420.

*b.* Applications for absentee ballots pursuant to Iowa Code chapter 53.

*c.* Certificates of nomination by convention under Iowa Code chapters 43, 44 and 54.

*d.* Judicial declarations of candidacy required under Iowa Code chapter 46.

*e.* Lists of presidential electors required by Iowa Code chapters 43 and 54.

*f.* Notices of intent to contest elections filed under Iowa Code chapters 61, 62 and 376.

*g.* Objections to nomination papers filed under Iowa Code chapters 43, 44, and 277.

*h.* Resignation notice by elected or appointed officials filed under Iowa Code section 69.4.

*i.* Requests for recounts filed under Iowa Code chapters 43 and 50.

*j.* Withdrawal notices by candidates filed under Iowa Code chapters 43, 44, 50.46 and 277.

*k.* Abstracts of votes filed with the state commissioner of elections.

**21.2(2) *Original documents.*** The original copy of documents submitted by facsimile machine shall also be filed. The original shall be mailed to the appropriate commissioner. The envelope bearing the original document shall be postmarked not later than the last day to file the document.

*a.* The filing shall be void if the original of a document filed by facsimile machine is not received within seven days after the filing deadline for the original document.

*b.* The filing shall be void if the postmark on the envelope containing the original document is later than the filing deadline date.

*c.* If a filing is voided because the original of a document submitted by facsimile machine was postmarked too late or arrives too late, the person who filed the document shall be notified immediately in writing.

**21.2(3) *Documents not acceptable by facsimile.*** Only the original of the following documents will be accepted for filing:

*a.* Absentee ballots and any affidavit required to accompany an absentee ballot under Iowa Code chapter 53.

*b.* Nomination petitions filed under Iowa Code chapters 43, 45, 161A, 277, 280A, and 376.

This rule implements Iowa Code sections 43.6, 43.11, 43.16, 43.19, 43.21, 43.23, 43.24, 43.54, 43.56, 43.60, 43.67, 43.76, 43.78, 43.80, 43.88, 43.115, 43.116, 44.3, 44.4, 44.9, 44.16, 45.3, 45.4, 46.20, 47.1, 47.2, 50.30, 50.31, 50.32, 50.33, 50.46, 50.48, 53.2, 53.8, 53.11, 53.17, 53.21, 53.22, 53.40, 53.45, 54.5, 61.3, 62.5, 69.4, 161A.5, 260C.15, 277.4, 277.5, 376.4, 376.10, 376.11, and 420.130.

**721—21.3(49,48A) Voter identification documents.**

**21.3(1) *Optional identification.*** A precinct election official may require identification from any person whom the official does not know.

**21.3(2) *Required identification.*** Precinct election officials shall require identification under the following circumstances:

*a.* From any person offering to vote whose name does not appear on the election register as an active voter.

*b.* From any person whose name appears on the election register as an inactive voter.

*c.* From any person offering to vote whose name is not on the election register and who wants to report a change of address from one precinct to another within the same county.

*d.* From any person who applies to register to vote on election day pursuant to 2007 Iowa Acts, House File 653, section 2.

**21.3(3) *Identification documents for persons other than election day registrants.*** Unless the person is registering to vote at the polls on election day, precinct election officials shall accept the following identification documents from any person who is asked to present ID:

*a.* Current and valid photo identification card; or

*b.* A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

**21.3(4) *Identification for election day registrants.***

*a.* A person who applies to register to vote on election day shall provide proof of identity and residence in the precinct where the person is applying to register and vote.

(1) Proof of identity must be a photo ID card that is current and valid and includes an expiration date. The following forms of identification are acceptable: an Iowa driver's license or nonoperator's ID, an out-of-state driver's license or nonoperator's ID, a United States passport, a United States military identification card, an identification card issued by an employer, or a student identification card issued by an Iowa high school or an Iowa postsecondary educational institution. If the photo ID does not show the person's address in the appropriate precinct, the person must show proof of residence.

(2) Proof of residence may be any of the following documents provided that the document shows the person's name and address in the precinct: residential lease, property tax statement, utility bill, bank statement, paycheck, government check, or other government document.

*b.* Any registered voter who attests for another person registering to vote at the polls on election day shall be a registered voter of the same precinct. The registered voter may be a precinct election official or a pollwatcher, but may not attest for more than one person applying to register at the same election.

**21.3(5) *Current and valid identification.***

*a.* "Current and valid" or "ID," for the purposes of this rule, means identification that meets the following criteria:

(1) The expiration date on the ID has not passed. An ID is still valid on the expiration date. An Iowa nonoperator's ID that shows "none" as the expiration date shall be considered current and valid.

(2) The ID has not been revoked or suspended.

*b.* A current and valid ID may include a former address.

**21.3(6) *ID not provided.*** A person who has been requested to provide identification and does not provide it shall vote only by provisional ballot pursuant to Iowa Code section 49.81. However, a person who is registering to vote on election day pursuant to 2007 Iowa Acts, House File 653, section 2, may establish identity and residency in the precinct by written oath of a person who is registered to vote in the precinct.

This rule is intended to implement Iowa Code section 49.77, 2007 Iowa Acts, House File 653, section 2, and P.L. 107-252, Section 303.

**721—21.4(49) Changes of address at the polls.** An Iowa voter who has moved from one precinct to another in the county where the person is registered to vote may report a change of address at the polls on election day.

**21.4(1)** To qualify to vote in the election being held that day the voter shall:

- a. Go to the polling place for the precinct where the voter lives on election day.
- b. Complete a registration by mail form showing the person's current address in the precinct.
- c. Present proof of identity as required by subrule 21.3(3).

**21.4(2)** The officials shall require a person who is reporting a change of address at the polls to cast a special ballot if the person's registration in the county cannot be verified. Registration may be verified by:

- a. Telephoning the office of the county commissioner of elections, or
- b. Consulting a printed list of all registered voters who are qualified to vote in the county for the election being held that day, or
- c. Consulting the county's voter registration records by use of a computer.

**21.4(3)** In precincts where the voter's declaration of eligibility is included in the election register pursuant to rule 721—21.5(49) and Iowa Code section 49.77 as amended by 2006 Iowa Acts, House File 2050, section 3, the commissioner shall provide to each precinct one of the two following methods for recording changes of address:

a. The voter shall be provided with a form that includes both the eligibility declaration and the voter registration form. The instructions for the voter registration form shall be printed in large type on a separate sheet of paper and shall be provided to each person who completes a voter registration form at the polls. In lieu of signing in the election register, the voter who is reporting a change of address shall complete the required fields on both the eligibility declaration form and the registration form.

b. The commissioner shall provide blank lines on the election register for the precinct election officials to record the voter's name, address, and, if provided, telephone number, and, in primary elections, political party affiliation. The voter shall also complete a voter registration form showing the voter's current address.

This rule is intended to implement Iowa Code section 49.77(3).

**721—21.5(49) Eligibility declarations in the election register.** To compensate for the absence of a separate declaration of eligibility form, the commissioner shall provide to each precinct a voter roster with space for each person who appears at the precinct to vote to print the following information: first and last name, address, and, at the voter's option, telephone number, and, in primary elections, political party affiliation.

The roster forms shall include the name and date of the election and the name of the precinct, and may be provided on paper that makes carbonless copies. If the multicopy form is used, the commissioner shall retain the original copy of the voter roster with other records of the election.

This rule is intended to implement Iowa Code section 49.77 as amended by 2006 Iowa Acts, House File 2050, section 3.

**721—21.6(43,50) Turnout reports.** For all elections, the commissioner shall prepare a report of the number of people who voted. The board of supervisors shall certify the turnout at the canvass of votes.

**21.6(1)** This report shall provide a single number that includes the number of persons:

- a. Who voted at the polls on election day,
- b. Whose absentee ballots were accepted for counting, and
- c. Whose provisional ballots were accepted for counting.

**21.6(2)** The report shall not include the number of persons whose absentee ballots or provisional ballots were not accepted for counting.

**21.6(3)** In primary elections, the report shall include the number of persons who voted in each political party and the total number of persons who voted in the county.

This rule is intended to implement Iowa Code sections 43.59 and 50.24.

**721—21.7(48A) Election day registration.** In addition to complying with the identification provisions in rule 721—21.3(49,48A), precinct election officials shall comply with the following requirements:

**21.7(1)** Precinct election officials shall inspect the identification documents presented by election day registrants to verify the following:

- a. The photograph shows the person who is registering to vote.
- b. The name on the identification document is the same as the name of the applicant.
- c. The address on the identification document is in the precinct where the person is registering to vote.

**21.7(2)** Precinct election officials shall verify that each person who attempts to attest to the identity and residence of a person who is registering to vote on election day is a registered voter in the precinct and has not attested for any other voter in the election. The officials shall note in the “remarks” column of the election register that the person has attested for an election day registrant.

**21.7(3)** Precinct election officials shall permit any person who is in line to vote at the time the polls close to register and vote on election day if the person otherwise meets all of the election day registration requirements.

This rule is intended to implement 2007 Iowa Acts, House File 653.

**721—21.8(48A) Notice to election day registrant.** The commissioner shall send to each person who registers to vote on election day, pursuant to 2007 Iowa Acts, House File 653, section 2, an acknowledgment of the registration by nonforwardable mail. If the postal service returns the acknowledgment as undeliverable, the commissioner shall send a notice to the voter by forwardable mail. The notice shall be in substantially the following form:

Dear [name of voter],

You have registered and voted under Iowa’s Election Day registration law. On [date], this office mailed an acknowledgment to you at the address you used on the voter registration form. The United States Postal Service has returned that acknowledgment to us as undeliverable.

Please return the enclosed response form no later than [date]. If we do not receive your response by [date], your voter registration record will be made inactive and we will notify the county attorney and the State Registrar of Voters.

Please note that voter registration fraud is a felony under Iowa law. Registration fraud includes submitting a voter registration application that is known by the person to be materially false, fictitious, forged, or fraudulent.

\_\_\_\_\_  
County Auditor and Commissioner of Elections

Date: \_\_\_\_\_

**Response Form**

Please confirm your residence at:

[address on registration]

OR

Explain why the Postal Service does not deliver your mail to that address.

There appears to be an error in recording my address. My correct address is: \_\_\_\_\_  
\_\_\_\_\_

I receive mail at a different address. My mailing address is: \_\_\_\_\_  
\_\_\_\_\_

My address has changed since election day. My current address is: \_\_\_\_\_  
\_\_\_\_\_

The Postal Service made a mistake. I do reside at [list registration address]: \_\_\_\_\_  
\_\_\_\_\_

Other, please explain: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of registrant

Date: \_\_\_\_\_

This rule is intended to implement 2007 Iowa Acts, House File 653.

**721—21.9(49) “Vote here” signs.**

1. Size. The signs shall be no smaller than 16 inches by 24 inches.
2. Exceptions. If a driveway leads away from the entrance to the voting area, or if the driveway is located in such a way that posting a “vote here” sign at the driveway entrance would not help potential voters find the voting area, no “vote here” sign shall be posted at the entrance to that driveway.

This rule is intended to implement Iowa Code section 49.21.

**721—21.10(43) Application for status as a political party.** A political organization which is not currently qualified as a political party may file an application for determination of political party status with the state commissioner of elections. The application may be filed after the completion of the executive council’s canvass of votes for the general election, but not later than one year after the date of the election at which the organization’s candidate for President of the United States or governor received at least 2 percent of the vote.

**21.10(1) Application form.** The application shall be in substantially the following form:

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STATE OF IOWA  
APPLICATION FOR POLITICAL PARTY STATUS

To the State Commissioner of Elections:

At the General Election held on November \_\_\_\_, \_\_\_\_\_, a candidate of the political organization named below received at least 2 percent of the total number of votes cast for the office of

President of the United States

Governor of Iowa

Pursuant to the requirements of Iowa Code section 43.2, we hereby request that the State Commissioner of Elections notify the state registrar of voters, the voter registration commission and the 99 counties of Iowa that the political organization named below qualifies as a political party under Iowa law.

Political organization name: \_\_\_\_\_

(Please print the party name in the form it should appear on ballots, voter registration forms, and other records.)

Name of candidate for President or Governor: \_\_\_\_\_

Signed: \_\_\_\_\_

Candidate

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Signed: \_\_\_\_\_  
Chairperson of Political Organization

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Date submitted: \_\_\_\_\_

Office use only:

Office of  President of the United States  
 Governor of Iowa

Total number of votes received for office: \_\_\_\_\_

Number of votes received by applicant: \_\_\_\_\_

Percentage of total: \_\_\_\_\_

The application is  rejected.  
 approved, effective 21 days from date of approval.

\_\_\_\_\_  
Secretary of State and State Commissioner of Elections

Date: \_\_\_\_\_

**21.10(2) Response.** If the political organization meets the requirements established in Iowa Code section 43.2, the commissioner shall declare that the organization has qualified as a political party, effective 21 days after the application is approved. If the organization does not meet the requirements, the state commissioner shall immediately notify the applicant in writing of the reason for the rejection of the application.

**21.10(3) Disqualification of political party.** If at the close of nominations for the general election a political party has not nominated a candidate for the office of President of the United States, or for governor, as the case may be, the political party shall be disqualified immediately.

If the candidate of a political party for President of the United States or for governor, as the case may be, does not receive 2 percent of the votes cast for that office at a general election, the political party shall be disqualified. The effective date of the disqualification shall be the date of the completion of the state canvass of votes.

When a political party is disqualified, the state commissioner shall immediately notify the chairperson or central committee of the disqualified political party.

**21.10(4) *Notice of qualification and disqualification of political parties.*** The state commissioner of elections shall immediately notify the state registrar of voters, the voter registration commission, and the county commissioners of elections when a political party is qualified or disqualified. The notice shall include the name of the political party and the date upon which change in political party status becomes effective.

The state commissioner of elections shall also publish notice of the qualification or disqualification of a political party in a newspaper of general circulation in each congressional district. The publication shall be made within 30 days of the approval of an application for qualification or within 30 days of the effective date of a disqualification.

This rule is intended to implement Iowa Code sections 43.2 and 47.1.

**721—21.11(44) Nonparty political organizations—nominations by petition.** Rescinded IAB 9/10/97, effective 10/15/97.

**721—21.12 to 21.19** Reserved.

**721—21.20(62) Election contest costs.** In determining the amount of the bond for election contests, the commissioner shall consider the following aspects of the cost of the election contest proceedings:

1. Fees as provided in Iowa Code section 62.22.
2. Fees for judges as provided in Iowa Code section 62.23.
3. The cost of making an official record of the proceedings.

**721—21.21(62) Limitations.** The amount of the bond shall not include costs not directly related to the contest court proceedings. Specifically, the amount of the bond shall not be intended to replace any potential lost income to the county caused by the delay in implementing the decision of the voters at the election being contested.

Rules 721—21.20(62) and 721—21.21(62) are intended to implement Iowa Code sections 62.6, 62.22, 62.23, and 62.24.

**721—21.22 to 21.24** Reserved.

**721—21.25(50) Administrative recounts.** When the commissioner suspects that voting equipment used in the election malfunctioned or that programming errors may have affected the outcome of the election, the commissioner may request an administrative recount after the day of the election but not later than three days after the canvass of votes. The request shall be made in writing to the board of supervisors explaining the nature of the problem and listing the precincts to be recounted and which offices and questions shall be included in the administrative recount.

The recount shall be conducted by members of the special precinct board following the provisions of Iowa Code section 50.48 as amended by 2007 Iowa Acts, Senate File 369, section 3, Iowa Code section 50.49 and 721—Chapter 26. The recount board may use a computer program board which was not used in the election to compare with the suspected defective one.

If direct recording electronic voting machines were used in the election, the paper record required by 2007 Iowa Acts, Senate File 369, section 7, subsection 2, shall be used in the recount. However, if the commissioner believes or knows that the paper records produced from a machine have been compromised due to damage, mischief, malfunction, or other cause, the printed ballot images produced from the internal audit log for that machine shall be the official record used in the recount. In addition to the external paper record, the internal audit log required by 2007 Iowa Acts, Senate File 369, section 7, subsection 1, paragraph “k,” shall be available for use in the recount and shall be used if the paper record has been compromised.

This rule is intended to implement Iowa Code section 50.48 as amended by 2007 Iowa Acts, Senate File 369, section 3, and Iowa Code section 50.49.

**721—21.26 to 21.29** Reserved.

**721—21.30(49) Inclusion of annexed territory in city reprecincting and redistricting plans.** If a city has annexed territory after January 1 of a year ending in zero and before the completion of the redrawing of precinct and ward boundaries during a year ending in one, the city shall include the annexed land in precincts drawn pursuant to Iowa Code sections 49.3 and 49.5.

**21.30(1)** When the city council draws precinct and ward boundaries, if any, the city shall use the population of the annexed territory as certified by the city to the state treasurer pursuant to Iowa Code section 312.3(4).

**21.30(2)** When the board of supervisors, or the temporary county redistricting commission, draws precinct and county supervisor district boundaries, if any, it shall subtract from the population of the adjacent unincorporated area the population of the annexed territory as certified by the city to the state treasurer pursuant to Iowa Code section 312.3(4).

**21.30(3)** The use of population figures for reprecincting or redistricting shall not affect the official population of the city or the county. Only the U.S. Bureau of the Census may adjust the official population figures, by corrections or by conducting special censuses. See Iowa Code section 9F.6.

This rule is intended to implement Iowa Code sections 49.3 and 49.5.

**721—21.31 to 21.49** Reserved.

**721—21.50(49) Polling place accessibility standards.**

**21.50(1) Inspection required.** Before any building may be designated for use as a polling place, the county commissioner of elections or the commissioner’s designee shall inspect the building to determine whether it is accessible to persons with disabilities.

**21.50(2) Frequency of inspection.** Polling places that have been inspected using the Polling Place Accessibility Survey Form prescribed in subrule 21.50(4) shall be reinspected if structural changes are made to the building or if the location of the polling place inside the building is changed.

**21.50(3) Review of accessibility.** Not less than 90 days before each primary election, the commissioner shall determine whether each polling place needs to be reinspected.

**21.50(4) Standards for determining polling place accessibility.** The following survey form shall be used to evaluate polling places for accessibility to persons with disabilities.

The term “off-street parking” used in the polling place accessibility survey means parking places in lots separated from the street and includes angle parking along the street if the accessible route from the parking place to the polling place is entirely out of the path of traffic. Parking arrangements that require either the driver or passengers of the vehicle to go into the traveled part of the street are not accessible.

An access aisle at street level that is at least 60 inches wide and the same length as each accessible parking space shall be provided. An accessible public sidewalk curb ramp shall connect the access aisle to the continuous passage to the polling place. At least one parking place shall be van-accessible with a 96-inch access aisle connected to the continuous passage to the polling place by an accessible public sidewalk curb ramp. Two accessible parking spaces may share a common access aisle.

**Polling Place Accessibility Survey Form**

County: \_\_\_\_\_

Polling place name or number: \_\_\_\_\_

Polling place address/location:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INSTRUCTIONS**

**Purpose.** This form shall be used to evaluate the accessibility of polling places to persons with disabilities.

**How to use this form.** Inspect each potential polling place by going from the parking area to the voting area. You will need a yardstick, a tape measure and about 30 minutes.

Answer every question on the form by marking either “YES,” “NO,” or “N/A” (NOT APPLICABLE), as appropriate. Items on the survey with clear (unshaded) boxes are **required**. If a required item is marked “NO,” the polling place is **inaccessible**. The survey questions in shaded boxes are recommended. If a recommended item is marked “NO,” the polling place is **accessible, but inconvenient**, if all other responses are “YES” or “N/A.”

Polling places may be inaccessible for more than one reason. Please respond to every item and summarize the responses by category on the back page.

1. Name, address, and telephone number of person(s) completing this form:

2. Date of inspection: \_\_\_\_\_

<b>Category I: Parking</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
1. Are there off-street parking spaces either permanently or temporarily designated for the handicapped?			
2. Accessible off-street parking:			
a. Are designated parking spaces at least 13 feet wide, with at least one space van-accessible? (Parking space = 8 ft., aisle = 5 ft.; van-accessible parking space = 8 ft., aisle = 8 ft.)			
b. Are parking spaces on level ground (with a slope no greater than a rise of 1 foot in 50 feet)?			
c. Is the parking area surface stable, firm, and slip-resistant (concrete, asphalt, etc.)?			
d. Are the parking places within a reasonable travel distance (200 feet maximum) from the building?			
e. Is there a curb cut to connect these parking spaces to an accessible walk or to the building entrance?			
f. Are these parking spaces designated by post-mounted signs bearing the symbol of accessibility? (Signs should be high enough to be seen even when a vehicle is parked in the space.)			
3. Is there a relatively level passenger drop-off zone at least 4 feet wide with a curb cut connecting it to an accessible walk or to the building entrance?			

**End of Category I**

**Please go to next category** 

<b>Category II: Walkways or pathways to the building</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
1. Is the surface of the walkway or pathway to the building stable, firm, and slip-resistant (concrete, asphalt, etc.)?			
2. Is the walkway or pathway to the building at least 48 inches wide?			
3. Are all curbs along the pathway to the building cut or ramped with at least 36 inches clear width and with slopes of no more than a 1-inch rise in 12 inches?			
4. Are all stairs or steps along the walkway or pathway to the building either ramped (with a slope of no more than a 1-foot rise in 20 feet) or else provided with a suitable alternative means of access?			
5. Do stairsteps along the walkway or pathway to the building have non-slip surfaces and handrails?			
6. Is the walkway or pathway to the building entrance:			
a. Free of protrusions (such as fire hydrants, tree trunks, or other obstacles) which narrow the passage to less than 48 inches?			
b. Free of any abrupt edges or breaks in the surface where the difference is over ¼ inch in height (such as where it crosses a driveway, parking lot, or another walkway, etc.)?			
c. Free of any overhanging objects (such as tree branches, signs, etc.) which hang lower than 80 inches?			
d. Free of any grating with openings of over ½ inch wide?			
7. Are walkways always well-lighted?			
8. Are provisions made to ensure that walkways are free of such hazards as ice, snow, leaves, or other debris on the day of election?			
9. Are there signs which identify the accessible route of travel if that route is different from the primary route of travel to the building?			

### End of Category II

Please go to next category



<b>Category III: Ramps and elevators entering or inside the building</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
1. Are building stairs or steps which are over ¾ inch high (either at the entrance or between the entrance and the voting area) provided either with a ramp, with an elevator, or with an alternative means of unassisted passage (such as a chairlift or an alternative route of travel)?			
2. Ramps:			
a. Do all ramps have a slope no greater than a rise of 1 foot in 12 feet?			
b. Are ramps provided with non-slip surfaces?			
c. Is a handrail provided for any ramp rising more than 6 inches or longer than 72 inches?			
d. Are handrails at least 32 inches above ramp surface?			
e. Can handrails be gripped?			
f. Are ramps and landing areas with drop-offs provided with at least a 2-inch curb at the side to prevent slipping off the ramps?			
g. If there is a door at the top of a ramp, is there a level space of at least 5 feet by 5 feet where a wheelchair can rest while the door is opened (if the door opens toward the ramp)?			
3. Elevators (if elevators are the only accessible route):			
a. Is the elevator cab at least 68 inches by 51 inches wide?			
b. Do elevator doors provide at least 36 inches clear width?			

<b>Category III: Ramps and elevators entering or inside the building</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
c. Are elevator controls less than 54 inches high (i.e., can a person in a chair operate the controls)?			
d. Are control panels marked with raised lettering?			
e. Is the elevator in close proximity to the entrance of the building?			

**End of Category III**

**Please go to next category**



<b>Category IV: Other architectural features</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
1. Doors along the route of travel:			
a. Do all doors have an opening which clears at least 32 inches wide?			
b. Are all door thresholds less than ½ inch high (¾ inch if the building was erected before 1979)?			
c. Are all doors equipped with either arch or lever-type handles, pushplates, or automatic openers (so that twisting a doorknob is not required)?			
d. Where an automatic door is used, does the door remain open at least 3 seconds?			
e. Are glass doors marked with safety seals?			
2. Stairs along the route:			
a. Do stairs have non-slip surfaces?			
b. Do stairs have handrails at least 34 to 38 inches above the step level?			
c. Can handrails be gripped?			
d. Do all steps have risers (the vertical wall at the back of each step)?			
e. Do all steps have tread areas at least 11 inches deep?			
f. Are all steps less than 7 inches in height?			
g. Are stairs well-lighted?			
h. Are stairs free of obstacles?			
3. Corridors:			
a. Is the corridor at least 44 inches wide?			
b. Is the corridor free of obstacles or protrusions (such as boxes, water fountains, etc.) which extend more than 12 inches from the wall?			
c. Is there sufficient lighting at all points along the route?			
d. In any corridor longer than 30 feet is there a seating or rest area?			
e. Does the corridor have a non-slip surface?			
f. Are all rugs and mats securely fastened?			

**End of Category IV**

**Please go to next category**



<b>Category V: Features within the voting area</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
1. Are instructions for voting printed in 14-point or larger type, in simple language, and plainly displayed?			
2. Is there sufficient space for reasonable movement of voters in wheelchairs?			
3. Can all necessary parts of the voting equipment be reached by a person seated in a chair or, at least, is an alternative means of casting a ballot provided?			

<b>Category V: Features within the voting area</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
4. Are magnifying devices available for those who request them?			
5. Is there adequate lighting in the voting area?			
6. Is seating available for elderly or handicapped voters awaiting their turn to vote?			

**End of Category V**

**Please go to next category** 

**Category VI: If there are other reasons for inaccessibility, please describe:**

You may attach additional sheets, if necessary.

**Please complete the summary of accessibility on the next page.**

<b>Summary of Accessibility by Categories</b>			
Please review the responses within each category on the previous pages and indicate below whether each category is:			
<ul style="list-style-type: none"> <li>● INACCESSIBLE (if there is a “NO” response in <b>any</b> unshaded box in the category)</li> <li>● ACCESSIBLE, BUT INCONVENIENT (if all “NO” responses in the category are only in shaded boxes and all the responses in the <b>unshaded</b> boxes are either “YES” or “N/A”)</li> <li>● FULLY ACCESSIBLE (if <b>all</b> responses in the category are either “YES” or “N/A”)</li> </ul>			
<b>Category</b>	<b>Inaccessible</b>	<b>Accessible, but inconvenient</b>	<b>Fully accessible</b>
I. Parking			
II. Walkways or pathways to the building			
III. Ramps and elevators entering or inside the building			
IV. Other architectural features			
V. Features within the voting area			
VI. Other			
<b>Overall determination of polling place accessibility</b>			
If one or more of the categories are marked “INACCESSIBLE,” then the polling place is ..... <b>INACCESSIBLE</b> <input type="checkbox"/>			
If no category is marked “INACCESSIBLE,” but one or more are marked “ACCESSIBLE, BUT INCONVENIENT” then the polling place is ..... <b>ACCESSIBLE, BUT INCONVENIENT</b> <input type="checkbox"/>			
If all categories above are marked “FULLY ACCESSIBLE,” then the polling place is ..... <b>FULLY ACCESSIBLE</b> <input type="checkbox"/>			
<b>Disposition of inaccessible polling place</b>			
If the polling place is INACCESSIBLE		<b>YES</b>	<b>NO</b>
A. Has an alternative accessible facility been sought?			
B. Are permanent or temporary alterations planned to render the polling place accessible in the coming election?			

**21.50(5) Temporary waiver of accessibility requirements.** Notwithstanding the waiver provisions of 721—Chapter 10, if the county commissioner is unable to provide an accessible polling place for any precinct, the commissioner shall apply for a temporary waiver of accessibility requirements pursuant to this subrule. Applications shall be filed with the secretary of state not later than 60 days before the date of any scheduled election. If a waiver is granted, it shall be valid for two years from the date of approval by the secretary of state.

- a. Each application shall include the following documents:

- (1) Application for Temporary Waiver of Accessibility Requirements.
- (2) A copy of the Polling Place Accessibility Survey Form for the polling place to be used.
- (3) A copy of the Polling Place Accessibility Survey Form for any other buildings that were surveyed and rejected as possible polling place sites for the precinct.

*b.* If an accessible place becomes available at least 30 days before an election, the commissioner shall change polling places and shall notify the secretary of state. The notice shall include a copy of the Polling Place Accessibility Survey Form for the new polling place.

**21.50(6) *Emergency waivers.*** During the 60 days preceding an election, if a polling place becomes unavailable for use due to fire, flood, or changes made to the building, or for other reasons, the commissioner must apply for an emergency waiver of accessibility requirements in order to move the polling place to an inaccessible building. Emergency waiver applications must be filed with the secretary of state as soon as possible before election day. To apply for an emergency waiver, the commissioner shall send the following documents:

- a.* Application for Temporary Waiver of Accessibility Requirements.
- b.* A copy of the Polling Place Accessibility Survey Form for the polling place selected.
- c.* A copy of the Polling Place Accessibility Survey Form for any other buildings that were surveyed and rejected as possible polling place sites for this precinct.

**21.50(7) *Application form.*** The following form shall be used to apply for a temporary waiver of accessibility requirements.

### **State of Iowa Application for Temporary Waiver of Accessibility Requirements**

#### **Instructions**

**Send a separate application for each precinct.** Do not list more than one precinct on a waiver form.

**Include copies of surveys.** With each application you must send copies (you keep the originals) of the **Polling Place Accessibility Survey Form** for the polling place you would like to use, as well as for any buildings you surveyed and rejected.

**Complete section A or section B, but not both.**

**Section A. No Accessible Place.** If you cannot provide an accessible polling place for a precinct because no accessible buildings are available and no available building can be modified to be accessible on election day, you must apply for a temporary waiver of accessibility requirements.

1. Describe why you are unable to provide an accessible polling place for the precinct.
  - a.* Include the reasons that the polling place you have selected cannot be made accessible for the next election. Remember, the polling place must be accessible on election days. Buildings used for polling places are not necessarily required to be permanently accessible.
  - b.* Include letters from three elected officials from governing bodies that include this precinct (city officials, county supervisors, or township officials) supporting your finding that there is no accessible place within the precinct that can be used for a polling place.
  - c.* Explain why it is not reasonable to move this polling place to another, accessible location outside the precinct or to combine this precinct with another adjacent precinct that has an accessible polling location.
2. List other potential polling places you examined and rejected. Enclose a copy of the Polling Place Accessibility Survey Form for each place you list. You keep the original copy of the survey form.
3. List the name and address of the polling place you propose to use. Enclose a copy of the Polling Place Accessibility Survey Form for this place. You keep the original survey form.
4. If a waiver is granted, it will apply to all elections held for two years after the date the waiver is approved by the Secretary of State.

**Section B. Emergency Use.** Use this section to report changes in polling places during the two months before a federal election. For example, you may need to change from an accessible polling place to an inaccessible one because the building has become unusable due to an emergency, such as a fire or flood.

1. Describe the emergency that made it necessary to move the polling place to an inaccessible site.
2. List the name and address of the polling place you propose to use. Enclose a copy of the Polling Place Accessibility Survey Form for this place. You keep the original survey form.

**Review the application form carefully, sign and date it.**

**State of Iowa Application for  
Temporary Waiver of Accessibility Requirements**

**County:** \_\_\_\_\_ **Precinct:** \_\_\_\_\_

**Section A—No Accessible Place.**

I have surveyed all potential polling places in the precinct listed above and hereby certify that no accessible place is available in or for the precinct. I further certify that this county is unable to make a polling place temporarily accessible in the precinct for the following reasons:

Other potential polling places that have been surveyed and rejected as inaccessible are:

I request permission to use the following building as a polling place until an accessible place becomes available, or for two years, whichever is sooner:

**Section B—Emergency Use.**

Due to emergency conditions, no accessible polling place will be available for the precinct listed above for the next election. The emergency conditions are as follows:

I request permission to use the following building as a polling place for the election to be held on \_\_\_/\_\_\_/20\_\_:

**Statement by Commissioner:**

*Copies of the surveys for all polling places examined and rejected and for the polling place that will be used are included. Any voters with disabilities who are assigned to this precinct and who are unable to enter the polling place will be provided with ballots delivered to their vehicles by the two election officials selected to assist voters. I hereby apply for a determination from the State Commissioner of Elections that an inaccessible polling place may be used in this precinct for the period requested above.*

**Signed:** \_\_\_\_\_, County Auditor and Commissioner of Elections

**Date:** \_\_\_\_\_

**21.50(8) Evaluation of waivers.** When the secretary of state receives waiver applications, the applications shall be reviewed carefully. A response shall be sent to the commissioner within one week

by E-mail or by fax to notify the commissioner when the waiver request was received and whether additional information is needed.

**21.50(9) *Granting waivers.*** If the secretary of state determines from the documents filed with the waiver request that conditions justify the use of a polling place that does not meet accessibility standards, the secretary of state shall grant the waiver of accessibility requirements. If the secretary of state determines from the documents filed with the waiver request that all potential polling places have been surveyed and no accessible place is available, and the available building cannot be made temporarily accessible, the waiver shall be granted.

**21.50(10) *Notice required.*** Each notice of election published pursuant to Iowa Code section 49.53 shall clearly describe which polling places are inaccessible. The notice shall include a description of the services available to persons with disabilities who live in precincts with inaccessible polling places. The notice shall be in substantially the following form:

Any voter who is physically unable to enter a polling place has the right to vote in the voter's vehicle. For further information, please contact the county auditor's office at the telephone or TTY number or E-mail address listed below:

Telephone: \_\_\_\_\_ TTY: \_\_\_\_\_ E-mail address: \_\_\_\_\_

**21.50(11) *Denial of waiver requests.*** The secretary of state shall review each waiver request. The secretary of state shall consider the totality of the circumstances as shown by the information on the waiver request, information contained in previous applications for waivers for the same precinct and for other precincts in the county, and other relevant available information. The waiver request may be denied if it appears that the commissioner has not made a good-faith effort to find an accessible polling place. If the waiver request is denied, the secretary of state shall notify the commissioner in writing of the reason for denying the request.

This rule is intended to implement Iowa Code section 49.21.

**721—21.51 to 21.74** Reserved.

**721—21.75(49) *Voting centers for certain elections.*** The commissioner may establish voting centers for the regular city election, city primary election, city runoff election, regular school election, and special elections.

**21.75(1) *Definition.***

"*Voting center*" means a location established by the commissioner for the purpose of providing ballots to all registered voters who are qualified to vote in a particular jurisdiction for a regular city election, city primary election, city runoff election, regular school election, or special election.

**21.75(2) *Minimum requirements.***

*a. Establishment.* One or more voting centers may be established in lieu of precinct polling places for the elections at which the use of voting centers is permitted.

*b. Choices.* Regular polling place sites that are accessible to people with disabilities may be used as voting centers for any election at which the use of voting centers is permitted. Other suitable locations may also be used.

*c. Accessibility.* A voting center is subject to the requirements of Iowa Code section 49.21 relating to accessibility to persons who are elderly and persons with disabilities and relating to the posting of signs.

**21.75(3) *Hours.*** Voting center hours shall be the same as permitted for an election pursuant to Iowa Code Supplement section 49.67. Except for school elections, a voting center that serves a jurisdiction which includes both unincorporated territory and a city with a population in excess of 3500 shall open at 7 a.m.

**21.75(4) *Publications.*** The location of each voting center shall be published in the notice of election by the commissioner in the same manner as the location of polling places is required to be published. The notice of election shall also include a description of the voting center in substantially the following form:

For the \_\_\_\_\_ election to be held on [date], voting centers will be available. Any registered voter of [jurisdiction name] may vote at any of the following places in this election:

[List addresses of voting centers.]

**21.75(5) *I-Voters use prohibited.*** The commissioner shall not provide direct access from voting centers to the I-Voters system on election day.

**21.75(6) *Operation of voting centers.***

*a. Election registers and voter lists.* Each voting center shall have a list of all registered voters who are eligible to vote in that election. The voter list may be a paper list or may be available on computers in an electronic format, rather than as an interactive connection to I-Voters.

*b. Election day registration at voting centers.* A person who needs to register to vote may register and vote at a voting center provided that the person has appropriate identification and is a resident of the jurisdiction served by the voting center.

*c. Ballots.* Each voting center shall have all ballot styles necessary to provide a ballot to any voter who is eligible to vote in the election for the jurisdiction served by the voting center.

*d. Precinct election officials.* Voting centers shall be administered by a minimum of five precinct election officials selected pursuant to Iowa Code sections 49.12 to 49.16. These officials shall be trained before each election and shall have specific instructions regarding the differences between voting centers and polling places.

**21.75(7) *Postelection review of voter participation.***

*a.* Within 30 days after the election, the commissioner shall review the signed declarations of eligibility or the signed election registers from each voting center, and if any person is found to have voted in more than one voting center in the election, the commissioner shall immediately notify the county attorney.

*b.* The notice to the county attorney shall include a copy of the person's voter registration record and copies of the declarations of eligibility signed by the voter. The notice shall also include a reference to 2008 Iowa Acts, House File 2620, section 23(1A) "*d.*" which reads as follows: "*d.* Pursuant to section 39A.2, subsection 1, paragraph "b", subparagraph (3), a person commits the crime of election misconduct in the first degree if the person knowingly votes or attempts to vote at more than one voting center for the same election." The notice shall also include a reference to Iowa Code section 39A.2(2), which reads as follows: "2. Election misconduct in the first degree is a class 'D' felony."

This rule is intended to implement 2008 Iowa Acts, House File 2620, division II.

**721—21.76 to 21.199** Reserved.

DIVISION II  
BALLOT PREPARATION

**721—21.200(49) Constitutional amendments and public measures.**

**21.200(1)** The order of placement on the ballot for constitutional amendments and statewide public measures to be voted upon at a single election shall be determined by the state commissioner, and a number shall be assigned to each constitutional amendment or statewide public measure by the state commissioner.

*a.* The number assigned by the state commissioner to each constitutional amendment or statewide public measure to appear on the ballot for a single election shall be printed on the ballot immediately preceding and above the words "Shall the following amendment to the Constitution (or public measure) be adopted?" or the words "Shall there be a Convention to revise the Constitution, and propose amendment or amendments to same?"

*b.* The number assigned by the state commissioner shall be printed on the ballot at least 1/8 of an inch high in the designated place.

*c.* Even if only one constitutional amendment or statewide public measure is to appear on a ballot to be voted upon at a single election, an identifying number shall be assigned by the state commissioner and shall be printed on the ballot in the prescribed manner.

**21.200(2)** The order of placement on the ballot for each local public measure to be voted upon at a single election shall be determined by the commissioner, and a letter shall be assigned to each local public measure by the commissioner.

*a.* The letter assigned by the commissioner to each local public measure to appear on a ballot for a single election shall be printed on the ballot immediately preceding and above the words “Shall the following public measure be adopted?”.

*b.* The letter assigned by the commissioner shall be printed on the ballot at least 1/8 of an inch high in the designated place.

*c.* Even if only one public measure is to appear on a ballot to be voted upon at a single election, an identifying letter shall be assigned by the commissioner and shall be printed on the ballot in the prescribed manner.

**21.200(3)** The words describing proposed constitutional amendments and statewide public measures when they appear on the ballot shall be determined by the state commissioner. The state commissioner shall select the words describing the proposed constitutional amendments and statewide public measures in the following manner:

*a.* Not less than 150 days prior to the election at which a proposed constitutional amendment or statewide public measure is to be voted on by the voters, the state commissioner shall prepare a proposed description to be used on the ballots in administrative rule form and shall file the proposed rules with the administrative rules coordinator for publication in the Iowa Administrative Bulletin.

*b.* The rules shall provide that written comments regarding the proposed description will be accepted by the state commissioner for a period of time not less than 20 days after the date of publication in the Iowa Administrative Bulletin.

*c.* The state commissioner shall review any written comments which have been timely received and make any changes deemed to be warranted in the description to be printed on the ballots.

This rule is intended to implement Iowa Code sections 47.1 and 49.44.

**721—21.201(44) Competing nominations by nonparty political organizations.**

**21.201(1)** *Nominations by convention and by petitions.* If one or more nomination petitions are received from nonparty political organization candidates for an office for which the same organization has also nominated one candidate by convention, the candidate nominated by convention shall be considered the nominee of the organization. The names of the other candidates shall appear on the ballot as candidates “nominated by petition,” and those candidates shall be notified in writing not later than seven days after the close of the filing period.

**21.201(2)** *Multiple nomination petitions.* If nomination petitions are received from more than one candidate from the same nonparty political organization for the same office and the organization has not nominated a candidate for the office by convention, the name of each of these candidates shall be written on a separate piece of paper, all of which shall be as nearly uniform in size and material as possible and placed in a receptacle so that the names cannot be seen. On the next working day following the close of the nomination period, all affected candidates shall be notified of the time and place of the drawing. The candidates shall be invited to attend or to send a representative. In the presence of witnesses, the state commissioner of elections or the county commissioner, as appropriate, or a designee of the state or county commissioner, shall publicly draw one of the names; and that person shall be declared to be the nominee of the nonparty political organization. The names of the other candidates shall appear on the ballot as candidates “nominated by petition.” A copy of the written record of the result of the drawing shall be kept with the nomination petition of each affected candidate, and each candidate shall be sent a copy for the candidate’s records not later than seven days after the close of the filing period.

**21.201(3)** *Multiple nomination certificates.* If more than one nomination certificate is received for the same office from groups with the same nonparty political organization name, the name of each of these candidates shall be written on a separate piece of paper, all of which shall be as nearly uniform in size and material as possible and placed in a receptacle so that the names cannot be seen. On the next working day following the close of the nomination period, all affected candidates shall be notified of the time and place of the drawing. The candidates shall be invited to attend or to send a representative.

In the presence of witnesses, the state commissioner of elections or the county commissioner, as appropriate, or a designee of the state or county commissioner, shall publicly draw one of the names; and that person shall be declared to be the nominee of the nonparty political organization. The names of the other candidates, including any candidate who filed nomination petitions, shall appear on the ballot as candidates “nominated by petition.” A copy of the written record of the result of the drawing shall be kept with the nomination certificate of each affected candidate, and each candidate shall be sent a copy for the candidate’s records not later than seven days after the close of the filing period.

This rule is intended to implement Iowa Code section 44.17.

721—21.202 to 21.299 Reserved.

DIVISION III  
ABSENTEE VOTING

**721—21.300(53) Satellite absentee voting stations.** The county commissioner of elections may designate locations in the county for absentee voting stations. If the commissioner receives a petition requesting that a satellite absentee voting station be established at a location described on the petition, the commissioner shall provide the requested station if the petition was properly signed and filed. The petition shall be rejected if the site chosen is not accessible to elderly and disabled voters or has other physical limitations that make it impossible to meet the requirements for ballot security and secret voting, or if the owner of the site refuses permission to locate the satellite absentee voting station at the site named on the petition. The commissioner may also refuse to conduct satellite voting for the runoff election if a special election is scheduled to be held between the regular city election and a city runoff election. The petition may be refused if the owner of the site demands payment for its use.

The petition shall be signed by not less than 100 eligible electors of the county. The petition shall be filed with the commissioner no later than the deadline specified in Iowa Code section 53.11 for the election.

Satellite absentee voting stations established by petition shall be open for at least one day for a minimum of six hours. Satellite absentee voting stations shall be accessible to elderly and disabled voters.

Only ballots from the county in which the site is located may be provided at the satellite absentee voting station. However, it is not necessary to provide ballots from all of the precincts in the county.

**21.300(1) Form of petition.** The petition requesting that a satellite absentee voting station be established at a specific location shall be in substantially the following form:

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STATE OF IOWA  
PETITION FOR ABSENTEE VOTING STATION

Instructions: This petition may be signed by people who

- are U.S. citizens,
- are at least 18 years old,
- have not been convicted of a felony,
- have not been declared mentally incompetent by a court,
- and who live in this county.

They do not need to be registered voters.

The petition must be taken to the county auditor’s office before 5 p.m. on \_\_\_\_\_.

Date of election: \_\_\_\_\_

We, the people of \_\_\_\_\_

County, request that there be an absentee voting station at the place described below.

[Instructions: Give the address of the building, and the name of the building, if it has a name. Elderly and disabled voters must be able to get into the building to vote.]

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Signature	Address, including street and number, if any	Date signed
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page \_\_\_\_ of \_\_\_\_

**21.300(2) Notice provided.** Notice shall be published at least seven days before the opening of any satellite absentee voting station. If more than one satellite absentee voting station will be provided, a single publication may be used to notify the public of their availability.

A notice shall also be posted at each satellite absentee voting station at least seven days before the opening of the satellite absentee voting station. The notice shall remain posted as long as the satellite absentee voting station is scheduled for service. If it is not possible to post the notice at least seven days before the station opens due to the receipt of a petition, the notice shall be posted as soon as possible.

Both the published and posted notices shall include the following information:

- a. The name and date of the election for which ballots will be available.
- b. The location(s) of the satellite absentee voting station(s).
- c. The dates and times that the station(s) will be open.
- d. The precincts for which ballots will be available.
- e. An announcement that voter registration forms will be available for new registrations in the county until the time registration closes before the election and that changes in the registration records of people who are currently registered within the county may be made at any time.

If the satellite absentee voting station is located in a building with more than one public entrance, brief notices of the location of the satellite absentee voting station shall be posted on building directories, bulletin boards, or doors. These notices shall be posted no later than the time the station opens and shall be removed immediately after the satellite absentee voting station has ceased operation for an election.

**21.300(3) Staff.** Satellite absentee voting station workers may be selected from among the staff members of the commissioner's office, from the election board panel drawn up pursuant to Iowa Code sections 49.15 and 49.16, or a combination of these two sources. Compensation of workers selected from the election board panel shall be at the rate provided in Iowa Code section 49.20.

At least three people shall be assigned to work at each satellite absentee voting station; more workers may be added at the commissioner's discretion. All workers must be registered voters of the county, and for primary and general elections the workers must be registered with a political party. No more than a simple majority of the workers shall be members of the same political party.

People who are prohibited from working at the polls pursuant to Iowa Code section 49.16 may not work at satellite absentee voting stations.

**21.300(4) Oath required.** Before the first day of service at a satellite absentee voting station each worker shall take the following oath:

I, \_\_\_\_\_ (name) \_\_\_\_\_, do solemnly swear or affirm that I will impartially, and to the best of my knowledge and ability, perform the duties of satellite absentee voting station worker, and will endeavor to prevent fraud, deceit and abuse in performing those duties.

\_\_\_\_\_  
Signature of worker

\_\_\_\_\_  
Address

\_\_\_\_\_  
Officer administering oath

\_\_\_\_\_  
Date

The oath must be taken before each election.

**21.300(5) Supplies needed for each satellite absentee voting station.** Each satellite absentee voting station shall be provided with the following supplies:

- a. Voter registration forms for new registrations and changes of registration information.
- b. Absentee ballot application forms.
- c. An absentee voters' log in which to record the names of electors casting absentee ballots, the serial numbers on their applications and affidavit envelopes, and the date the ballots are returned. The log may also be used to record the return of absentee ballots which were mailed.
- d. Affidavit envelopes for absentee ballots.
- e. Secrecy envelopes or folders, if needed for use with electronic voting systems.
- f. Absentee ballots in sealed container(s).
- g. Marking devices appropriate for the voting system that will be used to tabulate the ballots.
- h. Two or more voting booths, at least one of which shall be suitable for use by a person seated in a chair or wheelchair.
- i. One or more ballot boxes equipped with locks and keys, or tamperproof seals.
- j. Table and chairs for workers.
- k. Two or more chairs for voters.
- l. Barricade system to control access to voting area.
- m. Secure containers for returning unused ballots. Containers used to send ballots to the satellite absentee voting station may be reused.
- n. Paper clips, tape or rubber bands to attach request forms to affidavit envelopes.
- o. Pens and other supplies for the workers.
- p. Instructions in large type explaining the proper method of marking the ballot.
- q. A list of other satellite absentee voting stations in the county, if any, and their addresses and scheduled times of operation.
- r. Precinct finder.
- s. Sample ballots for each precinct served by the satellite absentee voting station.
- t. Envelope to return spoiled ballots.
- u. Special ballot envelopes and return envelope.

**21.300(6) Ballot transport and storage.** At the commissioner’s discretion the ballots may be transported between the commissioner’s office and the satellite absentee voting station by the workers who will be on duty that day, or by two people of different political parties who have been designated as couriers by the commissioner. It is not necessary for the same people to transport the ballots in both directions.

If the ballots are transported by the satellite absentee voting station workers, two workers who are members of different political parties and the ballots must travel together in the same vehicle.

Ballots may be stored at the satellite absentee voting station during hours when the station is closed only if they are kept in a locked cabinet or container. The cabinet must be located in a room which is kept locked when not in use. Voted absentee ballots must be delivered to the commissioner’s office at least once each week.

**21.300(7) Ballot receipts.** Satellite absentee voting station workers shall sign receipts for the ballots taken to the remote absentee voting site. The receipt shall be in substantially the following form:

<b>SATELLITE ABSENTEE VOTING STATION BALLOT RECORD AND RECEIPT</b>					
Precincts voting at satellite station: _____					
Location of satellite station: _____					
Satellite station address: _____					
<b>BALLOTS DELIVERED TO THE SATELLITE ABSENTEE VOTING STATION</b>					
Type of Ballot	Number Delivered	Delivered to: (print name)	(signature of each worker)		
<b>TOTAL DELIVERED</b> *	DATE: _____		TIME: _____	a.m.	p.m.
<b>BALLOTS RETURNED FROM THE SATELLITE ABSENTEE VOTING STATION</b>					
Type of Ballot	Voted	Spoiled	Special	Not Voted	Returned
TOTAL NUMBER OF BALLOTS RETURNED: _____ *					
<b>*The number of ballots returned must equal the number delivered.</b>					
Number of ballots issued by mail and returned to this station: _____					
Print name _____			Signature _____		
Ballots received from: _____					
_____					
_____					
_____					
a.m.					
RECEIVED BY: _____ DATE: _____ TIME: _____ p.m.					

A copy of the ballot record and receipt shall be retained in the commissioner's office. The original shall be sent with the ballots to the satellite absentee voting station.

**21.300(8)** *Arrangement of the satellite absentee voting station.* Protection of the security of the ballots (both voted and unvoted) and the secrecy of each person's vote shall be considered in the arranging of the satellite absentee voting station.

*a. Security.* The satellite absentee voting station shall be arranged so that ballots are protected against removal from the station by unauthorized people.

*b. Voting area.* Voting booths without curtains shall be placed so that passersby and other voters may not walk directly behind a person using the booth. At least one voting booth must be accessible to the disabled. The booth must be designed to accommodate a person seated in a chair or wheelchair. A chair must be provided for voters who wish to sit down while voting.

*c. Electioneering.* No signs supporting or opposing any candidate or question on the ballot shall be posted within 300 feet of the satellite absentee voting station. No electioneering shall be allowed within the sight or hearing of voters while they are at the satellite absentee voting station.

*d. Chair provided.* One or more chairs must be available for use by elderly or disabled voters waiting in line.

**21.300(9)** *Operation of the satellite absentee voting station.* At all times the station shall have at least two workers present to preserve the security of the ballots, both voted and unvoted. At satellite absentee voting stations used for primary and general elections, no more than a simple majority of the workers shall be registered with the same political party.

**21.300(10)** *Voter registration at the satellite absentee voting station.* Each satellite absentee voting station shall provide forms necessary to register voters and to record changes in voter registration records. Workers shall also be provided with a method of verifying whether people applying for absentee ballots are registered voters.

The commissioner may provide a list of registered voters in the precincts served by the station. The list may be on paper, microfiche or other media.

As an alternative, the commissioner may provide a computer connection with the commissioner's office.

**21.300(11)** *Procedure for issuing absentee ballot.* The following instructions for absentee voting are to be provided to all satellite absentee voting station workers:

#### HOW TO ISSUE ABSENTEE BALLOTS

1. Application. Each person who wishes to vote shall complete an application for an absentee ballot.
2. Check precinct. Check to be sure that the applicant's address is in a precinct served by this station.
3. Check registration. Check to see whether the applicant is a registered voter at the applicant's current address. People who live in (county name) County but who are not currently registered to vote in the county may register to vote at the satellite absentee voting station until (the date registration closes for the election). Changes of name, address, telephone number or party affiliation may be submitted at any time.

After (date registration closes), anyone who requests an absentee ballot and who is not a registered voter in the county may register to vote if the person provides proof of identity and residence in the precinct in which the voter intends to vote. The voter must also complete an oath of person registering on election day. Otherwise, the person may cast only a provisional ballot. Use the provisional ballot envelopes.

Proof of identity must be a photo ID card that is current and valid and includes an expiration date. An ID is still current on the date it expires. An Iowa nonoperator's ID card that shows "none" as an expiration date is considered current and valid. The following forms of identification are acceptable: an Iowa driver's license or nonoperator's ID, an out-of-state driver's license or nonoperator's ID, a United States passport, a United States military identification card, an identification card issued by an employer, or a student identification card issued by an Iowa high school or an Iowa postsecondary educational

institution. If the photo ID does not show the person's address in the appropriate precinct, the person must show proof of residence.

Proof of residence may be any of the following documents provided that the document shows the person's name and address in the precinct: residential lease, property tax statement, utility bill, bank statement, paycheck, government check, or other government document.

A voter who does not have appropriate identification documents may have another registered voter from the same precinct attest to the person's identity and residence. An attester must be a registered voter whose identity and residence have not been established by the attestation of another registered voter and must live in the same precinct as the applicant. The attester shall not attest to the identity of more than one person. The commissioner shall keep a list of all persons who have attested for in-person absentee registrants and shall send the list to the polling place on election day with the list of absentee voters required by Iowa Code section 49.72.

4. Affidavit envelope. Have the voter complete the affidavit envelope before you issue the ballot.

5. Voters may ask for help. Anyone who is unable to mark a ballot without help may be helped by any person chosen by the voter. EXCEPTIONS: The following people may not help a voter—the voter's employer, an agent of the employer, or an officer or agent of the voter's union.

The voter may also request help from the satellite absentee voting station workers. Two workers from different political parties must assist the voter.

WARNING: Do not tell anyone how the person voted.

6. Issue ballot. When a voting booth is available, give the voter the appropriate ballot. Ballots must be voted at the satellite absentee voting station. Ballots may not be taken away from the station.

7. Instruct voter. Instruct each voter to use only the pen or pencil provided by you, how to mark the ballot so that it can be counted, to enclose the ballot in the secrecy folder (if any), and to place the ballot in the affidavit envelope and seal it before returning it to the workers.

8. Send voter to booth. Each voter must use a voting booth. Do not permit anyone to vote anywhere else.

9. When the ballot is returned: Number the request form and the affidavit envelope with serial number and record the serial number in the log of absentee voters.

10. Storing voted ballots and applications. Attach the application to the sealed affidavit envelope and insert them in the locked ballot box.

**21.300(12) Closing the station.** The following instructions for closing the absentee voting station are to be provided to all satellite absentee voting station workers:

#### INSTRUCTIONS FOR CLOSING THE SATELLITE ABSENTEE VOTING STATION

At the end of each day, after everyone has voted who arrived before the time established to close the station, close the satellite absentee voting station. Each task on the list must be completed.

**DO NOT OPEN ANY AFFIDAVIT ENVELOPES.** These ballots will be opened and counted on election day.

1. Count the number of ballots of each type which have not been voted.
2. Record number of unvoted ballots by precinct on the ballot receipt form.
3. Place the ballots in the container provided and securely seal or lock the container.
4. Record the number of spoiled ballots by precinct on the ballot receipt form.
5. Count the number of spoiled ballots by precinct and place in the envelope provided. Enter this number on the ballot receipt form. Securely seal the envelope. All officials must sign the envelope.
6. From the absentee voters' log determine how many ballots from each precinct have been voted.
7. Compare the total number of ballots in the ballot box with the number of voters listed in the log. If there is a discrepancy, you must resolve it before leaving the station. If you cannot discover the source of the discrepancy, write a detailed explanation of the problem. All workers must sign the report.
8. If couriers will be picking up the ballots, all workers must wait until both couriers arrive. Ask the couriers for identification before surrendering the ballots. If the workers are to return the ballots to

the commissioner's office, two workers who are members of different political parties and the ballots must travel together in the same vehicle to return the ballots.

9. Never leave any ballots unattended.

10. If the ballots will be stored at the satellite absentee voting station all workers must be present when the ballots are locked up. A daily log sheet shall be used to record the information requested above. When ballots are returned to the auditor's office the information on the daily log sheets shall be accumulated and entered on the ballot record and receipt form.

This rule is intended to implement Iowa Code section 53.11 as amended by 2007 Iowa Acts, Senate File 416.

**721—21.301(53) Absentee ballot requests from voters whose registration records are inactive.**

**21.301(1) *In person.*** Absentee voters whose registration records are inactive and who appear in person to vote, either at the office of the commissioner or at a satellite absentee voting station, shall be required to provide identification before voting. The voter may present any of the identification documents prescribed in subrule 21.3(3). If the voter does not have appropriate identification documents, the official or staff person receiving the application shall challenge the ballot and notify the voter that the voter must provide a copy of the appropriate form of identification not later than the date upon which the absentee and special precinct board will meet to review provisional ballots after election day pursuant to Iowa Code section 50.21.

**21.301(2) *By mail.*** When a request for an absentee ballot is received by mail from a voter whose registration record has been made inactive pursuant to Iowa Code section 48A.29, the commissioner shall respond to the request.

*a. Form.* The commissioner shall send a voter registration form and the following notice:

Notice to the Voter:

Your request for an absentee ballot has been received and processed. However, our records show that your voter registration is not currently active. To restore your registration, please complete the enclosed voter registration form and return it to:

County Auditor  
(Address)

Return the registration form separately. Do not enclose it with your absentee ballot.

This registration form must be received in my office no later than (the time the polls close) on (election day), or be postmarked no later than (the day before election day).

*b. Instructions to commissioner.* If the registration form is received by the deadline for receipt of absentee ballots as prescribed in Iowa Code section 53.17, and all other legal requirements are met, the ballot shall be counted. If the return carrier envelope is received before the registration form, the envelope shall not be opened but shall be held until the deadline for receipt of absentee ballots. If the registration form has not been received by the deadline, the officials of the absentee and special voters precinct board shall open the return carrier envelope. If the registration form is enclosed, and all other legal requirements are met, the ballots shall be counted. However, if the registration form is not enclosed in the return carrier envelope, the affidavit envelope containing the ballot shall not be opened.

This rule is intended to implement Iowa Code sections 48A.29 and 53.2.

**721—21.302(48A) In-person absentee registration.** After the close of voter registration for an election, a person who appears in person to apply for and vote an absentee ballot may register to vote if the person provides proof of identity and residence in the precinct in which the voter intends to vote. The voter must also complete an oath of person registering on election day. Otherwise, the person may cast only a provisional ballot. Provisional ballot envelopes shall be used.

**21.302(1)** Proof of identity must be a photo ID card that is current and valid and includes an expiration date. An ID is still current on the date it expires. An Iowa nonoperator's ID card that shows "none" as an expiration date is considered current and valid. The following forms of identification are acceptable: an Iowa driver's license or nonoperator's ID, an out-of-state driver's license or nonoperator's ID, a United States passport, a United States military identification card, an identification

card issued by an employer, or a student identification card issued by an Iowa high school or an Iowa postsecondary educational institution. If the photo ID does not show the person's address in the appropriate precinct, the person must show proof of residence.

**21.302(2)** Proof of residence may be any of the following documents provided that the document shows the person's name and address in the precinct: residential lease, property tax statement, utility bill, bank statement, paycheck, government check, or other government document.

**21.302(3)** A voter who does not have appropriate identification documents may have another registered voter from the same precinct attest to the person's identity and residence. An attester must be a registered voter and must live in the same precinct as the applicant. A person may not attest to the identity and residence of another voter for an election if the person registered to vote under the provisions of 2007 Iowa Acts, House File 653, section 2, for the same election and the person's identity and residence were established by the attestation of another registered voter. The attester shall not attest to the identity of more than one person. The commissioner shall keep a list of all persons who have attested for in-person absentee registrants and send the list to the polling place on election day with the list of absentee voters required by Iowa Code section 49.72.

This rule is intended to implement 2007 Iowa Acts, House File 653.

**721—21.303(53) Mailing absentee ballots.** The commissioner shall mail the following materials to each person who has requested an absentee ballot:

1. Ballot. The ballot that corresponds to the voter's residence, as indicated by the address on the absentee ballot application.
2. Public measure text. The full text of any public measures that are summarized on the ballot, but not printed in full.
3. Secrecy envelope. Secrecy envelope, if the ballot cannot be folded to cover all of the voting ovals, as required by Iowa Code section 53.8(1).
4. Affidavit envelope. The affidavit envelope, which shall be marked with the serial number used to identify the absentee request in the commissioner's records.
5. Return carrier envelope. The return carrier envelope, which shall be addressed to the commissioner's office and bear appropriate return postage or a postal permit guaranteeing that the commissioner will pay the return postage and which shall be marked with the I-Voters-assigned sequence number used to identify the absentee request in the commissioner's records.
6. Delivery envelope. The delivery envelope, which shall be addressed to the voter and bear the serial number used to identify the absentee request in the commissioner's records. All other materials shall be enclosed in the delivery envelope.
7. Instructions. Absentee voting instructions, which shall be in substantially the form prescribed by the state commissioner of elections.
8. Receipt. The receipt form required by 2007 Iowa Acts, Senate File 601, section 227, which may be printed on the instructions required by numbered paragraph "7" above.

This rule is intended to implement Iowa Code section 53.8 as amended by 2007 Iowa Acts, Senate File 601, section 223, and Iowa Code section 53.17 as amended by 2007 Iowa Acts, Senate File 601, section 227.

**721—21.304 to 21.319** Reserved.

**721—21.320(53) Absentee voting by UOCAVA voters.** This rule applies only to absentee voting by persons who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, "Absent Voting by Armed Forces."

**21.320(1) Definitions.** The following definitions apply to this rule:

"Armed forces," as used in this rule, is defined in Iowa Code section 53.37(3).

"FPCA" means the federal postcard absentee ballot application and voter registration form authorized for use in Iowa by Iowa Code section 53.38.

“*UOCAVA voter*” means any person who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, “Absent Voting by Armed Forces.”

**21.320(2) Requests for absentee ballots.** All requests for absentee ballots shall be made in writing. Additional requirements for requesting absentee ballots and for processing the requests are set forth below.

*a. Forms.* UOCAVA voters may use the following official forms to request absentee ballots:

- (1) A federal postcard absentee ballot application and voter registration form (FPCA).
- (2) A state of Iowa official absentee ballot request form.
- (3) For general elections only, a proxy absentee ballot application prescribed by the state commissioner of elections and submitted pursuant to Iowa Code Supplement section 53.40(1)“*b.*”

*b. Form not required.* UOCAVA voters may request absentee ballots in writing without using an official form. The written request shall be honored if it includes all of the following information about the voter:

- (1) Name.
- (2) Age or date of birth.
- (3) Iowa residence, including street address (if any) and city.
- (4) Address to which the ballot shall be sent.
- (5) Township of residence, if applicable.
- (6) County of residence.
- (7) Party affiliation, if the request is for a ballot for a primary election.
- (8) Signature of voter.
- (9) Statement explaining why the voter is eligible to receive ballots under the provisions of Iowa Code chapter 53, division II. For example, “I am a U.S. citizen living in France.”

*c. Methods for transmitting absentee ballot requests.* UOCAVA voters may transmit absentee ballot requests by any of the following methods:

- (1) Mail.
- (2) Personal delivery by the voter or a person designated by the voter.
- (3) Facsimile machine.
- (4) Scanned application form or letter transmitted by E-mail. Requests by E-mail that do not include either the physical signature or a digital signature shall not be accepted.

*d. Original request not needed.* If the request is sent by E-mail or by fax, it is not necessary for the UOCAVA voter to send to the commissioner the original copy of the FPCA or other official form or written request for an absentee ballot.

*e. Multiple requests from the same person.* Before the ballot is ready to mail, if the commissioner receives more than one request for an absentee ballot for a particular election (or series of elections) by or on behalf of a UOCAVA voter, the last request received shall be the one honored. However, if one of the requests is for a general election ballot and is made using the proxy absentee ballot application process permitted by Iowa Code Supplement section 53.40(1)“*b.*” the request received from the voter shall be the one honored, not the proxy request.

*f. Subsequent request after ballot has been sent.* Not more than one ballot shall be transmitted by the commissioner to any voter for a particular election unless, after the ballot has been mailed, the voter reports a change in the address to which the ballot should be sent. The commissioner shall void the original absentee ballot and include a comment in the voter’s registration record, noting the serial number of the original ballot and noting that a replacement ballot was sent to an updated address. The original ballot shall be counted only if the replacement ballot does not arrive.

*g. Requests for absentee ballots for a period of two general elections.* Iowa Code Supplement section 53.40 permits UOCAVA voters to request the commissioner to send absentee ballots for all elections as permitted by state law. In response to an absentee ballot request for all elections, the commissioner shall send the applicant a ballot for each election held after the application is received and through the next two general elections.

(1) When an absentee ballot for a UOCAVA voter who has requested absentee ballots for all elections through the next two general elections is returned as undeliverable by the United States Postal Service, the commissioner shall contact the Federal Voting Assistance Program (FVAP) to determine whether the voter has a forwarding address on file with that office. If so, the commissioner shall contact the voter by the best means available to notify the voter that the voter must provide the commissioner with a new address if the voter wishes to continue to receive absentee ballots until the end of the period for which the voter has requested ballots.

(2) The commissioner shall also send a written notice to the voter's residence address by forwardable mail. The notice shall advise the voter that the voter must provide the commissioner with a new address if the voter wishes to continue to receive absentee ballots until the end of the period for which the voter has requested ballots.

(3) If the voter provides a new address before election day, the commissioner shall enter the revised information in the voter's registration record and transmit the ballot. The voter may request that the commissioner transmit the ballot electronically pursuant to subrule 21.320(3).

(4) If the voter does not respond to either request for additional information within 30 days, the commissioner shall cancel the absentee ballot request and notify the voter.

**21.320(3)** *Electronic transmission of absentee ballots to UOCAVA voters.*

*a.* Electronic transmission of absentee ballots by facsimile machine or by E-mail is limited to UOCAVA voters who specifically ask for this service. A UOCAVA voter who asks for electronic transmission of an absentee ballot may request this service for all elections for which the person is qualified to vote or for specific elections either individually or for a specific period of time. The commissioner shall employ FVAP's secure transmission program to facilitate electronic transmission of absentee ballots to UOCAVA voters.

*b.* Forms. The state commissioner shall provide the following forms and instructions for the electronic transmission of absentee ballots to UOCAVA voters:

(1) Instructions to the county commissioners of elections for providing this service.

(2) Instructions to the voter for marking and returning the ballot.

(3) The affidavit envelope form, which can be printed by the voter on an envelope and used for the voter's declaration of eligibility and voter registration application, if necessary.

(4) The return envelope form, which can be printed by the voter on an envelope and used to return the ballot, postage paid through the FPO/APO postal service.

**21.320(4)** *Ballot return by electronic transmission.*

*a.* Electronic transmission of a voted absentee ballot from the voter to the commissioner is permitted only for UOCAVA voters who are in an area designated as an imminent danger pay area, as provided in subrule 21.1(14). The absentee ballot may be returned via electronic transmission if the voter waives the right to a secret ballot. In addition to signing the affidavit required by Iowa Code section 53.13, the voter shall sign a statement in substantially the following form: "I understand that by returning this ballot by electronic transmission my voted ballot will not be secret. I hereby waive my right to a secret ballot."

*b.* When an absentee ballot is received via electronic transmission, the person receiving the transmission shall examine it to determine that all pages have been received and are legible. The person receiving an electronic transmission shall not reveal how the voter voted.

*c.* The absentee ballot shall be sealed in an envelope marked with the voter's name. The affidavit of the voter and the application for the ballot shall be attached to the envelope. These materials shall be stored with other returned absentee ballots.

This rule is intended to implement Iowa Code section 53.46 and Iowa Code Supplement section 53.40.

**721—21.321 to 21.349** Reserved.

**721—21.350(53)** **Absentee ballot processing for elections held following July 1, 2007.** Rescinded IAB 9/26/07, effective 9/7/07.

**721—21.351(53) Receiving absentee ballots.** The commissioner shall carefully account for and protect all absentee ballots returned to the office.

**21.351(1) Note receipt.** The commissioner shall write or file-stamp on the return carrier envelope the date that the ballot arrived in the commissioner's office. The commissioner shall also record receipt of the ballot in I-Voters.

**21.351(2) Temporary storage.** If necessary, the commissioner shall immediately put the ballot into a secure container, such as a locked ballot box, until the ballots can be moved to the secure storage area.

**21.351(3) Secure area.** The commissioner shall deliver the ballots to a secure area where returned absentee ballots will be reviewed for deficiencies.

**721—21.352(53) Review of returned affidavit envelopes.**

**21.352(1) Personnel.** The commissioner may assign staff members to complete the review of returned affidavit envelopes. Only persons who have been trained for this responsibility shall be authorized to review affidavit envelopes.

**21.352(2) Affidavit envelopes reviewed.** The affidavit envelopes of all absentee ballots returned to the commissioner's office shall be reviewed, including those of ballots returned by the bipartisan team delivering absentee ballots to health care facilities, such as hospitals and nursing homes. If a reviewer finds deficiencies in absentee affidavits returned from any health care facility, the commissioner shall send the bipartisan delivery team back to make any necessary corrections or to deliver any replacement ballots.

**21.352(3) Instructions.** Each reviewer shall receive instructions in substantially the form prescribed by the state commissioner of elections. The instructions shall provide basic security and procedural guidance and include a method for accounting for all returned absentee ballots. The prohibitions shall include:

- a. Not to leave unsecured ballots unattended.
- b. Not to alter any information on any affidavit.
- c. Not to add any information to any affidavit, except as specifically required to comply with the requirements of the law.
- d. Not to seal any affidavit envelope found open.
- e. Not to discard any return carrier envelopes, ballots, or affidavit envelopes returned by voters.

**721—21.353(53) Opening the return carrier envelopes.** The commissioner may direct a staff member to open the return carrier envelopes either manually or with an automatic letter opener, if one is available. Only a trained reviewer may remove the contents of the envelope.

**721—21.354(53) Review process.** A reviewer shall remove the contents from only one return carrier envelope at a time.

**21.354(1) Return carrier envelopes preserved.** The return carrier envelopes shall be stored in a manner that will facilitate their retrieval, if necessary. They shall be stored for 22 months for federal elections and 6 months for local elections.

**21.354(2) Examination of affidavit envelope.** The reviewer shall make sure that:

- a. The affidavit envelope is sealed, apparently with the ballot inside.
- b. The affidavit envelope has not been opened and resealed.
- c. The affidavit includes all of the following:
  - (1) An address.
  - (2) A signature.
  - (3) For primary elections only, political party affiliation.

**21.354(3) No defects or deficiencies.** If the reviewer finds no defects or deficiencies that would cause the absentee and special voters precinct board to reject the ballot, the reviewer shall put the affidavit envelope into a group of envelopes to be retained in the secure storage area with others that require no further attention until they are delivered to the absentee and special voters precinct board.

**21.354(4) Defective and deficient affidavits.** The commissioner shall contact the voter if the reviewer finds any of the following flaws in the affidavit or affidavit envelope:

*a.* The commissioner shall contact the voter immediately if the affidavit envelope is defective. An affidavit envelope is defective if:

- (1) The absentee ballot is not enclosed in the affidavit envelope.
- (2) The affidavit envelope is not sealed.
- (3) The affidavit envelope has been opened and resealed.

*b.* The commissioner shall contact the voter within 24 hours if the affidavit is deficient. A deficient affidavit lacks:

- (1) The signature of the voter.
- (2) The voter's address.
- (3) For primary elections only, political party affiliation.

*c.* If an affidavit envelope has flaws that are included in both paragraphs "a" and "b," the commissioner shall follow the process in paragraph "a."

**21.354(5) Defective and deficient affidavits stored separately.** The commissioner shall store the defective and deficient affidavit envelopes separately from other returned absentee ballot affidavit envelopes.

*a.* Deficient affidavit envelopes requiring voter correction must be available for retrieval when the voter comes to make corrections.

*b.* Defective (improperly closed) affidavit envelopes must be attached to the original application, replacement application and replacement ballot for review by the special precinct board.

**721—21.355(53) Notice to voter.** When the commissioner finds a deficiency in an absentee ballot affidavit or finds a defective (improperly closed) affidavit envelope, the commissioner shall notify the voter in writing and, if possible, by telephone or by E-mail. The commissioner shall keep a separate checklist for each voter showing the reasons for which the voter was contacted and the methods used to contact the voter.

**21.355(1) Notice to voter—deficient ballot affidavit.** Within 24 hours after receipt of an absentee ballot with a deficient affidavit, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include:

*a.* Reason for deficiency (lack of signature, address or, for primary elections only, political party affiliation).

*b.* The voter's options for correcting the affidavit as follows:

- (1) Completing the affidavit at the commissioner's office by 5 p.m. the day before the election; or
- (2) Casting a provisional ballot at the polls on election day.

*c.* Address of commissioner's office, business hours and contact information.

**21.355(2) Notice to voter—defective ballot affidavit.** Immediately after determining that an absentee ballot affidavit envelope was not properly closed, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include the following information:

*a.* Reason for defect, such as envelope not sealed, envelope opened and resealed, or the ballot was outside the affidavit envelope.

*b.* The voter's options for correcting the defect as follows:

- (1) Applying for a replacement ballot; or
- (2) Casting a provisional ballot at the polls on election day.

*c.* Process for applying for a replacement ballot.

*d.* Address of commissioner's office, business hours and contact information.

**21.355(3) Telephone contact.** If the voter has provided a telephone number, either on the absentee ballot application or on the voter's registration record, the commissioner shall also attempt to contact the voter by telephone. The commissioner shall keep a written record of the telephone conversation. The written record shall include the following information:

- a. Name of the person making the call.
- b. Date and time of the call.
- c. If a person answered the telephone, the name of that person.

**21.355(4) E-mail contact.** If the voter has provided an E-mail address, either on the absentee ballot application or on the voter's registration record, the commissioner shall also attempt to contact the voter by E-mail. The E-mail message shall be the same message that was mailed to the voter. A copy of the E-mail message shall be attached to the checklist.

Rules 21.351(53) through 21.355(53) are intended to implement Iowa Code section 53.18 as amended by 2007 Iowa Acts, Senate File 601, section 229.

**721—21.356 to 21.358** Reserved.

**721—21.359(53) Processing absentee ballots before election day.** Only when the voters have been provided with secrecy envelopes may the commissioner direct the special precinct board to open affidavit envelopes on the day before election day.

**21.359(1)** The secrecy envelope shall be closed on at least two sides and shall completely cover the ballot. The envelope shall have the following message printed on it using at least 24-point type:

**Secrecy Envelope**  
After you vote, put your ballot in here.

**21.359(2)** The special precinct board shall review voters' affidavits and applications to determine which ballots will be accepted for counting and prepare the notices to those voters whose ballots have been rejected. The affidavit envelopes containing ballots that will not be counted and the applications submitted for those ballots shall be stored in a secure location.

**21.359(3)** The affidavit envelopes containing the ballots that will be counted shall be stacked with the affidavits facing down. The envelopes shall be opened and the secrecy envelope containing the ballot shall be removed. The affidavit envelope and application shall be stored together.

**21.359(4)** If a voter has not enclosed the ballot in a secrecy envelope and the ballot has not been folded in a manner that conceals all votes marked on the ballot, the officials shall put the ballot in a secrecy envelope without examining the ballot. Two of the special precinct election officials, one from each of the political parties referred to in Iowa Code section 49.13(2), shall sign the secrecy envelope.

**21.359(5)** The following security procedures shall be followed:

- a. The process shall be witnessed by observers appointed by the county chairperson of each of the political parties referred to in Iowa Code section 49.13, subsection 2.
- b. No ballots shall be counted or examined before election day.
- c. The number of secrecy envelopes shall be recorded before the ballots are stored and the number shall be verified before any ballots are removed from the envelopes on election day. The ballots may be bundled and sealed in groups of a specified number to make counting easier.

This rule is intended to implement 1997 Iowa Acts, House File 636, section 73.

**721—21.360(53) Failure to affix postmark date.** For any absentee ballot referred to in Iowa Code section 53.17, if the officially authorized postal service fails to affix a postmark date on the return carrier envelope, or the postmark date is illegible, but the date of the affidavit envelope is a date no later than the day prior to the election, the ballot shall be counted as provided in Iowa Code section 53.17. If no date can be read on either the return carrier envelope or the affidavit envelope, the affidavit envelope shall not be opened, and the ballot shall be rejected as provided in Iowa Code section 53.25.

This rule is intended to implement Iowa Code section 53.17.

**721—21.361(53) Rejection of absentee ballot.** The special precinct election board shall reject absentee ballots without opening the affidavit envelope if any of the conditions cited below exist.

**21.361(1)** An absentee ballot shall be rejected if the absentee voter's affidavit is insufficient. An insufficient affidavit lacks one or more of the following:

- a. The signature of the voter,
- b. The voter's address,
- c. In primary elections only, the political party affiliation of the voter.

**21.361(2)** An absentee ballot shall be rejected if the applicant is not a duly registered voter in the precinct in which the ballot is cast. "Precinct" means a precinct established pursuant to Iowa Code sections 49.3 through 49.5.

**21.361(3)** An absentee ballot shall be rejected if the affidavit envelope is open.

**21.361(4)** An absentee ballot shall be rejected if the affidavit envelope has been opened and resealed.

**21.361(5)** An absentee ballot shall be rejected if the affidavit envelope contains more than one ballot of any kind. This includes all ballots contained in the affidavit envelope, whether or not they are enclosed in secrecy envelopes.

**21.361(6)** An absentee ballot shall be rejected if the voter has voted in person.

**21.361(7)** An absentee ballot shall be rejected if in primary elections the political party declared on the affidavit envelope is different from the political party whose ballot was requested on the application for the ballot.

**21.361(8)** Rescinded IAB 9/26/07, effective 9/7/07.

This rule is intended to implement Iowa Code sections 43.38, 49.9 and 53.25.

**721—21.362 to 21.369** Reserved.

**721—21.370(53) Training for absentee ballot couriers.** Rescinded IAB 8/1/07, effective 7/1/07.

**721—21.371(53) Certificate.** Rescinded IAB 8/1/07, effective 7/1/07.

**721—21.372(53) Frequency of training.** Rescinded IAB 8/1/07, effective 7/1/07.

**721—21.373(53) Registration of absentee ballot couriers.** Rescinded IAB 8/1/07, effective 7/1/07.

**721—21.374(53) County commissioner's duties.** Rescinded IAB 8/1/07, effective 7/1/07.

**721—21.375(53) Absentee ballot courier training.** Rescinded IAB 8/1/07, effective 7/1/07.

**721—21.376(53) Receiving absentee ballots.** Rescinded IAB 8/1/07, effective 7/1/07.

**721—21.377 to 21.399** Reserved.

DIVISION IV  
INSTRUCTIONS FOR SPECIFIC ELECTIONS

**721—21.400(376) Signature requirements for certain cities.** This rule applies to cities which have all of the following characteristics:

1. Nomination procedures under Iowa Code section 376.3 are used. (This includes cities with primary or runoff election provisions. It does not include cities with nominations under Iowa Code chapter 44 or 45.)
2. Some or all council members are voted upon by the electors of wards, rather than by the electors of the entire city.
3. Ward boundaries have been changed since the last regular city election at which the ward seat was on the ballot.
4. The number of wards has not changed.

Calculation of the number of signatures for ward seats shall use the vote totals from the wards as the wards were configured at the time of the last regular city election at which the ward seat was on the ballot.

This rule is intended to implement Iowa Code section 376.4.

**721—21.401(376) Signature requirements in cities with primary or runoff election provisions.** In cities using the provisions of Iowa Code section 376.4 for nomination of candidates and in which more than one council member was elected at-large at the last preceding regular city election, the number of signatures shall be calculated by the following formula:

V = the total number of votes cast for all candidates for council member at-large at the last regular city election;

E = the number of people to be elected at the last regular city election;

$$\frac{V}{E} \times .02 = \text{the number of signatures needed by each candidate in the next regular city election.}$$

This rule is intended to implement Iowa Code section 376.4.

**721—21.402(372) Filing deadline for charter commission appointment petition.** If a special election has been called by a city to present to the voters the question of adopting a different form of city government, receipt by the city council of a petition requesting appointment of a charter commission shall stay the special election if the petition is received no later than 5 p.m. on the Friday preceding the date of the special election.

This rule is intended to implement Iowa Code section 372.3.

**721—21.403(81GA, HF2282) Special elections to fill vacancies in elective city offices for cities that may be required to conduct primary elections.**

**21.403(1) Notice to the commissioner.** At least 60 days before the proposed date of the special election, the city council shall give written notice to the commissioner who will be responsible for conducting the special election.

*a.* If the commissioner finds no conflict with other previously scheduled elections, or with other limitations on the dates of special elections, the commissioner shall immediately notify the council that the date has been approved.

*b.* No special city elections to fill vacancies for cities that may be required to conduct primary elections shall be held with the general election, with the primary election, or with the annual school election. To do so would be contrary to the provisions of Iowa Code section 39.2.

**21.403(2) Election calendar.** The election calendar shall be adjusted as follows:

*a.* The deadline for candidates to file nomination papers with the city clerk shall be not later than 12 noon on the fifty-third day before the election.

*b.* The city clerk shall deliver all nomination papers accepted by the clerk to the county commissioner of elections not later than 5 p.m. on the fifty-third day before the election.

*c.* A candidate who has filed nomination papers for the special election may withdraw not later than 5 p.m. on the fiftieth day before the election.

*d.* A person who would have the right to vote for the office in question may file a written objection to the legal sufficiency of a candidate's nomination papers or to the qualifications of the candidate for this special election not later than 12 noon on the fiftieth day before the election.

*e.* The hearing on the objection must be held within 24 hours of receipt of the objection.

This rule is intended to implement Iowa Code section 372.13(2) as amended by 2006 Iowa Acts, House File 2282, section 2.

**721—21.404(81GA, HF2282) Special elections to fill vacancies in elective city offices for cities without primary election requirements.** This rule applies to cities that have adopted by ordinance one

of the following options: nominations under Iowa Code chapter 44 or chapter 45, or a runoff election requirement if no candidate in the special election receives a majority of the votes cast.

**21.404(1) *Notice to the commissioner.*** At least 32 days before the proposed date of the special election, the city council shall give written notice to the commissioner who will be responsible for conducting the special election. If the commissioner finds no conflict with other previously scheduled elections, or with other limitations on the dates of special elections, the commissioner shall immediately notify the council that the date has been approved.

**21.404(2) *Special elections to fill vacancies held in conjunction with the general election.*** If the proposed date of the special election coincides with the date of the general election, the council shall give notice of the proposed date of the special city election not later than 76 days before the date of the general election. Candidates shall file nomination papers with the city clerk not later than 5 p.m. on the seventieth day before the general election. The city clerk shall deliver the nomination papers accepted by the clerk not later than 5 p.m. on the sixty-ninth day before the general election. Objection and withdrawal deadlines shall be 64 days before the general election, the same as the deadlines for candidates who file their nomination papers with the commissioner. Hearings on objections shall be held as soon as possible in order to facilitate printing of the general election ballot.

**21.404(3) *Election calendar.*** If the special election date is not the same as the date of the general election, the election calendar shall be adjusted as follows:

*a.* The deadline for candidates to file nomination papers with the city clerk shall be not later than 12 noon on the twenty-fifth day before the election.

*b.* The city clerk shall deliver all nomination papers accepted by the clerk to the county commissioner of elections not later than 5 p.m. on the twenty-fifth day before the election.

*c.* A candidate who has filed nomination papers for the special election may withdraw not later than 5 p.m. on the twenty-second day before the election.

*d.* A person who would have the right to vote for the office in question may file a written objection to the legal sufficiency of a candidate's nomination papers or to the qualifications of the candidate for this special election not later than 12 noon on the twenty-second day before the election.

*e.* The hearing on the objection must be held within 24 hours of receipt of the objection.

This rule is intended to implement Iowa Code section 372.13(2) as amended by 2006 Iowa Acts, House File 2282, section 2.

**721—21.405 to 21.499** Reserved.

**721—21.500(277) Signature requirements for school director candidates.** The number of signatures required to be filed by candidates for the office of director in the regular school election shall be calculated from the number of registered voters in the district on May 1 of the year in which the election will be held. Candidates who are seeking election in districts with election plans as specified in Iowa Code section 275.12(2) "b" and "c," where the candidate must reside in a specific director district, but is voted upon by all of the electors of the school district, shall be required to file a number of signatures calculated from the number of registered voters in the whole school district. Candidates who will be voted upon only by the electors of a director district shall be required to file a number of signatures calculated from the number of registered voters in the director district in which the candidate resides and seeks to represent.

If a special election is to be held to fill a vacancy on the school board, the number of registered voters on the first day of the month preceding the date the commissioner receives notice of the special election shall be used to calculate the number of signatures required for the special election.

This rule is intended to implement Iowa Code sections 277.4 and 279.7.

**721—21.501 to 21.599** Reserved.

**721—21.600(43) Primary election signatures—plan three supervisor candidates.** The minimum number of signatures needed by candidates for the office of county supervisor elected under plan three,

where candidates are voted upon only by the voters of the supervisor district, shall be determined by one of the two following methods.

**21.600(1)** If there were 5,000 or more votes cast in the supervisor district for a political party's candidate for governor or for president of the United States, the minimum number of signatures needed is 100.

**21.600(2)** If there were less than 5,000 votes cast in the supervisor district for a political party's candidate for governor or for president of the United States, the minimum number of signatures is determined by using one of the following formulas:

Democratic candidate's signature requirement:  $([AD \div S] + VD) \times .02$

Republican candidate's signature requirement:  $([AR \div S] + VR) \times .02$

AD = the number of absentee votes received in the entire county by the Democratic party's candidate for governor or for president of the United States in the previous general election.

AR = the number of absentee votes received in the entire county by the Republican party's candidate for governor or for president of the United States in the previous general election.

S = the number of supervisor districts in the county (3 or 5).

VD = the number of votes cast in the supervisor district for the Democratic party's candidate for governor or for president of the United States in the previous general election. (If this number is 5,000 or more, the minimum number of signatures needed is 100.)

VR = the number of votes cast in the supervisor district for the Republican party's candidate for governor or for president of the United States in the previous general election. (If this number is 5,000 or more, the minimum number of signatures needed is 100.)

This rule is intended to implement Iowa Code section 43.20(1) "d."

**721—21.601(43) Plan III supervisor district candidate signatures after a change in the number of supervisors.** After the number of supervisors has been increased or decreased pursuant to Iowa Code section 331.203 or 331.204, the signatures for candidates at the next primary and general elections shall be calculated as follows:

**21.601(1) Primary election.** Divide the total number of votes cast in the county at the previous general election for the office of president or for governor, as applicable, by the number of supervisor districts and multiply the quotient by .02. If the result of the calculation is less than 100, the result shall be the minimum number of signatures required. If the result of the calculation is greater than or equal to 100, the minimum requirement shall be 100 signatures.

**21.601(2) Nominations by petition.** If the effective date of the change in the number of districts was later than the date specified in Iowa Code section 45.1(6), divide the total number of registered voters in the county on the date specified in Iowa Code section 45.1(6) by the number of supervisor districts and multiply the quotient by .01. If the result of the calculation is less than 150, the result shall be the minimum number of signatures required. If the result of the calculation is greater than or equal to 150, the minimum requirement shall be 150 signatures.

**721—21.602(43) Primary election—nominations by write-in votes for certain offices.**

**21.602(1)** The process described in subrule 21.602(2) shall be used to determine whether the primary election is conclusive and a candidate was nominated for partisan offices that are:

- a. Not mentioned in Iowa Code section 43.53 (township offices) or 43.66 (state representative and state senator), and
- b. For which no candidate's name was printed on the primary election ballot, and
- c. For which no candidate's name was printed on the primary election ballot in any previous primary election.

**21.602(2)** To be nominated by write-in votes, the person must receive at least 35 percent of the number of votes cast in the previous general election for that party's candidate for president of the United States or for governor, as the case may be, as follows:

- a. Statewide office: 35 percent of votes cast statewide.
- b. Congressional district: 35 percent of votes cast within the current boundaries of the Congressional district.
- c. County office, including plan II supervisors: 35 percent of the votes cast within the county.
- d. Plan III county supervisor: 35 percent of the votes cast within the supervisor district. If the boundaries of the supervisor district have changed since the previous general election, the number of votes cast within the county for the party candidate for president or for governor, as the case may be, shall be divided by the number of supervisor districts in the county; then the quotient shall be multiplied by 0.35.

**21.602(3)** If a write-in candidate is declared nominated at the canvass of votes, Iowa Code section 43.67, which requires the appropriate election commissioner to notify the candidate, shall apply.

This rule is intended to implement Iowa Code section 43.66.

**721—21.603 to 21.799** Reserved.

**721—21.800(422B) Local sales and services tax elections.**

**21.800(1)** Petitions requesting imposition of local sales and services taxes shall be filed with the county board of supervisors.

a. The petition shall be signed by eligible electors equal in number to at least 5 percent of the persons in the whole county who voted at the last preceding state general election. Each petition shall include:

(1) A statement in substantially the following form: We the undersigned eligible electors of \_\_\_\_\_ County hereby request imposition of a local sales and services tax.

(2) Each person signing the petition shall add the person's address (including street number, if any) and the date that the person signed the petition.

b. Within 30 days after receipt of the petition, the supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition of a local sales and services tax. In the notice the supervisors shall propose a specific date for the election.

c. The proposed election date shall be at least 75 days, but not more than 90 days, after the date upon which notice is given to the commissioner. The local option tax election may be held in conjunction with a state general election, or at a special election held at any time other than the time of a city regular election. However, if the date proposed by the supervisors conflicts with another scheduled election as defined in Iowa Code section 47.6(2), the commissioner shall notify the supervisors of this fact. The supervisors shall propose another date for the special election within 7 days of receiving notice from the commissioner.

**21.800(2)** As an alternative to the method of initiating a local option tax election described in subrule 21.4(1), governing bodies of cities and the county may initiate a local option tax election by filing motions with the county auditor pursuant to Iowa Code section 422B.1(3) "b" requesting submission of a local option tax to the qualified electors. Within 30 days of receiving a sufficient number of motions, the county commissioner shall, in consultation with the governing bodies of the cities and with the board of supervisors, set a date for the local option tax election. The election shall be held no sooner than 105 days nor later than 120 days after the date upon which the commissioner received the motion triggering the election. If this would result in the special election being held at a time of a conflicting election as defined by Iowa Code section 47.6 or on a date upon which special elections are forbidden to be held by Iowa Code section 39.2(1), the election may be held on a date as close as possible to the required time period.

**21.800(3)** Notice of local sales and services tax election.

a. Not less than 60 days before the date that a local sales and services tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include sample ballots, but shall include all of the information that will appear on the ballot for each city and for the voters in the unincorporated areas of the county.

b. The city councils and the supervisors shall provide to the county commissioner the following information to be included in the notice and on the ballots:

(1) The rate of the tax.

(2) The date the tax will be imposed (which shall be the next implementation date provided in Iowa Code section 423B.6 following the date of the election and at least 90 days after the date of the election, except that an election to impose a local option tax on a date immediately following the scheduled repeal date of an existing similar tax may be held at any time that otherwise complies with the requirements of Iowa Code chapter 423B). The imposition date shall be uniform in all areas of the county voting on the tax at the same election.

(3) The approximate amount of local option tax revenues that will be used for property tax relief in the jurisdiction.

(4) A statement of the specific purposes other than property tax relief for which revenues will be expended in the jurisdiction.

c. The information to be included in the notice shall be provided to the commissioner by the city councils of each city in the county not later than 67 days before the date of the election. If a jurisdiction fails to provide the information in 21.4(3)“b”(3) and 21.4(3)“b”(4) above, the following information shall be substituted in the notice and on the ballot:

(1) Zero percent (0%) for property tax relief.

(2) The specific purpose for which the revenues will otherwise be expended is: Any lawful purpose of the city (or county).

d. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

**21.800(4) Definitions.**

“Abstract of ballot” means abstract of votes.

This rule is intended to implement Iowa Code sections 422B.1 and 422B.9.

**721—21.801(422B) Form of ballot for local option tax elections.** If questions pertaining to more than one of the authorized local option taxes are submitted at a single election, all of the public measures shall be printed on the same ballot. The form of ballots to be used throughout the state of Iowa for the purpose of submitting questions pertaining to local option taxes shall be as follows:

**21.801(1) Local sales and services tax propositions.** Sales and services tax propositions shall be submitted to the voters of an entire county. If the election is being held for the voters to decide whether to impose the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of imposition shall be voted upon in all parts of the county where the tax has not been approved. If the election is being held for the voters to decide whether to repeal the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of repeal shall be voted upon in all parts of the county where the tax was previously imposed. If the election is being held for the voters to decide whether to change the rate or use of the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of rate or use change shall be voted upon in all parts of the county where the tax was previously imposed.

The ballot submitted to the voters of each incorporated area and the unincorporated area of the county shall show the intended uses for that jurisdiction. The ballot submitted to the voters in contiguous cities within a county shall show the intended uses and repeal dates, if not uniform, for each of the contiguous cities. The ballots shall be in substantially the following form:

a. Imposition question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?

YES

NO

Summary: To authorize imposition of a local sales and services tax in the [city of \_\_\_\_\_] [unincorporated area of the county of \_\_\_\_\_], at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %) to be effective on \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

A local sales and services tax shall be imposed in the [city of \_\_\_\_\_] [unincorporated area of the county of \_\_\_\_\_] at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %) to be effective on \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

Revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)

[ \_\_\_\_\_ for property tax relief (insert percentage or dollar amount)]

[ \_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of \_\_\_\_\_]

[ \_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the county of \_\_\_\_\_]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

b. Imposition question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES  NO

Summary: To authorize imposition of a local sales and services tax in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %) to be effective on \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

A local sales and services tax shall be imposed in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_ %) to be effective on \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

Revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF \_\_\_\_\_:

[ \_\_\_\_\_ for property tax relief (insert percentage or dollar amount)]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_:  
\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_:  
\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

c. Imposition question with an automatic repeal date for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES   
NO

Summary: To authorize imposition of a local sales and services tax in the [city of \_\_\_\_\_] [unincorporated area of the county of \_\_\_\_\_], at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_%) to be effective from \_\_\_\_\_ (month and day), \_\_\_\_\_ (year), until \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

A local sales and services tax shall be imposed in the [city of \_\_\_\_\_] [unincorporated area of the county of \_\_\_\_\_] at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_%) to be effective from \_\_\_\_\_ (month and day), \_\_\_\_\_ (year), until \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

Revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)

[ \_\_\_\_\_ for property tax relief (insert percentage or dollar amount)]

[ \_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of \_\_\_\_\_]

[ \_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the county of \_\_\_\_\_]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

d. Imposition question with an automatic repeal date for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES   
NO

Summary: To authorize imposition of a local sales and services tax in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_%) to be effective from \_\_\_\_\_ (month and day), \_\_\_\_\_ (year), until \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

A local sales and services tax shall be imposed in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_%) to be effective from \_\_\_\_\_ (month and day), \_\_\_\_\_ (year), until \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

Revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF \_\_\_\_\_:  
\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)  
The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):  
(List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_:  
\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)  
The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):  
(List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_:  
\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)  
The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):  
(List specific purpose or purposes)

e. Repeal question for voters in a single city or the unincorporated area of the county:  
(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES   
NO

Summary: To authorize repeal of the \_\_\_\_\_ percent ( \_\_\_\_\_%) local sales and services tax in the [city of \_\_\_\_\_] [unincorporated area of the county of \_\_\_\_\_] effective \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand

side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The \_\_\_\_ percent ( \_\_\_\_%) local sales and services tax shall be repealed in the [city of \_\_\_\_\_] [unincorporated area of the county of \_\_\_\_\_] effective \_\_\_\_\_ (month and day), \_\_\_\_ (year).

Revenues from the sales and services tax have been allocated as follows:

(Choose one or more of the following:)

[ \_\_\_\_\_ for property tax relief (insert percentage or dollar amount)]

[ \_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of \_\_\_\_\_]

[ \_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the county of \_\_\_\_\_]

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

f. Repeal question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?

YES

NO

Summary: To authorize repeal of the \_\_\_\_ percent ( \_\_\_\_%) local sales and services tax in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) effective \_\_\_\_\_ (month and day), \_\_\_\_ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The \_\_\_\_ percent ( \_\_\_\_%) local sales and services tax shall be repealed in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) effective \_\_\_\_\_ (month and day), \_\_\_\_ (year).

Revenues from the sales and services tax have been allocated as follows:

FOR THE CITY OF \_\_\_\_\_:

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_:

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_:

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

g. Rate change question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES   
NO

Summary: To authorize an increase (or decrease) in the rate of the local sales and services tax to \_\_\_\_\_ percent ( \_\_\_\_\_%) in the [city of \_\_\_\_\_] [unincorporated area of the county of \_\_\_\_\_] effective \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The rate of the local sales and services tax shall be increased (or decreased) to \_\_\_\_\_ percent ( \_\_\_\_\_%) in the [city of \_\_\_\_\_] [unincorporated area of the county of \_\_\_\_\_] effective \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

The current rate is \_\_\_\_\_ percent ( \_\_\_\_\_%).

Revenues from the sales and services tax are allocated as follows:

(Choose one or more of the following:)

[\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)]

[\_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of \_\_\_\_\_]

[\_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the county of \_\_\_\_\_]

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

h. Rate change question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES   
NO

Summary: To authorize an increase (or decrease) in the rate of the local sales and services tax to \_\_\_\_\_ percent ( \_\_\_\_\_%) in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) effective \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The rate of the local sales and services tax shall be increased (or decreased) to \_\_\_\_\_ percent ( \_\_\_\_\_%) in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) effective \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

Revenues from the sales and services tax are allocated as follows:

FOR THE CITY OF \_\_\_\_\_: \_\_\_\_\_ for property tax relief (insert percentage or dollar amount) The specific purpose (or purposes) for which the revenues are otherwise expended is (are): (List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_: \_\_\_\_\_ for property tax relief (insert percentage or dollar amount) The specific purpose (or purposes) for which the revenues are otherwise expended is (are): (List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_: \_\_\_\_\_ for property tax relief (insert percentage or dollar amount) The specific purpose (or purposes) for which the revenues are otherwise expended is (are): (List specific purpose or purposes)

i. Use change question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES  NO

Summary: To authorize a change in the use of the \_\_\_\_\_ percent ( \_\_\_\_\_%) local sales and services tax in the [city of \_\_\_\_\_] [unincorporated area of the county of \_\_\_\_\_] effective \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The use of the \_\_\_\_\_ percent ( \_\_\_\_\_%) local sales and services tax shall be changed in the [city of \_\_\_\_\_] [unincorporated area of the county of \_\_\_\_\_] effective \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

PROPOSED USES OF THE TAX:

If the change is approved, revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)

[\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)]

[\_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of \_\_\_\_\_]

[\_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the county of \_\_\_\_\_]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

CURRENT USES OF THE TAX:

Revenues from the sales and services tax are currently allocated as follows:

(Choose one or more of the following:)

[\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)]

[\_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of \_\_\_\_\_]

[\_\_\_\_\_ for property tax relief (insert percentage or dollar amount) in the county of \_\_\_\_\_]

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

j. Use change question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?

YES

NO

Summary: To authorize a change in the use of the \_\_\_\_\_ percent (\_\_\_\_%) local sales and services tax in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) effective \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

The use of the \_\_\_\_\_ percent (\_\_\_\_%) local sales and services tax shall be changed in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) effective \_\_\_\_\_ (month and day), \_\_\_\_\_ (year).

PROPOSED USES OF THE TAX:

If the change is approved, revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF \_\_\_\_\_:

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_:

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_:

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

CURRENT USES OF THE TAX:

FOR THE CITY OF \_\_\_\_\_:

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_:

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF \_\_\_\_\_:

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

k. Imposition question with differing automatic repeal dates for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?

YES

NO

Summary: To authorize imposition of a local sales and services tax in the cities of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (list additional cities, if applicable) at the rate of \_\_\_\_\_ percent ( \_\_\_\_\_%) to be effective from \_\_\_\_\_ (month/day/year) until automatic repeal date specified.

A local sales and services tax shall be imposed in the following cities at the rate of \_\_\_\_ percent ( \_\_\_\_%) to be effective from \_\_\_\_\_ (month/day/year) until the date specified below and the revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF \_\_\_\_\_:

The tax shall be repealed on \_\_\_\_\_ (month/day/year).

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

FOR THE CITY OF \_\_\_\_\_:

The tax shall be repealed on \_\_\_\_\_ (month/day/year).

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

FOR THE CITY OF \_\_\_\_\_:

The tax shall be repealed on \_\_\_\_\_ (month/day/year).

\_\_\_\_\_ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

**21.801(2) For a local vehicle tax:**

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES   
NO

Summary: To authorize the county of (insert name of county) to impose a local vehicle tax at the rate of \_\_\_\_ dollars (\$\_\_\_\_) per vehicle and to exempt the following classes from the tax:

\_\_\_\_\_  
The revenues are to be expended as set forth in the text of the public measure.

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25.)

The county of \_\_\_\_\_, Iowa shall be authorized to impose a local vehicle tax at the rate of \_\_\_\_\_ dollars (\$\_\_\_\_) per vehicle and to exempt the following classes of vehicles from the tax:

\_\_\_\_\_  
\_\_\_\_\_ (insert percentage or dollar amount) of the revenues is/are to be used for property tax relief.

The balance of the revenues is to be expended for:  
(List purposes for which remaining revenues will be used)

**721—21.802(422B) Local vehicle tax elections.**

**21.802(1)** Petitions requesting imposition of local vehicle taxes shall be filed with the county board of supervisors.

a. The petition shall be signed by eligible electors equal in number to at least 5 percent of the persons in the whole county who voted at the last preceding state general election. Each petition shall include:

(1) A statement in substantially the following form: We the undersigned eligible electors of \_\_\_\_\_ County hereby request imposition of a local vehicle tax at a rate of \_\_\_\_\_ dollar(s) per vehicle with the following classes (if any) to be exempt: \_\_\_\_\_.

(2) Each person signing the petition shall add the person’s address (including street numbers, if any) and the date that the person signed the petition.

b. Within 30 days after receipt of the petition, the supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition of a local vehicle tax. In the notice the supervisors shall propose a specific date for the election.

c. The proposed election date shall be at least 75 days, but not more than 90 days, after the date upon which notice is given to the commissioner. The local option tax election may be held in conjunction with a state general election, or at a special election held at any time other than the time of a city regular election. However, if the date proposed by the supervisors conflicts with another scheduled election as defined in Iowa Code section 47.6(2), the commissioner shall notify the supervisors of this fact. The supervisors shall propose another date for the special election within 7 days of receiving notice from the commissioner.

**21.802(2)** Notice of local vehicle tax election. Not less than 60 days before the date that a local vehicle tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include a sample ballot, but shall include all of the information that will appear on the ballot. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

**721—21.803(82GA, HF2663) Revenue purpose statement ballots.** When a school district wishes to adopt, amend or extend the revenue purpose statement specifying the uses of the funds received from the secure an advanced vision for education fund, which is also referred to as the “penny sales and services tax for schools,” the following ballot formats shall be used.

**21.803(1)** *Ballot to propose a revenue purpose statement.* The ballot for an election to propose a revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

- YES
- NO

Summary: To adopt a revenue purpose statement specifying the use of money from the penny sales and services tax for schools received by \_\_\_\_\_ School District.

In the \_\_\_\_\_ School District, the following revenue purpose statement, which specifies the use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) shall be adopted:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by 2008 Iowa Acts, House File 2663, section 29.)

**21.803(2)** *Ballot to amend a revenue purpose statement.* The ballot for an election to decide a change in the revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

- YES
- NO

Summary: To authorize a change in the use of money from the penny sales and services tax for schools received by \_\_\_\_\_ School District.

In the \_\_\_\_\_ School District, the revenue purpose statement, which specifies the use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) shall be changed.

Proposed uses. If the change is approved, the revenue purpose statement shall read as follows:

(Insert here the revenue purpose statement that was adopted by the school board and that states the intended uses of the funds by the school district. The use or uses must be among the approved uses of the tax that are authorized by 2008 Iowa Acts, House File 2663, section 29.)

Current uses. If the change is not approved, the funds shall continue to be used as follows:

(Insert here the current revenue purpose statement or list the current voter-approved uses of the funds by the school district, if the school infrastructure local option tax was adopted before the revenue purpose statement was required.)

**21.803(3)** *Ballot to extend a revenue purpose statement.* The ballot for an election to extend a revenue purpose statement specifying the use of funds received from the secure an advanced vision for education fund shall be in substantially the following form:

(Insert letter to be assigned by the commissioner.)

Shall the following public measure be adopted?

- YES
- NO

Summary: To authorize \_\_\_\_\_ School District to continue to spend money from the penny sales and services tax for schools for the previously approved uses until (specify date or insert amended date).

\_\_\_\_\_ School District is authorized to extend the current revenue purpose statement which specifies use of the penny sales and services tax for schools (sales and services tax funds from the secure an advanced vision for education fund for school infrastructure) received from (date) until (specify date or insert amended date). If an extension is not approved, the current revenue purpose statement will expire on (date). If an extension is approved, the revenue purpose statement will read as follows:

(Insert here the revenue purpose statement, including the new expiration date, or an explanation that the revenue purpose statement will remain in effect until it is changed.)

This rule is intended to implement 2008 Iowa Acts, House File 2663, section 29.



each telephone subscriber’s monthly phone bill if provided within (description of the proposed service area). The surcharge shall be collected for not more than 24 months, after which the surcharge shall revert to one dollar per month for each line.

A map may be used to show the proposed E911 service area. If a map is used the public measure shall read as follows:

“Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a temporary monthly surcharge increase to (an amount between one dollar and two dollars and fifty cents to be determined by the local joint E911 service board) on each telephone access line collected as part of each telephone subscriber’s monthly phone bill if provided within the proposed E911 service area shown on the map below. The surcharge shall be collected for not more than 24 months, after which the surcharge shall revert to one dollar per month for each line.”

This rule is intended to implement Iowa Code sections 34A.6 and 34A.6A.

721—21.811 to 21.819 Reserved.

**721—21.820(99F) Gambling elections.**

**21.820(1)** Petitions requesting elections to approve or disapprove the conduct of gambling games on an excursion gambling boat or at a gambling structure shall be filed with the county board of supervisors.

a. The petition shall be signed by eligible electors of the county equal in number to at least 10 percent of the votes cast in the county for the office of President of the United States or governor at the preceding general election.

b. Each petition shall be in substantially the following form:

STATE OF IOWA  
PETITION REQUESTING ELECTION

\_\_\_\_\_ County

We, the undersigned eligible electors of \_\_\_\_\_ County, hereby request that an election be held on the proposition to approve or disapprove gambling games on an excursion gambling boat or at a gambling structure in the county.

Signature	Address, including street and number, if any	Date signed
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		

20.		
21.		
22.		
23.		
24.		
25.		

page \_\_\_\_ of \_\_\_\_

c. Within 10 days after receipt of a valid petition, the supervisors shall provide written notice to the county commissioner of elections directing the commissioner to submit to the qualified electors of the county a proposition to approve or disapprove the conduct of gambling games on an excursion gambling boat or at a gambling structure in the county. The election shall be held within 70 days of the receipt of the petition.

d. If a regularly scheduled or special election is to be held in the county on the date selected by the supervisors, notice shall be given to the commissioner no later than the last day upon which nomination papers may be filed for that election. If the excursion gambling boat or the gambling structure election is to be held with a local option tax election, the supervisors shall provide the commissioner at least 60 days' written notice. Otherwise, the supervisors shall give at least 32 days' written notice. If the commissioner finds that the date selected by the supervisors conflicts with another election to be held that day, the commissioner shall immediately notify the supervisors in writing. Within 7 days, the supervisors shall select another date and notify the commissioner in writing.

**21.820(2)** Form of ballot for election called by petition. Ballots shall be in substantially the following form:

(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

- YES
- NO

Gambling games on an excursion gambling boat or at a gambling structure in \_\_\_\_\_ County are approved.

**21.820(3)** Form of ballot for elections to continue gambling games on an excursion gambling boat or at a gambling structure:

(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

- YES
- NO

Summary: Gambling games on an excursion gambling boat or at a gambling structure in \_\_\_\_\_ County are approved.

Gambling games, with no wager or loss limits, on an excursion gambling boat or at a gambling structure in \_\_\_\_\_ County are approved. If approved by a majority of the voters, operation of gambling games with no wager or loss limits may continue until the question is voted upon again at the general election held in 2010. If disapproved by a majority of the voters, the operation of gambling games on an excursion gambling boat or at a gambling structure will end within 60 days of this election. (Iowa Code section 99F.7(10) "c")

**21.820(4)** Ballot form to permit gambling games at existing pari-mutuel racetracks:

(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

- YES
- NO

The operation of gambling games at (name of pari-mutuel racetrack) in \_\_\_\_\_ County is approved.

**21.820(5)** Canvass of votes. The canvass of votes for a special election regarding excursion boat gambling shall be held on the Monday following the election. A copy of the abstract of votes of the election shall be sent to the state racing and gaming commission.

**21.820(6)** Ballot form for general election for continuing operation of gambling games at pari-mutuel racetracks:

(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

- YES
- NO

Summary: The continued operation of gambling games at (name of pari-mutuel racetrack) in \_\_\_\_\_ County is approved.

The continued operation of gambling games at (name of pari-mutuel racetrack) in \_\_\_\_\_ County is approved. If approved by a majority of the voters, operation of gambling games may continue at (name of pari-mutuel racetrack) in \_\_\_\_\_ County until the question is voted on again at the general election in eight years. If disapproved by a majority of the voters, gambling games at (name of pari-mutuel racetrack) in \_\_\_\_\_ County will end.

**21.820(7)** Ballot form for general election for continuing gambling games on an excursion gambling boat or at a gambling structure:

(Insert letter to be assigned by the commissioner)

Shall the following public measure be adopted?

- YES
- NO

Summary: The continued operation of gambling games on an excursion gambling boat or at a gambling structure in \_\_\_\_\_ County is approved.

The continued operation of gambling games on an excursion gambling boat or at a gambling structure in \_\_\_\_\_ County is approved. If approved by a majority of the voters, operation of gambling games may continue on an excursion gambling boat or at a gambling structure in \_\_\_\_\_ County until the question is voted on again at the general election in eight years. If disapproved by a majority of voters, gambling games on an excursion gambling boat or at a gambling structure in \_\_\_\_\_ County will end nine years from the date of the original issue of the license to the current licensee.

This rule is intended to implement Iowa Code section 99F.7 and Iowa Code Supplement section 99F.4D.

721—21.821 to 21.829 Reserved.

**721—21.830(357E) Benefited recreational lake district elections.** Elections for benefited recreational lake districts shall be conducted according to the following procedures.

**21.830(1) Conduct of election.** It is not mandatory for the county commissioner of elections to conduct elections for a benefited recreational lake district. However, if both a public measure and a candidate election will be held on the same day in a benefited recreational lake district, the same person shall be responsible for conducting both elections. All elections must be held on a Tuesday.

**21.830(2) Ballots.** Ballots for benefited recreational lake district trustee elections shall be printed on opaque white paper, 8 by 11 inches in size. The ballots for the initial election for the office of trustee shall be in substantially the following form:

---

**OFFICIAL BALLOT**  
**BENEFITED RECREATIONAL LAKE DISTRICT**  
**Election date**  
(facsimile signature of person responsible for printing ballots)

---

**FOR TRUSTEE:**

**To vote:** Neatly print the names of at least three people you would like to see elected to the office of Trustee of the Benefited Recreational Lake District. You may vote for as many people as you wish, but you must vote for at least three.

(At the bottom of the ballot a space shall be included for the endorsement of the precinct election official, like this:)

Precinct official's endorsement: \_\_\_\_\_

---

**21.830(3) Canvass of votes.** On the Monday following the election, the board of supervisors shall canvass the votes cast at the election. At the initial election the supervisors shall choose three trustees from among the five persons who received the most votes. The results of benefited recreational lake district elections shall be certified to the district board of trustees.

This rule is intended to implement Iowa Code section 357E.8.

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**DRUN**

*DRUNKENNESS, DRIVERS*

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