State Board of Health

REGULARLY SCHEDULED MEETING: 01/11/2023

10:00 A.M. – 12:00 P.M.

LOCATION: ZOOM VIRTUAL MEETING

MEETING LINK:

https://us02web.zoom.us/j/86969429509?pwd=cG1SQi9aUXRJeEZQV3IlaEVKelliQT09

JOIN BY PHONE: +1 312 626 6799

Meeting ID: 869 6942 9509 and **Passcode**: 868065

Agenda

Board Members: Andrew Allen; Leone Junck; George Kovach, MD; Donald Macfarlane, MD, PhD; Sandra McGrath, RN; Kierstyn Borg Mickelson; Nick Ryan, JD; Chelcee Schleuger, RN, BSN; Samantha Rozeboom, MD; Ann McBride, RN

In accordance with its statutory duties, the Iowa State Board of Health is the policy-making body for the Iowa Department of Public Health. The board's mission is to protect and promote the health of all Iowans by reviewing the field of public health and making recommendations to the department, the Iowa General Assembly, and the governor on a wide range of public health issues. The board also adopts rules consistent with the law for the protection of the public health and the prevention of substance abuse.

10:00 A.M. Call to order; roll call to determine if a quorum is present

10:05 A.M. Board Minutes for Consideration of Approval – 11/09/2022

10:10 A.M. Director's Report – Kelly Garcia, IHHS Director

10:40 A.M. State Medical Director Report – Robert Kruse, M.D., M.P.H

11:10 A.M. Administrative Rules – Department of Public Health [641] – Susan Dixon

Notice of Intended Action

a. Chapter 15, "Swimming Pools and Spas"
b. Chapter 131, "Emergency Medical Services—Providers—Initial Certification--Renewal and Reactivation—Authority—Complaints and Investigations," and Chapter 196, "Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members"

Adopted

a. Chapter 9, "Outpatient Diabetes Education Program," Chapter 11, "Human Immunodeficiency virus (HIV) Infection and Acquired Immune Deficiency Syndrome (AIDS)," Chapter 91, "Iowa Domestic Abuse Death Review Team," Chapter 109, "Prescription Drug Donation Repository Program," and Chapter 142, "Out-of-Hospital Do-Not-Resuscitate Orders"
b. Chapter 43, "Minimum Requirements for Radon Testing and Analysis"
c. Chapter 95, "Vital Records: General Administration"

11:30 A.M. Substance Use & Problem Gambling Treatment Program Committee

12:00 P.M. Adjournment

The electronic meeting of the State Board of Health is being held in accordance with Iowa Code section 21.8 entitled "Electronic Meetings." The code states that a governmental body may conduct a meeting by electronic means only if circumstances are such that a meeting in person is impossible or impractical and access is provided to the public. An in-person meeting of the Board is impractical due to the schedules of the Board members. The electronic meeting will originate in the Director's Conference Room, 6th floor, Lucas State Office Building, 321 E 12th Street, Des Moines and public access meetings shall be provided at this location. Notices and agendas were posted in the building and posted on the Department's website. Minutes of the meeting will be kept.

All meetings held by the Iowa Department of Public Health are accessible to everyone. If you are a person with a disability who requires reasonable accommodation in order to participate in this meeting, please contact Iesha Smith a minimum of five business days in advance at 515-281-7726 or at iesha.smith@idph.iowa.gov. If you have a hearing and/or speech impairment, please call Relay Iowa at 7-1-1 or 1-800-735-2942 (TTY or ASCII). For more information on Relay Iowa Services please view their website at: http://www.relayiowa.com/services/

Iowa State Board of Health
11/9/2022
Draft - MEETING MINUTES

Members Present:	Donald Macfarlane, MD, PhD, Chair Andrew Allen, Vice-Chair George Kovach, MD Leone Junck Ann McBride, RN Sandra McGrath, RN Kierstyn Borg Mickelson Samantha Rozeboom, MD Chelcee Schleuger, RN, BSN
Members Absent:	Nick Ryan, JD Kierstyn Borg Mickelson
Staff Present:	Heather Adams, Assistant Attorney General Robert Kruse, MPH, PhD, State Medical Director Ken Sharp, Public Health Operations Deputy Sarah Resisetter, J.D., Director of Compliance Iesha Smith, Recording Officer
Staff Absent:	Kelly Garcia, IHHS Director

In accordance with its statutory duties, the Iowa State Board of Health is the policy-making body for the Iowa Department of Public Health. The board's mission is to protect and promote the health of all Iowans by reviewing the field of public health and making recommendations to the department, the Iowa General Assembly, and the governor on a wide range of public health issues. The board also adopts rules consistent with the law for the protection of the public health and the prevention of substance abuse.

Call to Order & Roll Call
Donald Macfarlane called the video meeting to order at 10:01 AM. Roll call was taken to determine if a quorum was present.

Approval of Minutes from 09/14/2022
On a motion by Andrew Allen, seconded by Ann McBride, all members present voted unanimously to approve the minutes.

Introduction to the New Medical Director - Robert Kruse, State Medical Director
Dr. Kruse joined the IHHS agency on October 7, 2022. Dr. Kruse attended the University of Iowa to study biomedical engineering and completed his Master's in Public Health at St. George University. He has held a teaching appointment as Assistant Professor at Rutgers University's Robert Wood Johnson Medical School in the Department of Family Medicine and Community

Health in Central New Jersey. Dr. Kruse's board certification is in Family Medicine. He previously served as the Medical Director of Occupational Health at MercyOne in Des Moines.

Director's Report - Robert Kruse on behalf of Kelly Garcia, IHHS Director
Director Kelly was not able to attend the board meeting however Dr. Kruse presented the report on Director Garcia's behalf. HHS leadership have continued to fill roles for the Community Access and Family Wellbeing and Protection Division Administrators this past week. Once those positions are filled, the interview process for the child care, early intervention and support, eligibility, child support, and wellness and preventative health director positions. HHS also hosted a leadership retreat on October 26th where Director Garcia opened up discussion on culture setting and change management. The retreat ended with a service project for the Food Bank of Iowa.

Dr. Joshua Akers from the Polk County Medical Examiner's Office resigned in October. The county's autopsies will be performed by the Iowa Office of the State Medical Examiner (IOSME) starting October 31st. An additional 400 forensic autopsies are expected to be performed on top of the 1,600 autopsies performed by IOSME. Dr. Klein is meeting with John Norris to discuss next steps and ensuring that timely burials are a priority. Iowa labs are also seeing increases in viruses, particularly Rhinovirus and other enteroviruses that have been predominant since August.

Two initiatives were announced by HHS in October focused on healthy habits., nutrition, and addressing food insecurity. $265,000 in grants were awarded to 15 counties through the 5-2-1-0 Healthy Choices Count framework. The other initiative is a pilot program targeting women between the ages of 21-44 who are food insecure but may not qualify for SNAP, WIC, or Free and Reduced Lunch Programs. Many of the targeted group are young mothers who work in low wage jobs or have left the workforce, making this project important to Iowa employers.

STS continues to await the court appointed monitor's annual report following the October visit. The facility received glowing remarks via verbal exit conference and the report is under seal so reports can be shared at this time. Final interviews are underway for the Chief Medical Officer to oversee the State Resource Centers. This position will also serve as a faculty member of the University of Iowa Hospitals and Clinics.

IHHS Transition Plan Overview - Cassie Tracy
Cassie provided an overview of the recently published transition plan for HHS. The presentation included an orientation on how to read the report on stakeholder and staff engagement, identified projects along with the teams involved, and the progress of current and future projects. More than 130 employees have invested time to engage in work teams during initial phase and implementation work. There are several tasks that need to be completed. These tasks include: Strategic Planning, Organizational Structure and Personnel, Office Space and Infrastructure, Contracts, Grants, Data Sharing and other Agreements, Technology Services, Budget Transfer and Reconciliation, Statute and Administrative Rules, Boards, Commissions,

Committees, Councils, or Other Bodies. These tasks are broken up by date, to be completed by July 1, 2023 and to be completed after July 1, 2023.

Board member Andrew Allen asked about how the feedback tool was able to capture real time information on organizational culture. Cassie shared that the tool used allows for the team to get pulse checks on information in a more timely manner rather than using the annual survey that collects information once a year.

IHHS Governance - Review of Recommendations, Robert Kruse, State Medical Director
Sarah Resisetter shared comments on how the alignment team is currently reviewing survey results collected from board and councils and that additional conversations need to be completed to understand what the new governing structure will look like for the agency. Board member Donald Macfarlane presented some recommendations on what the future board could comprise of in relation to the Council for DHS. Some recommendations included allowing board members form an ad hoc committee time to study legislation, examining controversial medical issues, and be a statutory advisory committee of the Council for DHS. Dr. Kruse highlighted the importance of how legislation will need to occur to change board composition and that Director Garcia and the governor's office will be working together on that task.

Board member Sandra McGrath commented on the challenges experienced during the pandemic with recommendations about medical decisions. She recommended that involvement with local public health to provide perspectives from their communities and how health varies across the state. This information can be shared with the board members at meetings. Board member George Kovach agreed that the board should be an advisory committee to the DHS council. Board member Leone Junck commented that the health board should be left separate given the number of topics both the board and council receive and the challenges that could present itself during meetings to review those topics.

Board member Andrew Allen preferred to align the two governing groups with member representation on substance abuse and child welfare. Board member Sandra McGrath commented on representation for the board where varied representation should be able to vote on for topics. This would disallow multiple members of the same represented group to vote on decisions at meetings.

Council for DHS member Rebecca Peterson attended the meeting and has agreed to share the recommendations drafted by board member Donald Macfarlane to share with other council members. She did pose the question of who legislators would refer to for any medical inquiries or questions. Board member Sandra McGrath shared insight that the medical director, deputy medical director, and the public health bureau chiefs provide expertise and guidance on important medical issues.

Administrative Rules - Iowa Department of Public Health [641] - Notice of Intended Action
Chapter 9, Outpatient Diabetes Education Program," Chapter 11,"Human Immunodeficiency

virus (HIV) Infection and Acquired Immune Deficiency Syndrome (AIDS)," Chapter 91, "Iowa Domestic Abuse Death Review Team," Chapter 109, "Prescription Drug Donation Repository Program," and Chapter 142, "Out-of-Hospital Do-Not-Resuscitate Orders"
The proposed amendment adds an additional definition for "physician assistant" in specific sections of Chapters 9, 11, 91, 109, and 142 as described in the 2022 Iowa Acts House File 803. Board member Samantha Rozeboom asked about inclusive language for nurse practitioners and why that language was not included in every chapter. Susan Dixon provided an explanation about how the administrative rule process could omit information and board members are welcomed to provide input to the administrative rule committee. Board member Donald Macfarlane commented about the various levels of health professionals and how the board should participate in information sharing with the committee. Board member Sandra McGrath commented on the usage of capitalization for professions in the document. Ken Sharp shared historical context about how specific the language was chosen for the bill from the legislators.

Chapter 43, "Minimum Requirements for Radon Testing and Analysis"
The proposed amendments implement the Radon School Testing Bill, House File 2412. The proposed amendments clean up outdated certification agency language throughout the chapter, update rules to include current radon mitigation and measurement standards, and add measurement training course approval and training requirement sections for school district employees.

Chapter 95, "Vital Records: General Administration"
The proposed amendment implements the 2022 Iowa Acts, Senate File 577. The proposed amendment establishes a process to request and issue a birth certificate for a nonviable birth when a healthcare provider diagnoses a nonviable birth. Board member Sandra McGrath inquired about the process. Melissa Bird shared insight on the history of how a parent of a nonviable birth could not issue a birth certificate. The process now allows the department to provide that service to Iowans.

Substance Use/Problem Gambling Treatment Program Committee Report - New Committee Appointee Discussion
Ken Sharp and Lori Hancock-Muck provided a short overview of the history and purpose of the committee. The committee is made up of three members and currently board members Andrew Allen and Sandra McGrath hold seats. Board member Andrew Allen shared his experience as a member of the committee and how he enjoys meeting with leadership to discuss these issues. Board member Sandra McGrath shared insight on the organization and the flow of discussion. The meetings provide members to have decision making power and are productive. Board member Samantha Rozeboom volunteered to join the committee, seconded by Allen Andrew and Sandra McGrath with no other volunteers.

Board member Andrew Allen provided shared discussion from the committee on naloxone access at schools and workforce concerns. There is a one year planning grant in preparation for

understanding how CCBHC in the state will fit the new model provided by SAMHSA. Andrew also shared reports from the alcohol involved deaths workgroup with statistics of the following:

The committee approved the following:

- One - One year license
- One - Two year license
- One - Three year license
- One - Deemed status
- One - Complaint investigation
- One - Denial

Adjournment

On a motion by Leone Junck, seconded by Ann McBride, all State Board of Health members present voted unanimously to adjourn at approximately 12:19 PM.

The electronic meeting of the State Board of Health is being held in accordance with Iowa Code section 21.8 entitled "Electronic Meetings." The code states that a governmental body may conduct a meeting by electronic means only if circumstances are such that a meeting in person is impossible or impractical and access is provided to the public. An in-person meeting of the Board is impractical due to the schedules of the Board members. The electronic meeting will originate in the Director's Conference Room, 6th floor, Lucas State Office Building, 321 E 12th Street, Des Moines and public access meetings shall be provided at this location. Notices and agendas were posted in the building and posted on the Department's website. Minutes of the meeting will be kept.

All meetings held by the Iowa Department of Public Health are accessible to everyone. If you are a person with a disability who requires reasonable accommodation in order to participate in this meeting, please contact Iesha Smith a minimum of five business days in advance at 515-281-7726 or at iesha.smith@idph.iowa.gov. If you have a hearing and/or speech impairment, please call Relay Iowa at 7-1-1 or 1-800-735-2942 (TTY or ASCII). For more information on Relay Iowa Services please view their website at: http://www.relayiowa.com/services/

PUBLIC HEALTH DEPARTMENT [641]

Notice of Intended Action

The Public Health Department hereby proposes to amend Chapter 15, "Swimming Pools and Spas," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code Chapter 135I.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code Chapter 135I.

Purpose and Summary

The proposed amendments are intended to provide more clarity to existing provisions or reduce duplication of provisions. Specific changes include the following.

- Items 1 and 7, specifically in 15.4(1)"e"(2) and 15.51(1)"h"(2), removes the requirement for gas-fired swimming pool heaters to bear the seal of the AGA. Beginning July 1, 2000, the markings on the valve bodies no longer have the AGA symbol cast into the product. In its place the new industry certification of "CSA US" (Canadian Standards Association: United States) has been placed on the product. In recent years, AGA changed their name to IAS (International Approval services). Since that time, CSA has purchased CGA (Canadian Gas Association) including AGA Listing rights and the responsibility for monitoring manufacturing activities for certified products. There are requirements of listed and labeled equipment in other building codes such as the plumbing code, mechanical code, and electrical code so a separate requirement for listing and labeling of this equipment in the pool rules could create conflicting requirements and multiple authorities having jurisdiction.

- Items 2, 4 and 9, specifically in 15.5(5)”d”(2); 15.5(21)”f”(1) and 15.52(5)“d”(2), removes the requirement that the data plate of gas-fired pool water heaters bear the AGA mark. This reference is outdated as it is no longer in use, and the CSA US standard is now used.

- Item 3, specifically in 15.5(13)”k”(1) and 15.5(13)”k”(2) changes terminology from lumens/ft2 to footcandles (fc). This change will clarify the rule as footcandles is a more commonly used term than lumens/ft2 to express the lighting level.

- Item 3, specifically in 15.5(13)”l”, removes a federal reference (CFR Title 16, Part 1207) which is not enforced by the Consumer Product Safety Commission. Department staff have been in contact with CPSC to determine if the agency intends to enforce the standard, and it appears that it has not been enforced, and as such, the program feels that it should not be a basis for a deficiency under Iowa rule.

- Item 5, specifically in 15.10(4), removes the requirement for training course providers to provide a list of names and addresses of individuals who have completed the training course. Historically, the program provided this information to pool and spa facilities to verify certification of staff, however the training sponsors (typically the Pool & Hot Tub Alliance) is able to provide verification of certification using the certificate number, a QR code, or by verifying the individual’s name. As such, it is duplicative for training providers to provide this information to the department.

- Item 6, specifically in 15.12(5), removes the requirement that training providers pay a fee of $20 for each person who successfully completes the training course. Historically, the department maintained a list of individuals who successfully passed the certification course, however since that information is available from the Pool & Hot Tub Alliance and other training providers, this is duplicative work.

- Item 8, specifically in 15.51(4)"f"(2) 3., changes the requirement for facilities to maintain purchase records for at least five years to the requirement that records be maintained for the life of the cover or grate. There are different service lives (i.e. 3 year, 5 year, 7 year, 10 year, 20 year) assigned by the manufacturer so the compliance paperwork must be kept for the life of the cover rather than simply 5 years.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 641—Chapter 15.7.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Mindy Uhle

Department of Public Health

Lucas State Office Building

321 East 12th Street

Des Moines, Iowa 50319

Email: mindy.uhle@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)*"b,"* an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

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

The following rule-making action proposed:

ITEM 1. Amend paragraph **15.4(1)"e"** as follows:

e. Swimming pool water heaters.

(1) Electric water heaters shall bear the seal of UL.

(2) Gas-fired water heaters ~~shall bear the seal of the AGA and~~ shall be equipped with a pressure relief valve.

(3) Fuel-burning water heaters shall be vented to the outside in accordance with the Iowa state plumbing code.

(4) Each indoor swimming pool equipment room with fuel-burning water heating equipment shall have one or more openings to the outside of the room for the provision of combustion air.

ITEM 2. Amend subparagraph **15.5(5)"d"(2)** as follows:

(2) Gas-fired pool water heaters shall comply with the requirements of ANSI/AGA Z21.56-2001,

ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004. ~~The data plate of the heater shall bear the AGA mark.~~

ITEM 3. Amend paragraphs **15.5(13)"k"** and **"l"** as follows:

k. Lighting. Artificial lighting shall be provided at indoor swimming pools and at outdoor swimming pools which are to be used after sunset in accordance with the following:

(1) Underwater lighting of at least 8 lamp lumens/ft2 or 0.5 watts/ft2 of water surface area, located to provide illumination of the entire swimming pool bottom, and area lighting of at least 10 footcandles (fc) ~~lumens/ft2~~ or 0.6 watts/ft2 of deck area.

(2) If underwater lights are not provided, overhead lighting of at least 30 footcandles (fc) ~~lumens/ft2~~ or 2.0 watts/ft2 of swimming pool water surface area shall be provided.

l. Swimming pool slides. ~~Swimming pool slides shall meet the requirements of the January 1, 2004, product standard of the United States Consumer Product Safety Commission (CFR Title 16, Part 1207).~~ Swimming pool slides shall be installed in accordance with the manufacturer's recommendations.

ITEM 4. Amend subparagraph **15.5(21)"f"(1)** as follows:

(1) Gas-fired storage-type hot water heaters shall comply with the requirements of ANSI/AGA Z21.10.1-2001, or with the requirements of ANSI/AGA Z21.10.3-2001. ~~The heater shall bear the mark of the AGA.~~

ITEM 5. Rescind subrule **15.10(4)**.

ITEM 6. Rescind subrule **15.12(5)**.

ITEM 7. Amend subparagraph **15.51(1)"h"(2)** as follows:

(2) Gas-fired water heaters ~~shall bear the seal of the AGA and~~ shall be equipped with a pressure relief valve.

ITEM 8. Amend subparagraph **15.51(4)"f"(2)** as follows:

(2) Each fully submerged outlet shall have a cover/grate that has been tested for compliance with the requirements of the ASME standard by a testing agency approved by the department or that is certified for compliance by an engineer licensed in Iowa.

1. The cover/grate for an outlet system with a single fully submerged outlet shall have a flow rating of at least 100 percent of the maximum system flow rate. The combined flow rating for the cover/grates for an outlet system with more than one fully submerged outlet shall be at least 200 percent of the maximum system flow rate.

The maximum system flow rate is the design flow rate for the pump(s) directly connected to the outlet(s) in an outlet system. In the absence of better information, the maximum system flow rate is the capacity of the pump(s) at 50 feet TDH, based on the manufacturer's published pump curves.

2. Fully submerged outlet cover/grates shall not be removable without the use of tools.

3. Purchase records and product information that demonstrate compliance shall be maintained by the facility for ~~at least five years from the time~~ the life of the cover/grate ~~is purchased~~. If a field fabricated cover/grate is certified for compliance to the ASME standard by an engineer licensed in Iowa, a copy of the certification letter shall be kept at the facility for the life of the cover/grate ~~for at least five years from the certification date~~.

ITEM 9. Amend subparagraph **15.52(5)"d"(2)** as follows:

(2) Gas-fired spa water heaters shall comply with the requirements of ANSI/AGA Z21.56-2001, ANSI/AGA Z21.56a-2004, and ANSI/AGA Z21.26b-2004. ~~The data plate of the heater shall bear the AGA mark.~~

PUBLIC HEALTH DEPARTMENT [641]

Notice of Intended Action

Proposing rule making related to licensing regulation, fees, veterans and military spouses and providing an opportunity for public comment

The Public Health Department hereby proposes to amend Chapter 131, "Emergency Medical Services—Providers—Initial Certification--Renewal and Reactivation—Authority—Complaints and Investigations," and Chapter 196, "Military Service, Veteran Reciprocity, and Spouses of Active Duty Service Members," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 147A and 272C and 2022 Iowa Acts Senate File 2383.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts Senate File 2383.

Purpose and Summary

The proposed amendments implement the licensure-related provisions of 2022 Iowa Acts, SF 2383. The proposed rule making revises the requirements for licensure by verification, and updates the requirements and parameters of licensure for veterans and their spouses.

Fiscal Impact

This rule making will have limited fiscal impact. The provisions of the rule making will waive the initial application and renewal fees for veterans, who were honorably or generally discharged within the previous five years; however, the overall number of applications that meet these criteria is low.

Jobs Impact

After analysis and review of this rule making, there may be a positive impact on jobs since it would streamline and remove some of the requirements related to licensure by verification. Additionally, it would clearly provide an alternative pathway to licensure of spouses of veterans when moving to Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions in 641—Chapter 178.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 28, 2023. Comments should be directed to:

Margot Mccomas

Department of Public Health

Lucas State Office Building

321 East 12th Street

Des Moines, IA 50319

Email: margot.mccomas@idph.iowa.gov

Public Hearing

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action proposed:

ITEM 1. Amend subrule 131.3(6) as follows:

131.3(6) Fees may be waived in accordance with provisions in Iowa Code chapter 272C for individuals demonstrating the following:

a. ~~income~~ Income that does not exceed 200 percent of the federal poverty level~~.~~,

b. Initial licensing fees and one renewal fee for an applicant that has been honorably or generally discharged from federal active duty or national guard duty, as those terms are defined in section 29A.1, that would otherwise be charged within five years of the discharge.

ITEM 2. Amend subrules 196.3(3) to 196.3(6) as follows:

196.3(3) Upon receipt of a fully completed licensure application, the licensing authority shall promptly determine if the ~~professional or occupational licensing requirements~~ scope of practice of the jurisdiction where the veteran or spouse is licensed are substantially equivalent to the ~~licensing requirements~~ scope of practice in Iowa. The licensing authority shall make this determination based on information supplied by the applicant and such additional information as the licensing authority may acquire from the applicable jurisdiction. ~~As relevant to the license at issue, the~~

~~licensing authority may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, experience, and examinations required for licensure.~~

196.3(4) The licensing authority shall promptly grant a license to the veteran or spouse if the applicant is licensed in the same or similar profession in another jurisdiction whose ~~licensure requirements~~ scope of practice are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

196.3(5) If the licensing authority determines that the ~~licensure requirements~~ scope of practice in the jurisdiction in which the veteran or spouse ~~is~~ are licensed are not substantially equivalent to ~~those required~~ the scope of practice in Iowa, the licensing authority shall promptly inform the applicant of the additional ~~experience~~ training, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, or the issuance of a ~~provisional~~ temporary license is inconsistent with the licensing authority's enabling statute, the following shall apply:

a. If an applicant has not passed the required examination(s) for licensure, the applicant may not be issued a ~~provisional~~ temporary license but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the applicant with the opportunity to satisfy the examination requirements.

b. If additional ~~experience or~~ education or training is required ~~for the applicant's qualifications to be considered substantially equivalent~~, the applicant may request that the licensing authority issue a ~~provisional~~ temporary license for a specified period of time during which the applicant will successfully complete the necessary ~~experience or~~ education or training. The licensing authority

shall issue a ~~provisional~~ temporary license for a specified period of time upon such conditions as the licensing authority deems reasonably necessary to protect the health, welfare or safety of the public unless the licensing authority determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a ~~provisional~~ temporary license is granted.

c. If a request for a ~~provisional~~ temporary license is denied, the licensing authority shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a ~~provisional~~ temporary license.

d. If a ~~provisional~~ temporary license is issued, the application for full licensure shall be placed in pending status until the necessary ~~experience or~~ education or training has been successfully completed or the provisional license expires, whichever occurs first. The licensing authority may extend a provisional license on a case-by-case basis for good cause.

196.3(6) A veteran or spouse who is aggrieved by the licensing authority's decision to deny an application for a reciprocal license or a ~~provisional~~ temporary license or is aggrieved by the terms under which a ~~provisional~~ temporary license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the licensing authority's decision. The provisions of 641—Chapter 173 shall apply, except that no fees or costs shall be assessed against the applicant in connection with a contested case conducted pursuant to this subrule.

PUBLIC HEALTH DEPARTMENT [641]

Adopted and Filed

The Public Health Department hereby amends Chapter 9, "Outpatient Diabetes Education Programs," Chapter 11, "Human Immunodeficiency Virus (HIV) Infection and Acquired Immune Deficiency Syndrome (AIDS)," Chapter 91, "Iowa Domestic Abuse Death Review Team," Chapter 109, "Prescription Drug Donation Repository Program," and Chapter 142, "Out-of-Hospital Do-Not-Resuscitate Orders," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 139A and sections 135.11, 135M.4, 141A.2 and 144A.7A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 135M and 139A and chapters 135, 141A and 144A as amended by 2022 Iowa Acts, House File 803.

Purpose and Summary

This rule making makes changes required by 2022 Iowa Acts, House File 803, by adding a definition for "physician assistant" in Chapters 9, 11, 109, and 142 and adding provisions regarding physician assistants in specific rules in Chapters 9, 11, 91, 109 and 142.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC** 6645C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on January 11, 2023.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 15, 2023.

The following rule-making action is adopted:

ITEM 1. Amend rule **641—9.2(135)**, definition of "Diabetes mellitus," as follows:

"Diabetes mellitus" includes the following:

1. "Type I diabetes" means insulin-dependent diabetes (IDDM) requiring lifelong treatment with insulin.

2. "Type II diabetes" means noninsulin-dependent diabetes often managed by food plan,

exercise, weight control, and in some instances, oral medications or insulin.

3. "Gestational diabetes" means diabetes diagnosed during pregnancy.

4. "Impaired glucose tolerance" means a condition in which blood glucose levels are higher than normal, diagnosed by a physician or physician assistant, and treated with food plan, exercise or weight control.

5. "Secondary diabetes" means diabetes induced by drugs or chemicals as well as by pancreatic or endocrine disease and treated appropriately.

ITEM 2. Adopt the following **new** definition of "Physician assistant" in rule **641—9.2(135)**:

"Physician assistant" means a person currently licensed under Iowa Code chapter 148C.

ITEM 3. Amend subrule 9.8(3) as follows:

9.8(3) The primary instructors shall be one or more of the following health care professionals: physicians, physician assistants, registered nurses, licensed dietitians, and pharmacists who are knowledgeable about the disease process of diabetes and the treatment of diabetes. If there is only one primary instructor, there shall be at least one supporting instructor. The supporting instructor shall be from one of the four professions listed as possible primary instructors, but a different profession from the single primary instructor.

ITEM 4. Adopt the following **new** definition of "Physician assistant" in rule **641—11.1(139A,141A)**:

"Physician assistant" means a person currently licensed under Iowa Code chapter 148C.

ITEM 5. Amend subrules 11.6(4) and 11.6(5) as follows:

11.6(4) Within seven days of diagnosing a person as having AIDS or an AIDS-related condition, the diagnosing physician or physician assistant shall make a report to the department on a form provided by the department.

11.6(5) Within seven days of the death of a person with HIV infection, the attending physician or physician assistant shall make a report to the department on a form provided by the department.

ITEM 6. Amend rule 641—11.15(139A,141A) as follows:

641—11.15(139A,141A) Purpose. The purpose of rules 641—11.15(139A,141A) to 641—11.18(141A) is to establish a voluntary partner notification program, including a procedure to allow a physician, physician assistant or the department to notify an identifiable third party of an HIV-infected person directly that the party has been exposed to HIV when the HIV-infected person will not participate in the voluntary partner notification program.

ITEM 7. Amend rule 641—11.18(141A) as follows:

641—11.18(141A) Direct notification of an identifiable third party by a physician, physician assistant or the department.

11.18(1) Direct notification shall be used when an HIV-infected person is having continuing contact with a sexual or needle-sharing partner who is unaware of the person's infection and when both of the following situations exist:

a. A physician or physician assistant for the HIV-infected person is of the good-faith opinion that the nature of the continuing contact through sexual intercourse or the sharing of drug injecting equipment poses an imminent danger of HIV transmission to the third party.

b. When the physician or physician assistant believes in good faith that the HIV-infected person, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program.

11.18(2) The department or a physician or a physician assistant may reveal the identity of an HIV-infected person pursuant to this rule only to the extent necessary to protect a third party from

the direct threat of transmission. Notification of a person pursuant to this rule shall be made confidentially. Nothing in this rule shall be interpreted to create a duty to warn third parties of the danger of exposure to HIV through contact with an HIV-infected person.

11.18(3) When the physician or physician assistant is of the good-faith opinion and belief that third-party notification should be performed, notification of a person pursuant to this rule shall be made:

a. Directly by the physician or physician assistant in accordance with subrules 11.18(4), 11.18(5) and 11.18(7), or

b. By the department at the request of the physician or physician assistant in accordance with subrules 11.18(6) and 11.18(7).

11.18(4) Notification by the physician or physician assistant. Prior to notification of a third party by an HIV-infected person's physician or physician assistant, the physician or physician assistant shall make reasonable efforts to inform, in writing, the HIV-infected person. The written information shall state that, due to the nature of the person's continuing contact through sexual intercourse or the sharing of drug injecting equipment with the third party and the physician's or physician assistant's belief that the HIV-infected person, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program, the physician or physician assistant is forced to take action to provide notification to the third party. The physician or physician assistant, when reasonably possible, shall provide the following information to the HIV-infected person:

a. The nature of the disclosure and the reason for the disclosure.

b. The anticipated date of disclosure.

c. The name of the party or parties to whom disclosure is to be made.

NOTE: Reasonable efforts to inform, in writing, the HIV-infected person shall be deemed satisfied when the physician or physician assistant delivers the written notice in person or directs a written notice to the HIV-infected person's last-known address by restricted certified mail, return receipt requested, at least five days prior to the anticipated date of disclosure to the third party.

11.18(5) When performed by the HIV-infected person's physician or physician assistant, notification of the third party and any disclosure concerning the purpose of that notification shall be made in person. However, initial contact with the third party may be made by telephone, mail, or other electronic means to arrange the meeting with the physician or physician assistant at the earliest opportunity to discuss an important health matter. The nature of the health matter to be discussed shall not be revealed in the telephone call, letter, or other electronic message.

11.18(6) Notification by the department.

a. The physician or physician assistant attending the HIV-infected person shall provide by telephone to the department any relevant information provided by the HIV-infected person regarding any party with whom the HIV-infected person has had sexual relations or has shared drug injecting equipment. The information may include the third party's name, address, telephone number, and any other locating information known to the physician or physician assistant. The department shall use the information in accordance with procedures established for the voluntary partner notification program.

b. No change.

11.18(7) Confidentiality. The HIV-infected person's physician or physician assistant and the department shall protect the confidentiality of the third party and the HIV-infected person. The identity of the HIV-infected person shall remain confidential unless it is necessary to reveal it to the third party so that the third party may avoid exposure to HIV. If the identity of the HIV-infected

person is revealed, the third party shall be presented with a statement in writing at the time of disclosure which includes the following or substantially similar language: "Confidential information revealing the identity of a person infected with HIV has been disclosed to you. The confidentiality of this information is protected by state law. State law prohibits you from making any further disclosure of the information without the specific written consent of the person to whom it pertains. Any breach of the required confidential treatment of this information subjects you to legal action and civil liability for monetary damages. A general authorization for the release of medical or other information is not sufficient for this purpose."

11.18(8) No change.

ITEM 8. Amend paragraph **91.4(1)"b"** as follows:

b. A licensed physician, physician assistant or nurse who is knowledgeable concerning domestic abuse injuries and deaths, including suicides.

ITEM 9. Adopt the following **new** definition of "Physician assistant" in rule **641—109.1(135M)**:

"Physician assistant" means an individual licensed under Iowa Code chapter 148C.

ITEM 10. Amend subrule 109.3(3) as follows:

109.3(3) A pharmacy or medical facility may elect to participate in the prescription drug donation repository program by providing, on a form prescribed by the department and available on the program's web page, written notification to the centralized repository of all of the following:

a. The name, street address, and telephone number of the pharmacy or medical facility, and any state-issued license or registration number issued to the pharmacy or medical facility, including the name of the issuing agency.

b. The name and telephone number of the responsible pharmacist, physician, physician

assistant or nurse practitioner who is employed by or under contract with the pharmacy or medical facility.

c. A statement, signed and dated by the responsible pharmacist, physician, physician assistant or nurse practitioner, indicating that the pharmacy or medical facility meets the eligibility requirements under this rule and shall comply with the requirements of this chapter.

ITEM 11. Amend subrule 109.6(1) as follows:

109.6(1) Donated drugs and supplies may be dispensed only if the drugs or supplies are prescribed by a health care practitioner for use by an eligible individual and are dispensed by a licensed pharmacist, physician, physician assistant or nurse practitioner.

ITEM 12. Adopt the following **new** definition of "Attending physician assistant" in rule **641—142.1(144A)**:

"Attending physician assistant" means the physician assistant selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

ITEM 13. Amend subrule 142.3(1) as follows:

142.3(1) *OOH DNR physician or physician assistant order.* The department designates the OOH DNR order form contained in Appendix A as the uniform OOH DNR order form to be used statewide. If an attending physician or attending physician assistant issues an OOH DNR order for a qualified patient, the physician or physician assistant shall use the form contained in Appendix A.

ITEM 14. Amend subrule 142.5(1) as follows:

142.5(1) *Attending physicians or attending physician assistants who issue OOH DNR orders.* The attending physician or attending physician assistant should ensure that the following are accomplished:

a. Establish that the patient is qualified because the patient:

(1) Is an adult; and

(2) Has a terminal condition.

b. Explain to the patient or the individual legally authorized to act on the patient's behalf the implications of an OOH DNR order.

c. If the qualified patient or individual legally authorized to act on the patient's behalf decides that the patient should not be resuscitated, the attending physician or attending physician assistant may issue the OOH DNR order on the prescribed uniform order form. The order will direct health care providers to withhold or withdraw resuscitation.

d. Explain to the qualified patient or the individual legally authorized to act on the patient's behalf how the OOH DNR order is revoked.

e. Include a copy of the order in the qualified patient's medical record.

f. Provide a copy of the order to the qualified patient or the individual legally authorized to act on the patient's behalf.

ITEM 15. Amend subrule 142.8(1) as follows:

142.8(1) An attending physician or attending physician assistant who is unwilling to comply with an OOH DNR order or who is unwilling to comply with the provisions of Iowa Code section 144A.7A shall take all reasonable steps to effect the transfer of the patient to another physician or physician assistant.

ITEM 16. Amend **641—Chapter 142**, Appendix A and Appendix B, as follows:

APPENDIX A
Iowa Department of Public Health
OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDER
(Please type or print)

Date of Order: _____/_____/_____
Patient Information:
Name: (Last)_____(First)_____(Middle)_____
Address: _____(City)_____(Zip)_____
Date of Birth: _____/_____/_____ Gender (Circle): M or F
Name of Hospice or Care Facility (if applicable):

_____

Attending Physician or Physician Assistant Order

As the attending physician or attending physician assistant for the above-named patient, I certify that this individual is over 18 years of age and has a terminal diagnosis. After consultation with this patient (or the patient's legal representative), I hereby direct any and all health care providers, including qualified emergency medical services (EMS) personnel, to withhold or withdraw the following life-sustaining procedures in accordance with Iowa law (Iowa Code chapter 142A):

- Cardiopulmonary Resuscitation/Cardiac Compression (Chest Compressions).
- Endotracheal Intubation/Artificial or Mechanical Ventilation (Advance Airway Management).
- Defibrillation and Related Procedures.
- Use of Resuscitation Drugs.

This directive does NOT apply to other medical interventions for comfort care.

_____ _____/_____/_____

Signature of Attending Physician (MD, DO) or Attending Physician Assistant **Date**

_____ (_____)_____-_____

Printed Name of Attending Physician or Attending Physician Assistant **Physician's or Physician Assistant's Telephone (Emergency)**

To the extent that it is possible, a person designated by the patient may revoke this order on the patient's behalf. If the patient wishes to authorize any other person(s) to revoke this order, the patient MUST list those persons' names below:

Name: _____
Name: _____
Name: _____
Name: _____

Patients, please note: Directions for obtaining a uniform identifier are listed on the back of this form. The uniform identifier is the key way the health care provider and/or EMS personnel can quickly recognize that you have an Out-of-Hospital Do-Not-Resuscitate order. If you are not wearing an identifier, the health care provider and/or EMS personnel may not realize that you do not want to be resuscitated.

Physicians or physician assistants, please note: Information regarding the completion of an Out-of-Hospital Do-Not-Resuscitate order is on the back of this form.

APPENDIX A

Directions for obtaining a uniform identifier:

The uniform identifier may be obtained through MedicAlert®[1], which requires:

1. A completed MedicAlert® application, which is available in physician or physician assistant offices or through MedicAlert® by phoning (800)432-5378 or the ~~Web site~~ website www.medicalert.org, and fee.
2. A copy of this completed OOH DNR order, which must accompany the MedicAlert® application or be sent to MedicAlert® prior to the identifier's being mailed.

[1]*MedicAlert® is a nonprofit 501C membership organization.*

Suggested guidelines for physicians or physician assistants:

1. Please review the Iowa Out-of-Hospital Do-Not-Resuscitate order and related protocol with the patient/patient's legal representative(s). The following points may be helpful:

- Patient/patient's legal representative(s) listed on this order must understand the significance of this order, that in the event the patient's heart or breathing stops or malfunctions, the anticipated result of this order is death.
- Patient/patient's legal representative(s) listed on this order may revoke this directive at any time. However, the desire to revoke must be communicated to the EMS or other health care professionals at the scene.
- It is important to emphasize that this order does not apply to medical interventions to make the patient more comfortable.
- The importance of wearing the uniform identifier for those qualified patients who would benefit from the mobility this offers should be stressed. It is also helpful to walk patients through the process they must follow to acquire the identifier.

2. Provide a copy of this order to the patient/patient's legal representative(s) listed on this order and place the original in the patient's medical records.

The OOH DNR Order form is available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or through the Bureau of EMS's ~~Web site www.idph.state.ia.us/ems~~ website idph.iowa.gov/BETS/EMS/rules.

APPENDIX B

EMS OUT-OF-HOSPITAL DO-NOT-RESUSCITATE PROTOCOL

Purpose: This protocol is intended to avoid unwarranted resuscitation by emergency care providers in the out-of-hospital setting for a *qualified patient*. [1] There must be a valid Out-of-Hospital Do-Not-Resuscitate (OOH DNR) order signed by the qualified patient's attending physician or physician assistant or the presence of the OOH DNR identifier indicating the existence of a valid OOH DNR order.

No resuscitation: Means withholding any medical intervention that utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function, including but not limited to:

1. Chest compressions,
2. Defibrillation,
3. Esophageal/tracheal/double-lumen airway; endotracheal intubation, or
4. Emergency drugs to alter cardiac or respiratory function or otherwise sustain life.

Patient criteria: The following patients are recognized as qualified patients to receive no resuscitation:

1. The presence of the uniform OOH DNR order or uniform OOH DNR identifier, or
2. The presence of the attending physician or attending physician assistant to provide direct verbal orders for care of the patient.

The presence of a signed physician or physician assistant order on a form other than the uniform OOH DNR order form approved by the department may be honored if approved by the service program EMS medical director. However, the immunities provided by law apply only in the presence of the uniform OOH DNR order or uniform OOH DNR identifier. When the uniform OOH DNR order or uniform OOH DNR identifier is not present, contact must be made with on-line medical control and on-line medical control must concur that no resuscitation is appropriate.

Revocation: An OOH DNR order is deemed revoked at any time that a patient, or an individual authorized to act on the patient's behalf as listed on the OOH DNR order, is able to communicate in any manner the intent that the order be revoked. The personal wishes of family members or other individuals who are not authorized in the

order to act on the patient's behalf shall not supersede a valid OOH DNR order.

Comfort Care (♥): When a patient has met the criteria for no resuscitation under the foregoing information, the emergency care provider should continue to provide that care which is intended to make the patient comfortable (a.k.a. **♥ Comfort Care**). Whether other types of care are indicated will depend upon individual circumstances for which medical control may be contacted by or through the responding ambulance service personnel.

♥***Comfort Care****may include, but is not limited to:*

1. *Pain medication.*
2. *Fluid therapy.*
3. *Respiratory assistance (oxygen and suctioning).*

[1]*Qualified patient* means an adult patient determined by an attending physician or attending physician assistant to be in a terminal condition for which the attending physician or attending physician assistant has issued an Out-of-Hospital DNR order in accordance with the law. (~~Iowa Administrative Code~~ Rule 641—142.1(144A), definitions)

PUBLIC HEALTH DEPARTMENT [641]

Adopted and Filed

The Public Health Department hereby amends Chapter 43, "Minimum Requirements for Radon Testing and Analysis," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 136B.4 and section 280.32 as enacted by 2022 Iowa Acts, House File 2412.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 136B and section 280.32 as enacted by 2022 Iowa Acts, House File 2412.

Purpose and Summary

The amendments have been drafted to implement the Radon Testing and Mitigation in Public Schools Act, 2022 Iowa Acts, House File 2412, which Governor Reynolds signed after the 2022 Legislative Session. The amendments:

- Clean up outdated certification agency language throughout 641—Chapter 43. The National Environmental Health Association (NEHA) no longer certifies radon professionals.
- Update rules to include the current national consensus radon measurement standards.
- Add rules about measurement training requirements and training course approval for school district employees as required by 2022 Iowa Acts, House File 2412.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, as **ARC** 6647C. The Department received comments from The American Association of Radon Scientists and Technologists (AARST), Energy Association of Iowa Schools (EAIS), and the American Lung Association. The following changes from the Notice were made in response to the comments.

- A comment recommended the deletion of "or AARST-NRPP" from the definition of "AARST." Although used informally in the past, AARST-NRPP is not a legal alternative acronym for the AARST organization. In response, an amendment of the definition in 43.2 is made as follows: "The following change to the definition of NRPP in 43.2 in the original notice was made: ""NRPP" ~~or "AARST/NRPP"~~ means the National Radon Proficiency Program facilitated by the American Association of Radon Scientists and Technologists (AARST)."
- Removing the following language in 3.43.3(2)c.: "When a portable electronic detection device is used, the device must be calibrated on at least an annual basis by the manufacturer, or by persons acceptable to the department." The change from the Notice is accepted because ANSI/AARST Standards describe minimum calibration procedures, so this language is unnecessary.
- Add "ANSI/AARST" and "as applicable" to the changes proposed in 43.4(1)(b)(3) to read: "A signed statement that all EPA, <u>ANSI/AARST</u>, ~~NEHA~~ <u>NRPP</u> or NRSB, and any department measurement guidelines, standards and protocols will be followed <u>as applicable</u>."

- Make the following additional changes to 43.4(1)b.(1): Proof of ~~successful participation in~~ meeting the requirements of the ~~NEHA~~ NRPP or NRSB Radon/Radon Progeny Measurement Proficiency Program.
- Make the following additional changes 43.4(1)b. (3): "A signed statement that all EPA, ~~NEHA~~ NRPP and NRSB and any department measurement guidelines, standards and protocols will be followed as applicable." Adding "as applicable" is helpful since it is possible a lab may participate in one but not the other of these programs. This language will also help avoid any possible conflict between the requirements of these two programs that may prevent adherence to both.
- A comment recommended a change to the minimum number of instructional hours for the training to allow for it to be completed within one working day. The change from the Notice was made to 43.8(2)*b*: "~~Consist of at least eight~~ Be 5 to 8 instructional hours."
- Amend, 43.8(2) d. as follows: *d*. "Conclude with a quiz to review the learned materials. Course attendee must pass the quiz with a score of 70% or better to receive their completion certificate." The change from the Notice clarifies that the trainee is required to pass the quiz in order to be permitted to perform radon measurements in buildings within their district.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on January 11, 2023.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 15, 2023.

The following rule-making action is adopted:

ITEM 1. Adopt the following **new** definitions of "AARST," "ANSI" and "NRPP" in rule **641—43.2(136B)**:

"AARST" means the American Association of Radon Scientists and Technologists.

"ANSI" means the American National Standards Institute.

"NRPP" means the National Radon Proficiency Program facilitated by the American Association of Radon Scientists and Technologists (AARST).

ITEM 2. Rescind the definition of "NEHA" in rule **641—43.2(136B)**.

ITEM 3. Amend paragraph **43.3(2)"c"** as follows:

c. Use detection devices approved by ~~EPA and the department~~ the NRPP, the NRSB, or another department-approved national radon proficiency program to measure radon. The detection

device must be obtained from an ~~Iowa-certified~~ Iowa-certified radon measurement laboratory. ~~When a portable electronic detection device is used, the device must be calibrated on at least an annual basis by the manufacturer, or by persons acceptable to the department.~~ The records of calibration must be maintained for review by the department or agents of the department.

ITEM 4. Adopt the following **new** paragraph **43.3(3)"c"**:

c. The certified person shall comply with all EPA, ANSI/AARST and department-approved radon measurement and quality assurance/quality control (QA/QC) guidelines, protocols, and standards and shall conduct measurements following the standard as of [the effective date of these amendments] applicable to the building being tested. The standards include the following:

(1) ANSI/AARST MS-QA-2019, *Radon Measurement Systems Quality Assurance*.

(2) ANSI/AARST MAH-2019, *Protocol for Conducting Measurements of Radon and Radon Decay Products in Homes*.

(3) ANSI/AARST MALB-2014 with 1/2021 Revisions, *Protocol for Conducting Measurements of Radon and Radon Decay Products in Schools and Large Buildings*.

(4) ANSI/AARST MAMF-2017 with 1/2021 Revisions, *Protocol for Conducting Measurements of Radon and Radon Decay Products in Multifamily Buildings*.

ITEM 5. Amend subparagraph **43.4(1)"a"(2)** as follows:

(2) Proof of successful completion of an examination approved by this department. A letter from ~~NEHA~~ the NRPP or NRSB showing a passing score for the radon measurement specialist examination fulfills this requirement.

ITEM 6. Amend subparagraph **43.4(1)"a"(4)** as follows:

(4) A ~~quality assurance/quality control (QA/QC)~~ QA/QC plan for all measurement devices and equipment. If laboratory devices are used, the names and addresses of the ~~Iowa-certified~~ Iowa-

certified radon measurement laboratories must be included. If a continuous radon monitor is used, the name of the manufacturer, model, and picture of the monitor must be included. The manufacturer of any device used must have ~~EPA~~ NRPP, NRSB or other national agency approval ~~which~~ that indicates the device has been approved for measuring radon. Only measurement devices from ~~Iowa certified~~ Iowa-certified radon measurement laboratories or a continuous radon monitor that has been satisfactorily calibrated and approved by the Iowa radon program are allowed for use in performing radon measurements.

ITEM 7. Amend subparagraph **43.4(1)"a"(6)** as follows:

(6) A signed statement that the individual will follow all EPA radon measurement guidelines, ANSI/AARST radon measurement standards, and department radon measurement guidelines, standards and protocols.

ITEM 8. Amend paragraph **43.4(1)"b"** as follows:

b. An application for a radon measurement laboratory must include:

(1) Proof of ~~successful participation in~~ meeting the requirements of the ~~NEHA~~ NRPP or NRSB Radon/Radon Progeny Measurement Proficiency Program.

(2) A quality assurance plan and quality control procedures for all measurements and equipment.

(3) A signed statement that all EPA, ~~NEHA~~ ANSI/AARST, NRPP and NRSB and any department measurement guidelines, standards and protocols will be followed as applicable.

(4) Name(s) and address(es) of any retail operation(s) selling the laboratory's testing service(s) within Iowa.

(5) A signed statement that all changes in the original application will be submitted to the department within 14 working days.

(6) The fee specified in subrule 43.4(6).

ITEM 9. Amend paragraph **43.5(2)"s"** as follows:

s. Being discontinued or removed from the ~~NEHA~~ NRPP or NRSB Radon/Radon Progeny Measurement Proficiency Program; or

ITEM 10. Renumber rules **641—43.8(136B)** to **641—43.11(136B)** as **641—43.9(136B)** to **641—43.12(136B)**.

ITEM 11. Adopt the following **new** rule 641—43.8(136B,280):

641—43.8(136B,280) School district employee measurement training.

43.8(1) School district employee requirements. In order for school district employees to perform radon measurements in buildings within their districts, they must complete a radon measurement training course approved by the department and the Iowa department of education. A school district employee who has completed an approved training can only test buildings within the employee's district.

43.8(2) Approved training. Training programs shall not state that they have been approved by the state of Iowa unless they have met the requirements of 641—43.8(136B,280) and been approved by the department and the Iowa department of education and are listed on the department's website. An approved training course shall meet the following requirements:

a. Be based on the measurement requirements as found in the ANSI/AARST standard MALB-2014 with 1/2021 Revisions, *Protocol for Conducting Measurements of Radon and Radon Decay Products in Schools and Large Buildings*.

b. Be 5 to 8 instructional hours.

c. Cover at least the following subjects:

(1) Introduction to radon and its health effects.

(2) Guidance for building managers.

(3) Review of the measurement standard including:

1. Purpose and scope of testing.
2. Preparing a testing plan.
3. Test locations.
4. Testing procedures and options.
5. Quality control.
6. Conditions required before and during testing.
7. Documentation, test reports and record keeping.
8. Actions based on test results.

d. Conclude with a quiz to review the learned materials. Course attendee must pass the quiz with a score of 70% or better to receive their completion certificate.

43.8(3) Certificate of completion. The training provider shall provide that a certificate of completion will be issued and that it will contain at minimum the name of the student, the name of the course and the course ID, the name of the course provider, the course date(s), the number of hours, and the signature and typed name of the training provider.

43.8(4) Application for approval of a training course for school district employees. A person or organization that plans to conduct or sponsor a training course shall apply to the department for approval of the course on a form or in a manner approved by the department. The application shall include:

a. The sponsoring organization's name and website URL (if any), contact person, mailing address, email address and telephone number.

b. The name of the course.

c. The type of course: webinar, online or in-person.

d. The course agenda or course outline, including the approximate time allotted to each training segment.

e. A copy of the training materials provided to the student (manual, notes, templates, etc.).

f. A list of reference materials, texts and audiovisual materials used in the course.

g. A copy of the quiz for the course, containing at least 20 questions.

ITEM 12. Amend **641—Chapter 43**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 136B and 280.

PUBLIC HEALTH DEPARTMENT [641]

Adopted and Filed

The Public Health Department hereby amends Chapter 95, "Vital Records: General Administration," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 144.3 and section 144.31B as enacted by 2022 Iowa Acts, Senate File 577.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 144.31B as enacted by 2022 Iowa Acts, Senate File 577.

Purpose and Summary

These amendments implement 2022 Iowa Acts, Senate File 577, by establishing a process to request and issue a certificate of nonviable birth when a health care provider diagnoses a nonviable birth.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 16, 2022, as **ARC** 6648C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on January 11, 2023.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa. A fiscal impact of less than $100,000 annually or $500,000 over five years is anticipated. The Department anticipates hiring one clerk specialist, and a fee for issuance of a certificate of nonviable birth will be established.

Jobs Impact

The Department anticipates hiring one clerk specialist for the issuance of certificates of nonviable birth.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 15, 2023.

The following rule-making action is adopted:

ITEM 1. Adopt the following **new** paragraph **95.6(1)"h"**:

h. The state registrar shall charge a fee of $15 for the purpose of issuing a certificate of nonviable birth pursuant to Iowa Code section 144.31B.

ITEM 2. Renumber rules **641—95.15(144)** to **641—95.17(144)** as **641—95.16(144)** to **641—95.18(144)**.

ITEM 3. Adopt the following **new** rule 641—95.15(144):

641—95.15(144) Certificate of nonviable birth.

95.15(1) As used in this section:

a. "Certificate of nonviable birth" means a document issued based upon a nonviable birth.

b. "Health care provider" means the same as defined in Iowa Code section 144.29A.

c. "Hospital" means the same as defined in Iowa Code section 135B.1.

d. "Nonviable birth" means an unintentional, spontaneous fetal demise occurring after demonstration of a doppler-detected heartbeat and prior to the twentieth week of gestation during a pregnancy that has been verified by a health care provider.

95.15(2) A health care provider who attends or diagnoses a nonviable birth or a hospital at which a nonviable birth occurs shall advise a patient who experiences a nonviable birth that the patient may request a certificate of nonviable birth as provided in this section and, upon request by the patient, shall provide a letter certifying the nonviable birth to the patient on the form prescribed by the state registrar.

95.15(3) The department shall issue a certificate of nonviable birth to a patient within 60 days of receipt of a request and certification letter. The request shall be made on the form prescribed by the state registrar.

95.15(4) The certificate of nonviable birth shall contain all of the following:

a. The date of the nonviable birth.

b. The name and gender of the baby, if known.

(1) If the name is not furnished by the patient, the department shall complete the certificate

with the name “baby boy” or “baby girl” and the last name of the patient.

(2) If the gender is unknown, the department shall complete the certificate with the name “baby” and the last name of the patient.

c. The name of the patient and, if married, the patient’s spouse.

d. The statement: “This certificate is not proof of live birth.”

95.15(5) The fees collected shall be remitted to the treasurer of state for deposit in the general fund of the state and the vital records fund in accordance with Iowa Code section 144.46A.

95.15(6) A certificate of nonviable birth shall not be filed or registered with the department. The department shall not register the nonviable birth associated with a certificate issued under this section or use the nonviable birth in calculating live birth statistics.

95.15(7) A certificate of nonviable birth shall not be used to establish, bring, or support a civil cause of action seeking damages against any person for bodily injury, personal injury, or wrongful death for a nonviable birth.

95.15(8) This section shall only apply to, and a certificate of nonviable birth may be requested and issued for, nonviable births occurring on or after January 1, 2000.

This rule is intended to implement Iowa Code section 144.31B as enacted by 2022 Iowa Acts, Senate File 577.