Public Health
IOWA HHS

Kim Reynolds
GOVERNOR

Adam Gregg
LT. GOVERNOR

Kelly Garcia
DIRECTOR

# State Board of Health

REGULARLY SCHEDULED MEETING: 11/09/2022

10:00 A.M. – 12:00 P.M.

LOCATION: ZOOM VIRTUAL MEETING

**MEETING LINK:**

https://us02web.zoom.us/j/86235396515?pwd=UzFGSGdkUStUVEF6MkZ3S0JZK1cxUT09

**JOIN BY PHONE:** +1 312 626 6799

**Meeting ID**: 862 3539 6515 and **Passcode**: 923054

## 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 – 9/14/2022

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

**10:30 A.M.** Introduction to the New Medical Director – Robert Kruse, M.D., M.P.H

**10:40 A.M.** IHHS Transition Plan Overview – Cassie Tracey

**10:50 A.M.** IHHS Governance - Review of Recommendations - Kelly Garcia, IHHS Director

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

1. Notice of Intended Action
    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"

**11:20 A.M.** Substance Use & Problem Gambling Treatment Program Committee

1. New Appointee Discussion – Ken Sharp and Lori Hancock-Muck

**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.

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**Iowa Department of Health and Human Services**
**Joint Governing Body Meeting**
**09/14/2022**
**Draft - MEETING MINUTES**

| | |
|---|---|
| Members Present: | Andrew Allen, Vice-Chair<br>George Kovach, MD<br>Leone Junck<br>Sandra McGrath, RN<br>Nick Ryan, JD<br>Chelcee Schleuger, RN, BSN<br>Ann McBride, RN<br>Samantha Rozeboom, MD |
| Members Absent: | Donald Macfarlane, MD, PHD, Chair<br>Kierstyn Borg Mickelson |
| Staff Present: | Heather Adams, Assistant Attorney General<br>Kelly Garcia, Director<br>Ken Sharp, Division Director<br>Sarah Resisetter, J.D., Director of Compliance<br>Iesha Smith, Recording Officer |
| Staff Absent: | None |

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**Call to Order & Roll Call**

Andrew Allen called the video meeting to order at 10:05 AM. Ken Sharp provides an overview of the purpose of the joint meeting for both the State Board of Health and Council for DHS members. State Board of Health roll call was taken to determine if a quorum was present.

**Approval of Minutes from 07/13/2022**

Ken Sharp and Heather Adams asked to strike the second sentence of the first paragraph in Chapter 14, "Water Treatment Systems."

On a motion by George Kovach, seconded by Nick Ryan, all members present voted unanimously to approve the minutes as submitted with one correction.

**PHAB Reaccreditation Update - Marisa Roseberry**

Marisa Roseberry, bureau chief for Public Health Performance, presented information about the department's work towards reaccreditation for the Public Health Accreditation Board (PHAB). Reaccreditation work will focus on meeting the requirements that include updating annual reports, documenting priorities of department leadership, a new strategic plan, appropriate documentation of submission materials, and other reporting requirements. With alignment transitions occurring, a request for an extension is a possibility for the department.

**State Health Assessment - Jonn Durbin**

Jonn Durbin from the Bureau of Public Health Performance, presented on Iowa's 2021-2022 State Health Assessment. Jonn provided an overview on the history of Healthy Iowans, the State Health Improvement Plan (SHIP), and State Health Assessment (SHA), community partners, and the different factors that are measured in the reports. In 2021, the SHA included a survey of over 2,700 responses from various community members in the state. There are seven priorities within the SHA: access to care, economic stability and income, housing, mental health and mental disorders, active living and healthy eating, substance use, and cancer. These priorities will allow for the state to strategize strengthening community relationships and building action plans to improve outcomes.

Board member Leone Junck inquired why Iowa has a high number of individuals with substance abuse and what other states may be doing that is different. Jonn shared insight on the data collection and the uniqueness that states may experience regarding health outcomes. Board members Andrew Allen and George Kovach inquired about current and future efforts to help engage board members for planning and guidance. The steering committee over these reports will develop workgroups and partnerships to share what programs and services are available to address the priorities. More information to invite new members will be shared at a later time.

**Administrative Rules - Iowa Department of Public Health [641] - Adopted and Filed**

Chapter 4 **"**Center for Congenital and Inherited Disorders"

The proposed amendments will add definitions for "Iowa newborn screening panel," "Iowa newborn screening program," and "federal recommended uniform screening panel," rescinds language requiring State Board of Health approval to add or remove disorders, giving fee authority to State Hygienic Laboratory. Changes required by law after passage of SF2345.

On a motion by George Kovach, seconded by Ann McBride, all members present voted unanimously to approve.

Chapter 14, "Water Treatment Systems"

This proposed rescission of Chapter 14 will eliminate the registration requirement at the state level for water treatment systems in regards to Senate File 2232 signed by Governor Reynolds.

On a motion by Sandra McGrath, seconded by Leone Junck, all members present voted unanimously to approve.

**Substance Use/Problem Gambling Treatment Program Committee Report - Andrew Allen**

Board member Andrew Allen provided an overview of the work the committee completes such as issuing licenses to various facilities in the state. Community conversations indicate concerns on staffing in hospital settings and providing great quality of treatment. Andrew also shared reports from the alcohol involved deaths workgroup with statistics of the following:

- Alcohol is the third leading preventable cause of death.
- Around 4.2 million individuals who abuse prescription drugs also have a history of binge drinking.
- There have been over 100,000 alcohol related deaths in 2021 after a five year decline.
- Over additional 140,000 deaths in 2021 are associated with excessive alcohol consumption.
- Iowa deaths have nearly doubled over the last decade and heavy drinking has increased from 6.7% to 8.3%
- Younger adults are being diagnosed with cirrhosis earlier in life than older adults.
- Binge drinking in Iowa is second worst to Wisconsin in the nation. There is an alcohol inclusion culture in Iowa that contributes to negative outcomes.

The committee approved the following:

- Two - 270 day license;
- Two - Three year license; and
- Two - Deemed status

**Council for DHS Roll Call**

Andrew Allen called upon council member Rebecca Peterson to call the meeting with Council for DHS to order. Council for DHS roll call was taken to determine if a quorum was present.

**Director's Report - Kelly Garcia, Intertim Director**

Director Garcia provided an update on the listening session with Chief Justice Christensen on child welfare. Some key topics on bed capacity, staffing, and other themes were noted during the listening sessions. Concerns about the alignment include the reporting structure for local public health agencies as well as addressing support for post pandemic and future emergency response efforts. Regionalization for local public health is becoming a focus for a future session and won't entail changing the structure and authority that counties currently hold. Additional conversations included increasing collaborative service areas for WIC, First 5, etc. With Dr. Robert Kruse onboarding with the department soon, he will be able to participate in listening sessions with community partners and develop some recommendations to send back to the legislature. The Deputy of Operations for Public Health position is almost ready to post.

On August 31st 2022, the agency announced awards for two managed care contracts: Amerigroup and Molina. There are contract terms that have been developed and updated that focus on programmatic improvement and strong managed overcare oversight. Iowa Total Care is on a separate contract cycle and with updates to come later.

Director Garcia shared an update on Monkeypox cases and monitoring. The state is doing well in policy and vaccine rollout procedures. Council member Rebecca Peterson inquired about

children contracting the disease. Director Garcia shared the methods of transmission and reports that no children in Iowa have been reported to have contracted the disease and risk is very low. Board member Sandra McGrath inquired about the eligibility criteria on Monkeypox vaccine. Ken Sharp shared the details of what the eligibility criteria mean for communities as according to information provided by federal partners.

Director Garcia closed the director's report with an update on the transition of Glenwood clients that began earlier in the year. Some individuals have been moved to Woodward successfully with more transitions to follow. A quality oversight position is being hired to help facilitate this transition as well as other transitions between facilities to the community in the future.

**IHHS Governance Structure Discussion - Rebecca Peterson, Council for DHS Chair**
Rebecca provides a short overview outlining the differences in structure between the State Board of Health and Council for DHS with reference to a comparison chart shared with board and council members. Members provided input on facilitation questions listed out below:

1. There is intent to merge the separate governing bodies into a single governing body for the Iowa Dept. of Health and Human Services. Membership should be an odd number for voting purposes. Is an 11 member governing body appropriate, or should we consider a fewer number of members?
    a. Several members of both the board and council agreed that having at least 11 members on the board would be needed given the complexities of the current board and their activities. Another viewpoint provided was to ensure board members representing the fields of physicians, substance use, and child welfare are needed. Members agreed that as the two governing entities learn more about one another, board membership for a future governing entity may need to be increased to 13.
2. How long should each term last, and what is the maximum term limit that should be established for the new governing body?
    a. Newer members of the board and council expressed interest in having a longer term given that the first year on the board or council is a learning experience for many, especially as it pertains to the structure, education, and comprehension of duties and responsibilities. Three years was determined to be a minimum; however, members did wish the future governing board to have between four to five years as a term.
3. What are the critical qualifications that should be established for the respective board members? Should these qualifications be unique to each board position (i.e. each of the board members hold a unique qualification), or should there be multiple board members with similar qualifications (e.g. two members with public health, two members with family well-being, etc.)?
    a. Board and council members discussed the need to have varied representation of members with unique qualifications. Members expressed great interest in having multiple board members with similar qualifications and significant past

experiences. Those with other committees or work history that falls within scope of the board duties are a great need along with professional experience.

4. What are your thoughts about meeting frequency?
    a. Board and council members expressed meeting monthly to avoid delays in the rule making process since both governing entities review rules several times a year.
5. What do you see as the roles, responsibilities, and duties of the new governing board?
    a. Board and council members stated there is a need to understand what the strategic plan should look like under the new agency. Some members believed all of the duties from both governing entities should be left alone. Director Garcia did share her perspective of smaller councils and boards that have rule making authority and how current members can think about ways for interactions to occur with the smaller councils and boards. Board members provided input on wanting to have public comments and other boards present at future meetings. Other members did propose having advisory committees share updates and summaries to the larger board at rule making meetings.
6. How do you envision the relationship between the governing body and the various advisory bodies that support the agency?
    a. a. Many board members expressed interest in having additional collaboration with other board members. The additional input from other committees to understand the reason behind rule changes, policies, and how programs are conducting their work would be helpful for board members.

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**Adjournment**

On a motion by George Kovach, seconded by Samantha Roozboom, all State Board of Health members present voted unanimously to adjourn at approximately 12:25 PM. Council for DHS members continued with their scheduled meeting materials.

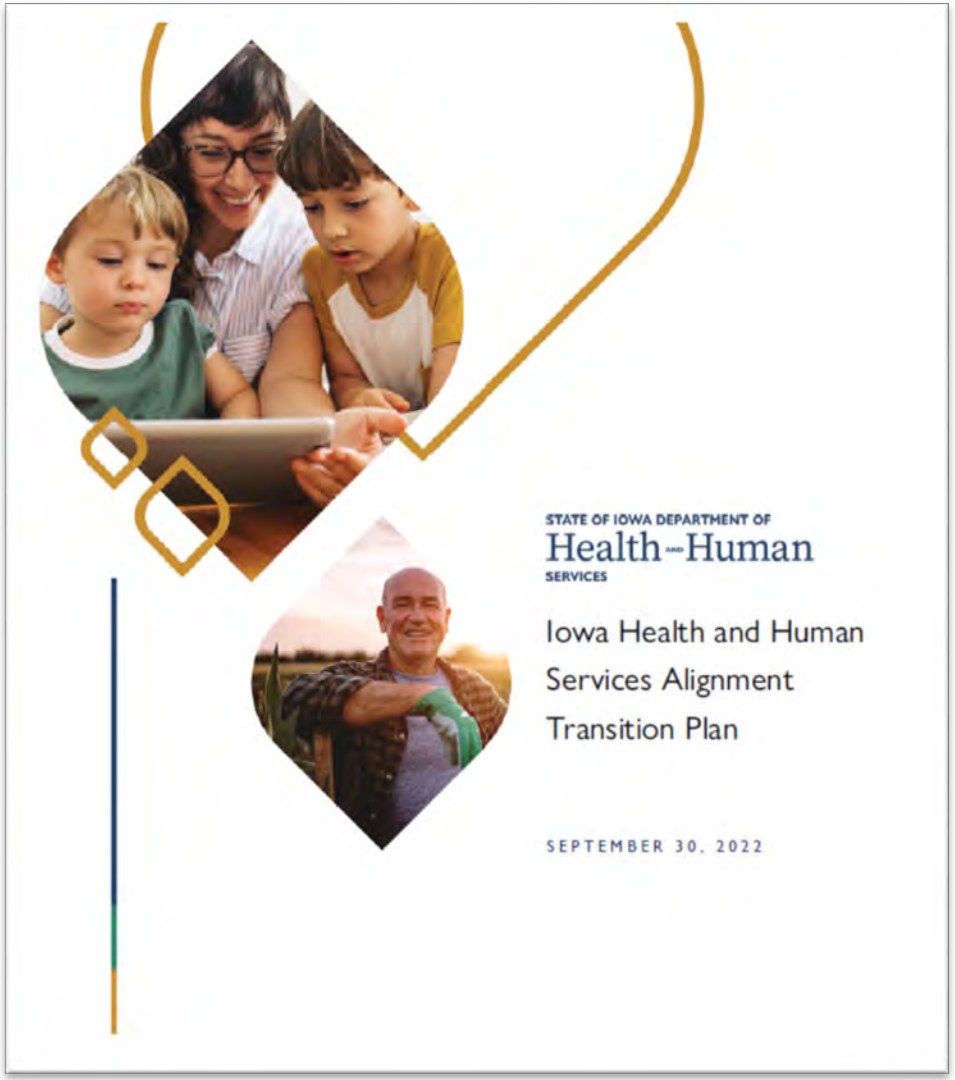
STATE OF IOWA DEPARTMENT OF
Health AND Human
SERVICES

# HHS Transition Plan

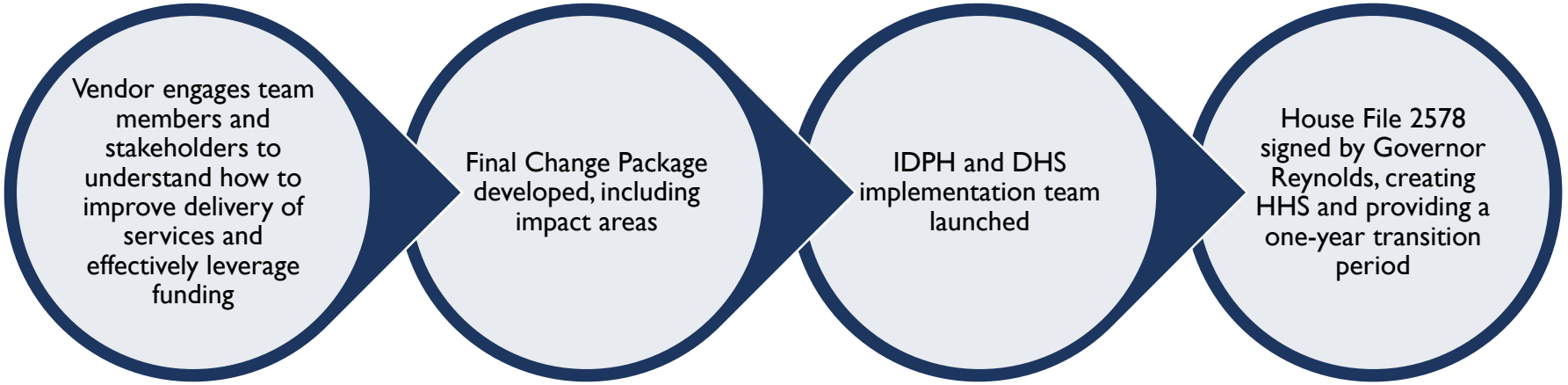
November 9, 2022

# Transition Plan

- Published September 30, 2022 on idph.iowa.gov and dhs.iowa.gov.
- Describes stakeholder and staff engagement, our process, work we have completed so far, tasks identified as necessary to complete the transition phase of alignment, and timeline.



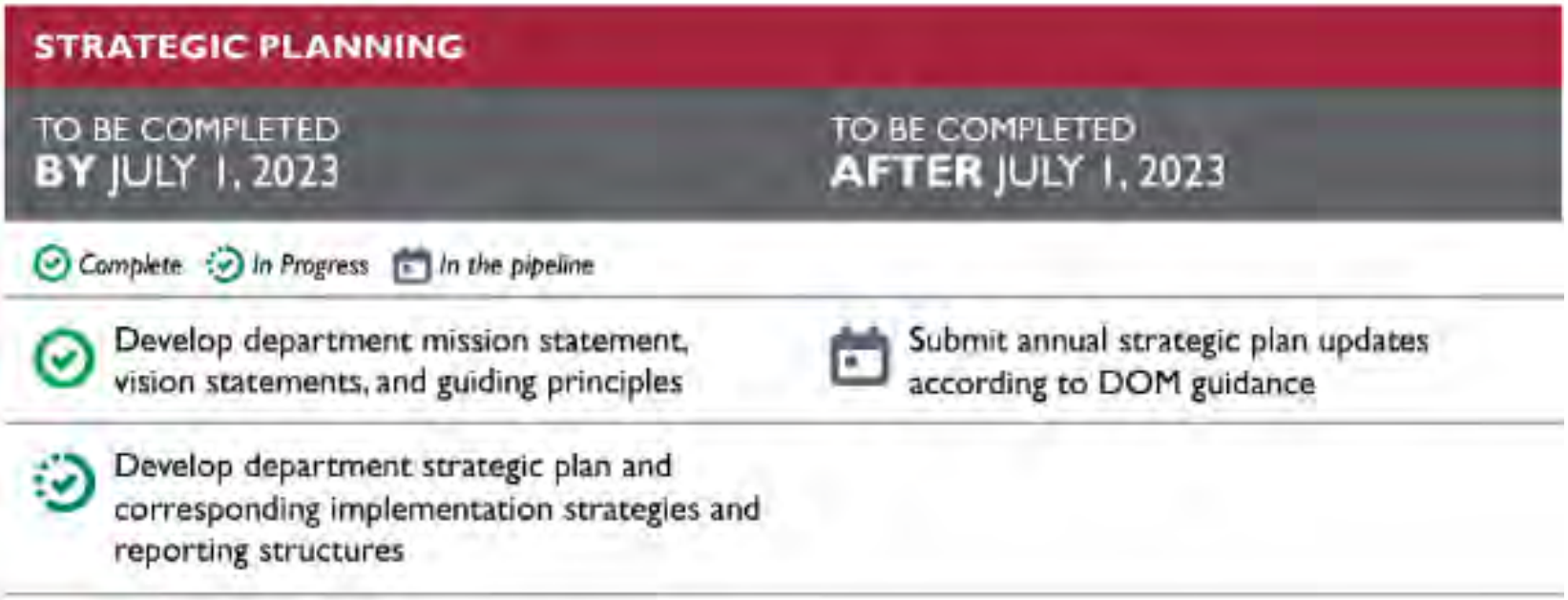
# Overview and Background



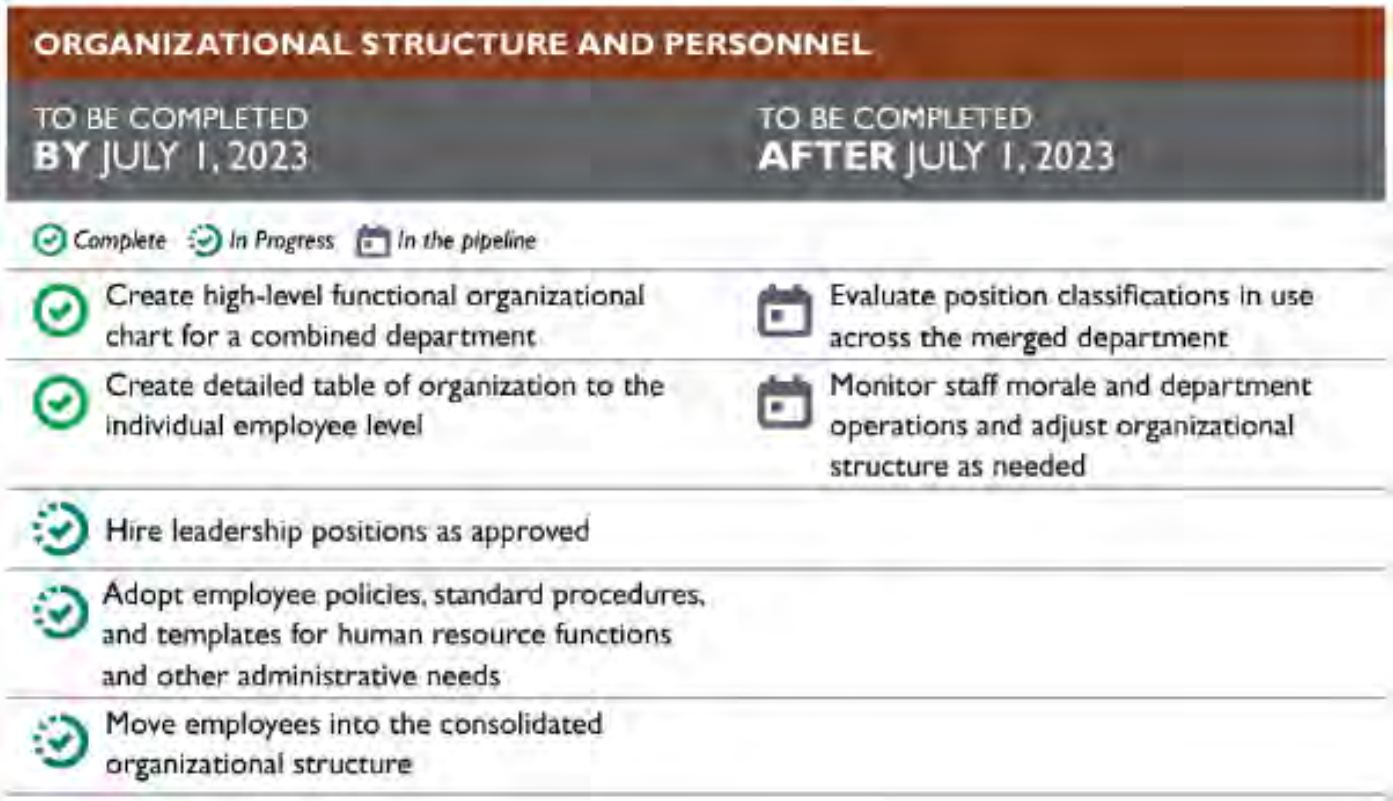
# Stakeholder Feedback

- Recommended changes:
  - Initial set of recommended changes influenced by comments from 548 individuals.
  - Feedback sessions to review initial set of recommended changes included 629 employees and 622 stakeholders. A public portal garnered an additional 150 comments.
  - Final set of recommended changes developed using feedback from sessions and public portal.
- More than 70 employees participated in work teams during the initial phase of work.
- 130 employees have invested time on work teams during implementation work.
- Regular interactions with stakeholders occur to check the application of feedback received in completing alignment work.

# Tasks to Complete: Strategic Planning



# Tasks to Complete: Organizational Structure and Personnel

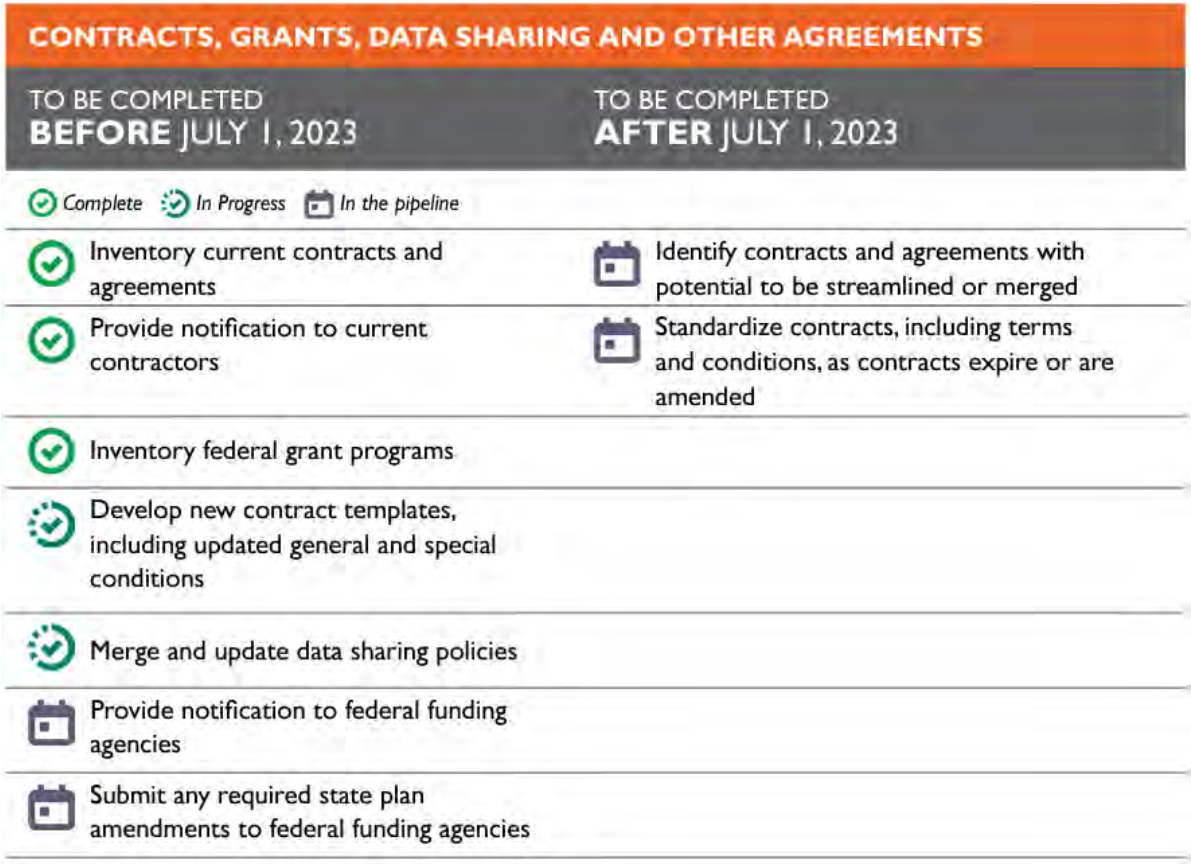


| ORGANIZATIONAL STRUCTURE AND PERSONNEL | |
|---|---|
| TO BE COMPLETED **BY** JULY 1, 2023 | TO BE COMPLETED **AFTER** JULY 1, 2023 |
| *Complete* *In Progress* *In the pipeline* | |
| Create high-level functional organizational chart for a combined department | Evaluate position classifications in use across the merged department |
| Create detailed table of organization to the individual employee level | Monitor staff morale and department operations and adjust organizational structure as needed |
| Hire leadership positions as approved | |
| Adopt employee policies, standard procedures, and templates for human resource functions and other administrative needs | |
| Move employees into the consolidated organizational structure | |

# Tasks to Complete: Office Space and Infrastructure

| OFFICE SPACE & INFRASTRUCTURE | |
|---|---|
| TO BE COMPLETED **BEFORE** JULY 1, 2023 | TO BE COMPLETED **AFTER** JULY 1, 2023 |
| *Complete* *In Progress* *In the pipeline* | |
| Create a space plan for merging Capitol complex staff into one state office building | Conduct a detailed review of field office physical infrastructure |
| Deploy the necessary technology infrastructure to support the consolidation of staff | Begin regular evaluation of office space structures and service delivery sites to ensure they are meeting the needs of the state over time |
| Provide notice of any movement in public-facing services | |
| Move all Capitol complex employees and public-facing functions into the Lucas or Hoover State Office Building | |
| Change signage on all office buildings | |

# Tasks to Complete: Contracts, Grants, Data Sharing and Other Agreements



**CONTRACTS, GRANTS, DATA SHARING AND OTHER AGREEMENTS**

| TO BE COMPLETED **BEFORE** JULY 1, 2023 | TO BE COMPLETED **AFTER** JULY 1, 2023 |
|---|---|
| *Complete* *In Progress* *In the pipeline* | |
| Inventory current contracts and agreements | Identify contracts and agreements with potential to be streamlined or merged |
| Provide notification to current contractors | Standardize contracts, including terms and conditions, as contracts expire or are amended |
| Inventory federal grant programs | |
| Develop new contract templates, including updated general and special conditions | |
| Merge and update data sharing policies | |
| Provide notification to federal funding agencies | |
| Submit any required state plan amendments to federal funding agencies | |

# Tasks to Complete: Technology Services

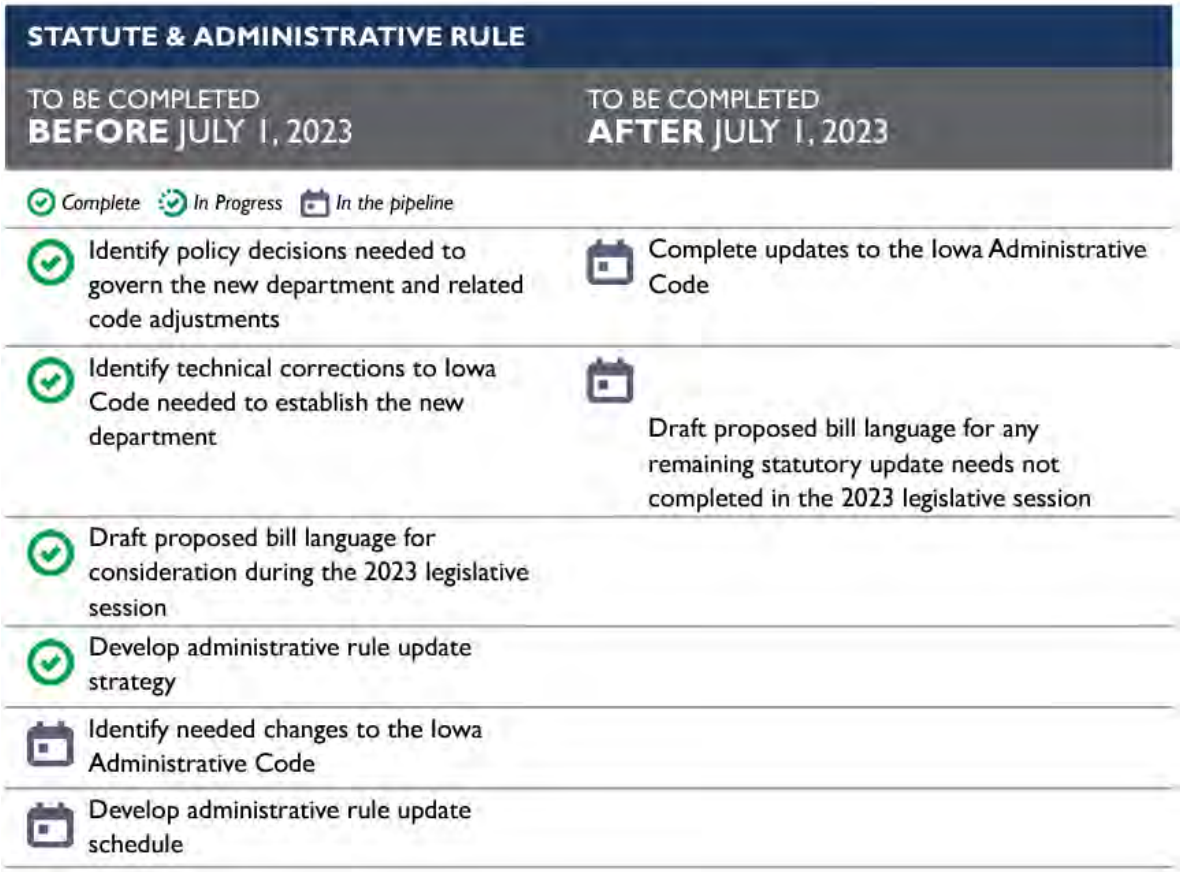
**TECHNOLOGY SERVICES**

| TO BE COMPLETED **BEFORE** JULY 1, 2023 | TO COMPLETE **AFTER** JULY 1, 2023 |
|---|---|
| *Complete* *In Progress* *In the pipeline* | |
| Establish IT governance framework and committee | Move all employees to the Microsoft platform |
| Make final decision on use of Microsoft or Google platform | Complete each technology transition initiative |
| Inventory technology and data systems, software, applications hosting, and networks | Identify licensing and systems with potential to be streamlined or merged |
| Update applications and systems with new name and brand | |
| Define milestones and detailed timelines for each technology transition initiative | |
| Implement network infrastructure plan to support space consolidation on the Capitol complex | |

# Tasks to Complete: Budget Transfer and Reconciliation

| BUDGET TRANSFER & RECONCILIATION | |
|---|---|
| TO BE COMPLETED **BEFORE** JULY 1, 2023 | TO COMPLETE **AFTER** JULY 1, 2023 |
| *Complete* *In Progress* *In the pipeline* | |
| Issue PACAP RFP | Develop consolidated HHS budget request and submitted to DOM for SFY25 Governor's recommended budget consideration |
| Work with DOM and DAS to perform the steps necessary for HHS to submit the SFY24 budget as a consolidated agency | Implement identified adjustments to the PACAP |
| Submit quarterly adjustments to the PACAP to coincide with staff movements into the proposed organizational structure | |

# Tasks to Complete: Statute and Administrative Rules



| STATUTE & ADMINISTRATIVE RULE | |
|---|---|
| TO BE COMPLETED **BEFORE** JULY 1, 2023 | TO BE COMPLETED **AFTER** JULY 1, 2023 |
| *Complete* *In Progress* *In the pipeline* | |
| Identify policy decisions needed to govern the new department and related code adjustments | Complete updates to the Iowa Administrative Code |
| Identify technical corrections to Iowa Code needed to establish the new department | Draft proposed bill language for any remaining statutory update needs not completed in the 2023 legislative session |
| Draft proposed bill language for consideration during the 2023 legislative session | |
| Develop administrative rule update strategy | |
| Identify needed changes to the Iowa Administrative Code | |
| Develop administrative rule update schedule | |

# Tasks to Complete: Boards, Commissions, Committees, Councils, or Other Bodies

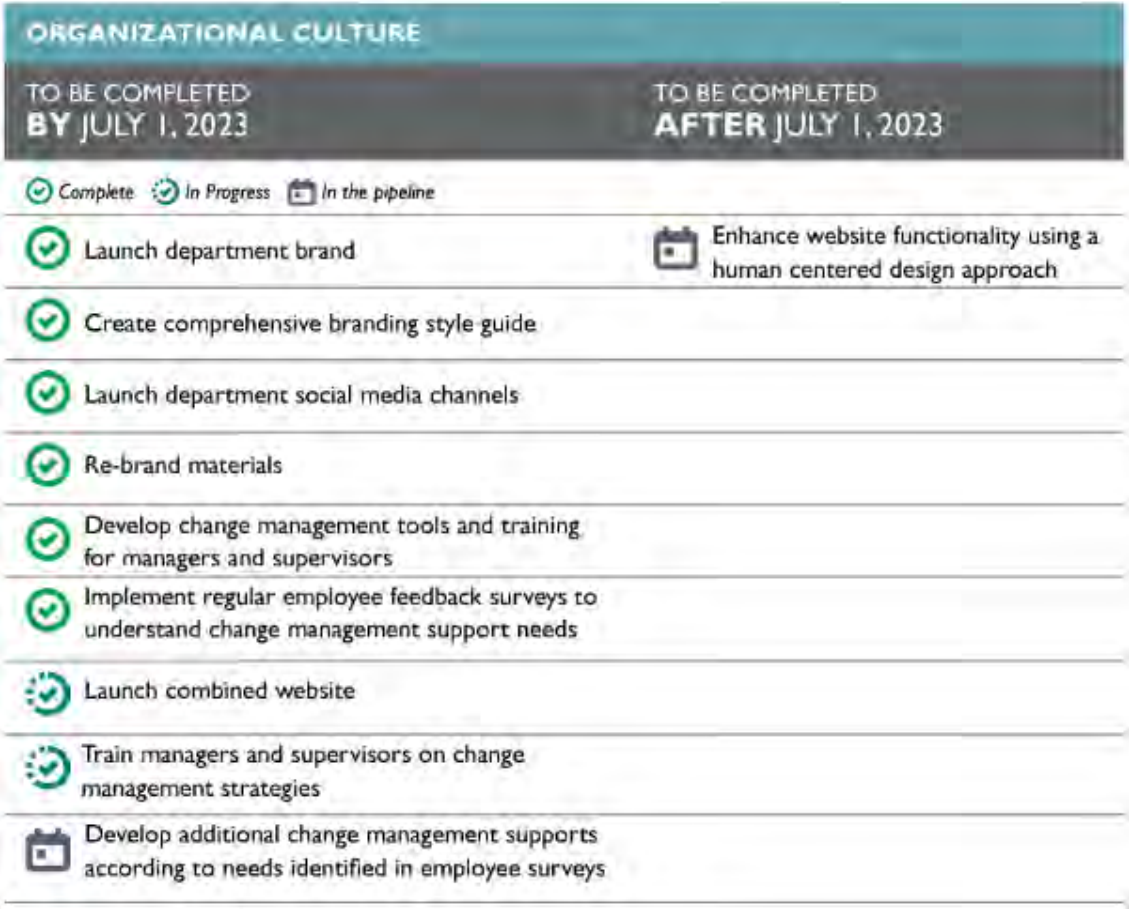
**BOARDS, COMMISSIONS, COMMITTEES, COUNCILS OR OTHER BODIES**

TO BE COMPLETED
**BEFORE** JULY 1, 2023

*Complete* *In Progress* *In the pipeline*

| | |
|---|---|
| ✓ | Inventory IDPH and DHS involved boards, commissions, councils, and committees |
| ◔ | Notify current board members of the alignment and solicit feedback on transition recommendations |
| ◔ | Develop transition recommendation for each body |
| ◔ | Submit draft bill language designed to implement each recommendation |
| ◔ | Transition each board, commission, council, or committee according to final direction received by the General Assembly in the 2023 legislative session |

# Tasks to Complete: Organizational Culture



| ORGANIZATIONAL CULTURE | |
|---|---|
| TO BE COMPLETED **BY** JULY 1, 2023 | TO BE COMPLETED **AFTER** JULY 1, 2023 |
| *Complete* *In Progress* *In the pipeline* | |
| Launch department brand | Enhance website functionality using a human centered design approach |
| Create comprehensive branding style guide | |
| Launch department social media channels | |
| Re-brand materials | |
| Develop change management tools and training for managers and supervisors | |
| Implement regular employee feedback surveys to understand change management support needs | |
| Launch combined website | |
| Train managers and supervisors on change management strategies | |
| Develop additional change management supports according to needs identified in employee surveys | |

# Questions

**PUBLIC HEALTH DEPARTMENT [641]**

**Notice of Intended Action**

The Public Health Department hereby proposes to amend 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," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in 2022 Iowa Acts, House File 802, Iowa Code 135.11 and 135M; 139A, 141A; 135 and 144A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 802, Iowa Code 135.11 and 135M; 139A, 141A; 135 and 144A.

*.Purpose and Summary*

The proposed amendments implement 2022 Iowa Acts, House File 802 requirements by amending 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," to include physician assistants. The proposed amendments add a definition for "physician assistant" in Chapters 9, 11, 109, and 142 and adds physician assistants in specific rules in Chapters, 9, 11, 91, 109 and 142 as prescribed in 2022 Iowa Acts, House File 803.

*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.

*Public Comment*

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 6, 2022. Comments should be directed to:

Susan Dixon

Department of Health and Human Services

Lucas State Office Building

321 East 12th Street

Des Moines, Iowa 50319

Email: susan.dixon@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 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(139, 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 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.* Notification of the third party and any disclosure concerning the purpose of that notification shall be made in person. However, initial contact with the third party may be made by telephone, mail, or other electronic means to arrange the meeting with the department representative. The nature of the matter to be discussed shall not be revealed in the telephone call, letter, or other electronic message.

**11.18(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)** Immunity. A health care provider attending an HIV-infected person has no duty to disclose to or to warn third parties of the dangers of exposure to HIV through contact with the HIV-infected person and is immune from any liability, civil or criminal, for failure to disclose to or warn third parties of the condition of the HIV-infected person.

ITEM 8. Amend subrule 91.4(1) as follows:

**91.4(1)** The team shall include the following:

*a.* The state medical examiner or the state medical examiner's designee.

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

*c.* A licensed mental health professional who is knowledgeable concerning domestic abuse.

*d.* A representative or designee of the Iowa coalition against domestic violence.

*e.* A certified or licensed professional who is knowledgeable concerning substance abuse.

*f.* A law enforcement official who is knowledgeable about domestic abuse and is a member of a state law enforcement association.

*g.* A law enforcement investigator experienced in domestic abuse investigation.

*h.* A prosecuting attorney experienced in prosecuting domestic abuse cases.

*i.* A member of the judiciary appointed by the chief justice of the supreme court.

*j.* A clerk of the district court appointed by the chief justice of the supreme court.

*k.* A department of correctional services' employee or subcontractor who is assigned batterers' treatment program responsibilities and is knowledgeable about risk level assessment.

*l.* An attorney licensed in this state who provides criminal defense assistance or child custody

representation and who is experienced in dissolution of marriage proceedings.

*m.* Both a female and a male victim of domestic abuse.

*n.* A family member of a decedent whose death resulted from domestic abuse.

ITEM 9. Adopt the following **new** definition of "Physician Assistant" in rule **641—109.1(13)**:5M

"*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 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 or PA'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 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~~https://idph.iowa.gov/BETS/EMS/rules.**

[**ARC 7550B**, IAB 2/11/09, effective 3/18/09]

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 to be in a terminal condition for which the attending physician has issued an Out-of-Hospital DNR order in accordance with the law. (Iowa Administrative Code 641—142.1(144A), definitions)

**PUBLIC HEALTH DEPARTMENT [641]**

**Notice of Intended Action**

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

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 136B.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 136B.4 and 2022 Iowa Acts House File 2412.

*Purpose and Summary*

The amendments were drafted to implement the radon school testing bill (House File 2412) signed after the 2022 legislative session. The proposed amendments will:

- Clean up outdated certification agency language throughout. NEHA no longer certifies radon professionals.
- Update rules to include the current national consensus radon measurement and mitigation standards.
- Add a measurement training requirement and training course approval section for school district employees as required in 2022 Iowa Acts House File 2412.

*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 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 December 6, 2022. Comments should be directed to:

Angela Leek

Department of Public Health

Lucas State Office Building

321 East 12th Street

Des Moines, IA 50319

Email: radhealthia@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. Adopt the following **new** definitions of "AARST", "ANSI" and "NRPP or AARST/NRPP" in rule **641—43.1(136B)**:

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

"*ANSI*" means the American National Standards Institute.

"*NRPP or AARST/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—43.1(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 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(s) **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 guidelines, protocols and standards and shall conduct measurements following the standard as of [insert effective date of rule] applicable to the building being tested. The standards include the following:

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

(2) ANSI/AARST *Protocols for Measuring Radon and Radon Decay Products in Homes* MAH 2019

(3) ANSI/AARST *Protocols for Measuring Radon and Radon Decay Products in Schools and Large Buildings* MALB 2014 w/2021 Rev.

(4) ANSI/AARST *Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings* MAMF-2017 w/2021 Rev.

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~~ 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) plan for all measurement devices and equipment. If laboratory devices are used, the names and addresses of the 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 indicates the device has been approved for measuring radon. Only measurement devices from 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 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~~ NRPP and NRSB and any department measurement guidelines, standards and protocols will be followed.

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

**641—43.8(136B) School District Employee Measurement Training.**

**43.8(1)** School district employee requirements. In order for a school district employee to perform radon measurements in buildings within their district 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 with their 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) and been approved by the department and the Iowa Department of Education and 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 "Protocols for Measuring Radon and Radon Decay Products in Schools and Large Buildings" MALB 2014 w/2021 Rev.

*b*. Be at least 8 instructional hours.

*c*. Shall 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*. The course shall conclude with a quiz to review the learned materials.

*e*. The training provider shall provide a certificate of completion will be issued and will contain at minimum the name of the student, name of the course and course ID, name of course provider,

course date(s), number of hours, signature and typed name of training provider.

**43.8(3)** 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*. Sponsoring organization name and Web site URL (if any), contact person, mailing address, email address and telephone number.

*b*. Name of course.

*c*. Type of course; webinar, online, or in-person.

*d*. Course agenda/course outline, including the approximate time allotted to each training segment.

*e*. Copy of the training materials provide to the student (manual, notes, templates, etc.).

*f*. A list of reference materials, texts and audio-visual materials used in the course.

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

ITEM 11. Renumber rules **641—43.8(136B)** to **641—43.11(136B)** as **641—43.9(136B)** to **641—43.12(136B)**.

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

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

## PUBLIC HEALTH DEPARTMENT [641]

### Notice of Intended Action

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

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 144.3 and 2022 Iowa Acts, Senate File 577.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 144.3 and 2022 Iowa Acts, Senate File 577.

*Purpose and Summary*

The proposed amendments implement 2022 Iowa Acts, Senate File 577 by establishing a process to request and issue a certificate of non-viable birth when a healthcare provider diagnoses a nonviable birth.

*Fiscal Impact*

This rule making has a fiscal impact to the state of Iowa. Fiscal Impact of less than $100,000 annually or $500,000 over 5 years is anticipated. The department anticipates hiring one clerk specialist and fees for issuance of a certificate of nonviable birth will be established.

*Jobs Impact*

The department anticipates hiring one clerk specialist for the issuance of the 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.

*Public Comment*

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 6, 2022. Comments should be directed to:

Melissa Bird

Department of Health and Human Services

Lucas State Office Building

321 East 12th Street

Des Moines, Iowa 50319

Email: Melissa.bird@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. Adopt the following **new** paragraph(s) **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. 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 section 144.29A.

*c*. "*Hospital*" means the same as defined in 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 sixty 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 section 144.46.

**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 Acts, Senate File 577.

ITEM 3. Renumber rules **641—95.15(144)** to **641—95.17(144)** as **641—95.16(144)** to **641—95.18(144)**.