

## CHAPTER 1097

## CONTINUING PROFESSIONAL EDUCATION

H. F. 2433

AN ACT making technical corrections and relating to chapter ninety-five (95) of the Acts of the Sixty-seventh General Assembly, 1977 session.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section two (2), subsection two (2), paragraph b, is amended to read as follows:

b. Place the responsibility for arrangement of financing of continuing education on the licensee, while allowing the board ~~of continuing education provider~~ to receive any other available funds or resources that aid in supporting a continuing education program.

Sec. 2. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection two (2), paragraph a, is amended to read as follows:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon the grounds specified in sections one hundred fourteen point twenty-one (114.21), one hundred fifteen point eight (115.8), one hundred sixteen point twenty-one (116.21), one hundred seventeen point twenty-nine (117.29), one hundred eighteen point thirteen (118.13), one hundred eighteen A point fifteen (118A.15), one hundred twenty point ten (120.10), chapter one hundred thirty-five E (135E), section one hundred forty-seven point fifty-five (147.55), chapter one hundred fifty-one (151), sections one hundred fifty-three point thirty-four (153.34), one hundred fifty-four A point twenty-four (154A.24), one hundred sixty-nine point thirty-six (169.36) and four hundred fifty-five B point fifty-nine (455B.59) of the Code, or upon any other grounds specifically provided for in this Act for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;

Sec. 3. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection two (2), is amended by striking paragraph e and inserting in lieu thereof the following:

e. Impose civil penalties by rule, if the rule specifies which offenses or acts are subject to civil penalties. The amount of civil penalty shall be in the discretion of the board, but shall not exceed one thousand dollars. Failure to comply with the imposition of a civil penalty may be grounds for further license discipline.

Sec. 4. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection four (4), unnumbered paragraph two (2), is amended to read as follows:

All health-care boards shall file written decisions which specify the sanction entered by the board with the department of health which ~~file~~ shall be available to the public upon request. All nonhealth-care boards shall have on file the written and specified decisions and sanctions entered by the board and shall be available to the public upon request.

Sec. 5. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection four (4), unnumbered paragraph three (3), is amended to read as follows:

~~Licensee-discipline-pursuant-to-informal-stipulation-or  
agreed-settlement-under-this-section-and-pursuant-to-this  
Act-shall-not-be-subject-to-review-by-the-court.~~

Sec. 6. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section four (4), subsection one (1), paragraphs c, d, and e, are amended to read as follows:

c. Establish procedures by which any recommendation taken by a peer review committee shall be reported to and reviewed by the board if a peer review committee is established;

d. Establish procedures for registration with the board of peer review committees if a peer review committee is established;

e. Define by rule those recommendations of peer review committees which shall constitute disciplinary recommendations which must be reported to the board if a peer review committee is established;

Sec. 7. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section four (4), subsection one (1), paragraph f, is amended to read as follows:

f. Define by rule acts or omissions which are grounds for revocation or suspension of a license under the provisions of sections one hundred fourteen point twenty-one (114.21), one hundred fifteen point eight (115.8), one hundred

sixteen point twenty-one (116.21), one hundred seventeen point twenty-nine (117.29), one hundred eighteen point thirteen (118.13), one hundred eighteen A point fifteen (118A.15), one hundred twenty point ten (120.10), chapter one hundred thirty-five E (135E), section one hundred forty-seven point fifty-five (147.55), chapter one hundred fifty-one (151), sections one hundred fifty-three point thirty-four (153.34), one hundred fifty-four A point twenty-four (154A.24), one hundred sixty-nine point thirty-six (169.36) and four hundred fifty-five B point forty-nine (455B.49), of the Code, and to define by rule acts or omissions which constitute negligence, careless acts or omissions within the meaning of paragraph b of subsection two (2) of section three (3) of this Act, which licensees are required to report to the board pursuant to subsection two (2) of section nine (9) of this Act;

Sec. 8. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section five (5), subsection two (2), paragraph c, is amended to read as follows:

c. Shall state whether the procedures are an alternative to or an addition to the procedures stated in sections one hundred fourteen point twenty-two (114.22), one hundred sixteen point twenty-three (116.23), one hundred seventeen point thirty-five (117.35), one hundred seventeen point thirty-six (117.36), one hundred eighteen A point sixteen (118A.16), one hundred forty-seven point fifty-eight (147.58) through one hundred forty-seven point seventy-one (147.71), one hundred forty-eight point six (148.6) through one hundred forty-eight point nine (148.9), one hundred fifty-three point twenty-three (153.23) through one hundred fifty-three point thirty (153.30), one hundred fifty-three point thirty-three (153.33), one hundred fifty-four A point twenty-three (154A.23), and one hundred fifty-five point fourteen (155.14) through one hundred fifty-five point sixteen (155.16) of the Code.

Sec. 9. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section six (6), subsection four (4), unnumbered paragraph one (1), is amended to read as follows:

In order to assure a free flow of information for accomplishing the purposes of this section, and notwithstanding section six hundred twenty-two point ten (622.10) of the Code, all complaint files, and investigation files, and all other investigation reports and other investigative information in the possession of a licensing board or peer review committee

acting under the authority of a licensing board or its employees or agents which relates to licensee discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person other than the licensee and the boards, their employees and agents involved in licensee discipline, or be admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee discipline. However, a final written decision and finding of fact of a licensing board in a disciplinary proceeding, including a decision referred to in subsection four (4) of section three (3) of this Act shall be a public record.

Sec. 10. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), is amended by striking section twenty-one (21) and inserting in lieu thereof the following:

SEC. 21. Section one hundred sixty-nine point thirty-six (169.36), Code 1977, is amended by striking unnumbered paragraph one (1) and inserting in lieu thereof the following:

A license or temporary permit issued under this chapter may be revoked or suspended or the licensee or permittee may be otherwise disciplined by the board upon a two-thirds vote of the entire board, with the secretary of agriculture sitting as a voting board member for this purpose only. Such an action may be taken when the licensee is found guilty of any of the following acts or offenses:

Sec. 11. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), is amended by striking section twenty-two (22) and inserting in lieu thereof the following:

SEC. 22. Section four hundred fifty-five B point fifty-nine (455B.59), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

455B.59 REVOCATION OR SUSPENSION. The board may suspend or revoke the certificate of an operator, following a hearing before the board, when the operator is found guilty of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of his or her profession or engaging in unethical conduct or practice harmful

or detrimental to the public. Proof of actual injury need not be established.

4. Habitual intoxication or addiction to the use of drugs.

5. Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect his or her ability to operate a water treatment or wastewater treatment plant. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

6. Fraud in representation as to skill or ability.

7. Use of untruthful or improbable statements in advertisements.

8. Willful or repeated violations of this Act.

Sec. 12. Section one hundred forty-seven point fifty-five (147.55), Code 1977, is amended to read as follows:

147.55 GROUNDS. A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

1. Fraud in procuring his a license.

2. ~~Incompetency-in-the-practice-of-his-profession~~  
Professional incompetency.

3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of his a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

4. Habitual intoxication or addiction to the use of drugs.

5. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect his or her ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

6. Fraud in representations as to skill or ability.

7. Use of untruthful or improbable statements in advertisements. ~~This shall not be construed as permitting dentists or dental hygienists to advertise their services or products, contrary to the other provisions of this title relative thereto.~~

~~8. Distribution of intoxicating liquors or drugs for any other than lawful purposes.~~

9 8. Willful or repeated violations of ~~this title, the title on "Public Health", or the rules of the state department of health~~ the provisions of this Act.

~~10. Continued practice while knowingly having an infectious or contagious disease.~~

Sec. 13. Section one hundred fifty-three point thirty-three (153.33), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. To promulgate rules as may be necessary to implement the provisions of this chapter.

Sec. 14. Section one hundred fifty-three point thirty-two (153.32), subsections one (1) through four (4), and section one hundred fifty-three point thirty-four (153.34), subsections five (5), six (6), eight (8), and ten (10), Code 1977, are amended by striking those subsections.

Sec. 15. Section one hundred fifty-three point nineteen (153.19), Code 1977, is repealed.

Sec. 16. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in *The Council Bluffs Nonpareil*, a newspaper published in Council Bluffs, Iowa, and in the *Ames Daily Tribune*, a newspaper published in Ames, Iowa.

Approved June 12, 1978

I hereby certify that the foregoing Act, House File 2433, was published in *The Council Bluffs Nonpareil*, Council Bluffs, Iowa on June 16, 1978.

MELVIN D. SYNHORST, *Secretary of State*

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## CHAPTER 1098

### BOARD OF REGENTS COLLECTIVE BARGAINING

H.F. 2432

AN ACT relating to the employment and payment by the state board of regents of attorneys and counselors for the purpose of acting as an employer under the provisions of chapter twenty (20) of the Code.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section two hundred sixty-two point nine (262.9), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. In its discretion employ or retain attorneys or counselors when acting as a public employer for the purpose of carrying out collective bargaining and related responsibilities provided for under chapter twenty (20) of the Code. This subsection shall supersede the provisions of section thirteen point seven (13.7) of the Code.