

CHAPTER 14
IOWA PHYSICIAN HEALTH COMMITTEE

653—14.1(272C) Iowa physician health committee. Pursuant to the authority of Iowa Code section 272C.3(1)“k,” the board establishes the Iowa physician health committee, formerly known as the impaired physician review committee.

653—14.2(272C) Definitions.

“*Board*” means the board of medicine of the state of Iowa.

“*Health contract*” or “*contract*” means the written document executed by an applicant or licensee and the IPHC which establishes the terms for participation in the Iowa physician health program.

“*Impairment*” means an inability, or significant potential for inability, to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any mental or physical disorder or disability. For the purposes of this program, “impairment” does not include sexual dysfunction, sexual addiction, sexual compulsivity, paraphilia, or other sexual disorder.

“*Initial Agreement*” means the written document establishing the initial terms for participation in the Iowa physician health program.

“*IPHC*” or “*committee*” means the Iowa physician health committee.

“*IPHP*” or “*program*” means the Iowa physician health program.

“*Referral by the board*” means the board has determined, with or without having taken disciplinary action, that the applicant or licensee is an appropriate candidate for participation in the IPHP pursuant to 653—14.11(272C).

“*Self-report*” means an applicant or a licensee providing written or oral notification to the IPHC that the applicant or the licensee has been, is, or may be impaired prior to the board’s receiving a complaint or report alleging the same from a third party. Information related to an impairment or a potential impairment which is provided on a license application or renewal form may be considered a self-report upon the request of the applicant or licensee and authorization from the board and agreement by the IPHC.

653—14.3(272C) Purpose. The IPHC evaluates, assists, and monitors the recovery, rehabilitation, or maintenance of licensees who self-report impairments or are referred by the board pursuant to 653—14.11(272C) and, as necessary, notifies the board in the event of noncompliance with contract provisions. The IPHC is both an advocate for licensees’ health and a means to protect the health and safety of the public.

653—14.4(272C) Organization of the committee. The board shall appoint the members of the IPHC.

14.4(1) Membership. The membership of the IPHC includes, but is not limited to:

- a. The executive director of the board or the director’s designee from the board’s staff;
- b. One physician who has remained free of addiction for a period of no less than two years following successful completion of a board-approved recovery program, a board-ordered probation for alcohol or drug abuse, dependency, or addiction, or an IPHC contract;
- c. One practitioner with expertise in substance abuse/addiction treatment programs;
- d. One psychiatrist; and
- e. One public member.

14.4(2) Officers. The committee shall elect a chairperson and vice chairperson at the last meeting of each calendar year to begin serving a one-year term on January 1.

14.4(3) Terms. Committee members, except the executive director, shall be appointed for three-year terms, for a maximum of three terms. Terms shall expire on December 31 of the third year of the term.

653—14.5(272C) Eligibility. To be eligible for participation in the IPHP, an applicant or a licensee must self-report an impairment or suspected impairment directly to the coordinator of the IPHP or be referred by the board for an impairment or suspected impairment pursuant to 653—14.11(272C) and be determined by the IPHC to be an appropriate candidate for participation in the IPHP.

14.5(1) An applicant or a licensee is deemed ineligible to participate in the program as a self-reporter if the committee finds sufficient evidence of any of the following:

- a. The applicant or licensee has engaged in the unlawful diversion or distribution of controlled substances or illegal substances to a third party or for personal profit or gain;
- b. At the time of self-reporting, the licensee is already under an Iowa board order related to an impairment;
- c. The applicant or licensee has caused harm or injury to a patient;
- d. The board is currently investigating the applicant or licensee for matters related to an alleged impairment; or
- e. The applicant or licensee provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the board or committee.

14.5(2) The IPHC may determine a referral from the board pursuant to 653—14.11(272C) is inappropriate for participation in the IPHP if:

- a. The applicant or licensee fails to sign a contract.
- b. The IPHC determines it will be unable to assist the applicant or licensee.

14.5(3) The IPHC shall report to the board any knowledge of violations of administrative rules or statutes unrelated to the impairment.

653—14.6(272C) Type of program. The IPHP is an individualized recovery, rehabilitation, or maintenance program designed to meet the specific needs of the impaired licensee. The committee, in consultation with an IPHC-approved evaluator, shall determine the type of recovery, rehabilitation, or maintenance program required to treat the applicant's or licensee's impairment. The committee shall prepare a health contract, to be signed by the applicant or licensee, that shall provide a detailed description of the goals of the program, the requirements for successful participation, and the applicant's or licensee's obligations therein.

653—14.7(272C) Terms of participation. A licensee or an applicant shall agree to comply with the terms for participation in the IPHP established in the initial agreement and contract. Terms of participation specified in the contract shall include, but are not limited to:

14.7(1) Duration. The length of time an applicant or a licensee may participate in the program shall be determined by the committee in accordance with the following:

- a. Participation in the program for applicants or licensees impaired as a result of alcohol or drug abuse, dependency, or addiction is set at a minimum of five years. The committee may offer a contract with a shorter duration to an applicant or licensee who can demonstrate successful participation in another state's physician health program, who can document similar experience, or who, as a board referral, has successfully completed a portion of the monitoring period established in the board order.
- b. Length of participation in the program for applicants or licensees with impairments resulting from mental or physical disorders or disabilities will vary depending upon the recommendations provided by an approved evaluator and the determination of the IPHP following review of all relevant information.

14.7(2) *Noncompliance.* A licensee or an applicant participating in the program is responsible for notifying the committee of any instance of noncompliance including, but not limited to, a relapse. Notification of noncompliance made to the IPHP by the applicant or licensee, any person responsible for providing or monitoring treatment, or another party shall result in the following:

a. First instance. Upon receiving notification of a first instance of noncompliance including, but not limited to, a relapse, the IPHP shall make a report to the board which identifies the applicant or licensee, describes the relevant terms of the applicant's or licensee's contract and the nature of the non-compliance and includes recommendations as to whether the applicant or licensee should be allowed to remain in the program or whether formal disciplinary charges should be filed by the board.

b. Second instance. Upon receiving notification of a second instance of noncompliance including, but not limited to, a relapse, the IPHP shall nullify the contract and refer the case to the board for the filing of formal charges or other appropriate action.

14.7(3) *Practice restrictions.* The IPHP may impose restrictions on the licensee to practice the applicable profession as a term of the initial agreement or contract until such time as it receives a report from an approved evaluator and the IPHC determines, based on all relevant information, that the licensee is capable of practicing with reasonable skill and safety. As a condition of participation in the program, a licensee is required to agree to restrict practice in accordance with the terms specified in the initial agreement or contract. In the event that the licensee or applicant refuses to agree to or comply with the restrictions established in the initial agreement or contract, the committee shall refer the applicant or licensee to the board for appropriate action.

653—14.8(272C) Limitations.

14.8(1) The IPHC establishes the terms of and monitors a participant's compliance with the program specified in the initial agreement and contract. The IPHC is not responsible for participants who fail to comply with the terms of the initial agreement or contract or who fail to otherwise successfully complete the IPHP.

14.8(2) An applicant's or licensee's participation in the program shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. An applicant or licensee who violates a statute or administrative rule of the board which is unrelated to impairment shall be referred to the board in accordance with these administrative rules for appropriate action.

653—14.9(272C) Confidentiality. Information in the possession of the board or the committee shall be subject to the confidentiality requirements of Iowa Code section 272C.6. Information about applicants or licensees in the program shall not be disclosed except as provided in this rule.

14.9(1) The IPHC may communicate information about an IPHP participant to the applicable regulatory authorities, professional societies, or impaired licensee programs of any jurisdiction of the United States or foreign nations in which the participant is currently licensed to practice medicine or in which the participant may seek licensure.

14.9(2) The IPHC may communicate information about an IPHP participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance.

14.9(3) The IPHC may communicate information about an IPHP participant to the board in the event a participant does not comply with the terms of the contract. The IPHC may provide the board with a participant's IPHP file in the event the participant does not comply with the terms of the contract and the IPHC refers the case to the board for the filing of formal disciplinary charges or other appropriate action. If the board initiates disciplinary action against a licensee for noncompliance with the terms of the contract, the board may include information about a licensee's participation in the IPHP in the statement of charges, settlement agreement and final order, or order following hearing.

14.9(4) The IPHC may communicate information about an IPHP participant to the board if the IPHP receives information that the participant has violated any of the grounds for eligibility contained in rule 653—14.5(272C).

14.9(5) The board may include information about a licensee's participation in the IPHP in the statement of charges, settlement agreement and final order, or order following hearing pursuant to subrule 14.11(3).

14.9(6) The IPHC shall file with the board a report on board-referred cases upon the licensee's successful completion of the program.

14.9(7) The IPHC shall maintain a participant's complete IPHP file for the ten-year period after a participant's contract has expired or is terminated. After that period, the Executive Summary and contract shall be retained.

653—14.10(28E) Authority for 28E agreements. The IPHC may enter into 28E agreements with other health professional licensing boards to evaluate, assist, and monitor impaired licensees from other health professions who self-report and to report to those professional licensing boards regarding the compliance of individual licensees. In the event of noncompliance, the licensee may be referred to the appropriate licensing board for appropriate disciplinary action. If the IPHC enters into a 28E agreement with another health professional licensing board, this chapter applies and the word "physician" shall be replaced with the word "licensee" for the purpose of interpreting this chapter.

653—14.11(272C) Board referrals to the Iowa physician health committee.

14.11(1) Eligibility for board referral to IPHP. The board may refer to the IPHP a licensee or applicant for whom the following circumstances apply:

- a. The applicant or licensee has an impairment as defined in rule 653—14.2(272C).
- b. The board determines that the applicant or licensee is an appropriate candidate for participation in the IPHP.

NOTE: A licensee who is the subject of a formal board disciplinary order relating to an impairment must demonstrate a sufficient period of compliance with the disciplinary order before referral to the IPHC.

- c. The IPHC determines that the applicant or licensee is an appropriate candidate for participation in the IPHP.

14.11(2) Referral process.

a. Determination of whether an applicant or licensee is appropriate for referral to the IPHP is in the sole discretion of the board. Upon the board's approval, a referral shall be made to the IPHP and board staff shall provide relevant information about the applicant or licensee to the IPHC.

b. The IPHC shall make a determination whether the applicant or licensee is an appropriate candidate for participation in the IPHP. Upon this determination, the IPHC shall offer the referred applicant or licensee a health contract which provides a detailed description of the goals of the program, the requirements for successful participation, and the applicant's or licensee's obligations therein. See 653—14.6(272C).

c. If the IPHC finds that the applicant or licensee is not an appropriate candidate for participation in the IPHP or if the applicant or licensee fails to sign the health contract in the time period specified by the IPHC, the IPHC shall notify the board promptly.

d. When the referred applicant or licensee signs the contract, the IPHC shall notify the board that the applicant or licensee is an appropriate candidate for participation in the IPHP and that the referral has been finalized.

e. Upon notification that the referral has been finalized for a licensee who is the subject of a formal board disciplinary order relating to the impairment, the board shall file an order referring the licensee to the IPHP, and that order shall be a public record.

f. The IPHC shall notify the board upon the licensee's successful completion of the program. The board shall file an order recognizing the licensee's successful completion of the program, and that order shall be a public record.

g. Referral of an applicant or licensee by the board to the IPHP shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. Upon referral, the applicant or licensee shall be subject to the provisions of 653—Chapter 14. Specifically, the applicant or licensee shall be subject to board review and potential formal disciplinary action pursuant to subrule 14.7(2) for noncompliance with the provisions of the IPHP health contract.

14.11(3) *Investigation and disciplinary action on referrals.* Referral of an applicant or licensee to the IPHP does not prevent the board from conducting a disciplinary investigation of the applicant or licensee, or prevent the board from initiating disciplinary action against the licensee for violations other than impairment. If the board initiates disciplinary action against a licensee for violations other than impairment, the board may include information about a licensee's participation in the IPHP in the statement of charges, settlement agreement and final order, or order following hearing, if necessary to address impairment issues related to the violations which are the subject of the disciplinary action.

These rules are intended to implement Iowa Code section 272C.3 as amended by 2003 Iowa Acts, House File 641, section 6.

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