CHAPTER 301 SPEECH PATHOLOGY AND AUDIOLOGY CONTINUING EDUCATION AND DISCIPLINARY PROCEDURES

[Prior to 9/9/87, Health Department[470], Ch 156]

645—301.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply. "*Accredited sponsor*" means a person or an organization sponsoring continuing education activities which has been approved by the board.

"Approved program or activity" means a continuing education program or activity meeting the standards set forth in these rules which has received approval by the board pursuant to these rules.

"Board" means the board of examiners for speech pathology and audiology.

"Hour" of continuing education means a clock-hour spent after August 31, 1978, by a licensee in actual attendance at and completion of an approved continuing education activity.

"Licensee" means any person licensed to practice speech pathology or audiology or both in the state of Iowa.

"One Continuing Education Unit (CEU)" is equivalent to ten clock hours of approved continuing education.

"Verification of attendance" means:

- 1. A certificate of attendance provided by a sponsor which contains the date of program, program title and presenter, program site, number of clock hours attended, name of sponsor (and sponsor number if board accredited), and name of the licensee; or
 - 2. A certificate of attendance form provided by the board with all information completed; or
- 3. A transcript indicating successful completion of academic courses in appropriate subject matter. One semester hour of coursework is equivalent to 15 hours of continuing education and 1 quarter hour of coursework is equivalent to 10 hours of continuing education; or
- 4. A personal letter to the licensee with the information as specified in 301.1"1" signed by a program official; or
- A board-issued certificate of attendance for national and international conventions and independent study.

645—301.2(272C) Continuing education requirements.

301.2(1) Rescinded IAB 10/26/94, effective 11/30/94.

301.2(2) Each person licensed to practice speech pathology or audiology in this state shall during each continuing education compliance period (biennium from September 1 of the odd-numbered year through August 31 of the next odd-numbered year) complete a minimum of 30 clock hours or three CEUs of approved continuing education directly related to the clinical practice of speech pathology or audiology. A licensee can elect to successfully complete the Educational Testing Service National Teacher Examination in speech pathology or audiology as appropriate during the compliance period.

Compliance with the requirement of continuing education is a prerequisite for license renewal in each subsequent biennial license renewal period. The biennial license renewal period shall extend from January 1 of each even-numbered year until December 31 of the next odd-numbered year. A person holding licensure in both speech pathology and audiology must meet the requirements for each profession.

If a new license holder is licensed during the first year (September 1 to August 31) of the biennial continuing education period, the licensee is only required to complete 15 hours of continuing education for renewal. If a new license holder is licensed during the second year (September 1 to August 31) of the biennial continuing education period, the licensee shall be exempt from meeting continuing education requirements for the first license renewal. The new license holder will be required to obtain 30 hours of continuing education for each subsequent license renewal.

- **301.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity which meets the requirements herein and is approved by the board pursuant to rule 645—301.3(272C).
- **301.2(4)** Hours of continuing education shall not be carried over into the next continuing education period.
 - **301.2(5)** It is the responsibility of each licensee to finance the costs of continuing education.
- **301.2(6)** Each licensee shall maintain a file of verifications of attendance for all 30 continuing education clock hours accrued during the biennium. The licensee shall retain verifications of attendance for three years after the biennium has ended.

This rule is intended to implement Iowa Code sections 272C.3 and 272C.4.

645—301.3(272C) Standards for accreditation of sponsors and approval of continuing education activities.

- **301.3(1)** An organization, institution, agency or individual shall be qualified for approval as a sponsor of continuing education activities if the board determines that:
 - a. The sponsor presents organized programs of learning; and
- b. The sponsor presents subject matters which integrally relate to the practice of speech pathology or audiology or both; and
- c. The sponsor's program activities contribute to the professional competency of the licensee; and
- d. The sponsor's program presenters are individuals who have education, training or experience by reason of which said individuals may be considered qualified to present the subject matter of the programs.
- **301.3(2)** A continuing education activity shall be qualified for approval if the board determines that the activity being presented:
 - a. Is an organized program of learning; and
- b. Pertains to subject matters which integrally relate to the practice of speech pathology or audiology or both; which is described as:
- 1. Basic communication processes—information (beyond the basic certification requirements) applicable to the normal development and use of speech, language, and hearing, i.e., anatomic and physiologic bases for the normal development and use of speech, language, and hearing; physical bases and processes of the production and perception of speech, language, and hearing; linguistic and psycholinguistic variables related to normal development and use of speech, language, and hearing; and technological, biomedical, engineering, and instrumentation information which would enable expansion of knowledge in the basic communication processes. Any computer course used for continuing education must involve the actual application to the communicatively impaired population.
- 2. Professional areas—information pertaining to disorders of speech, language, and hearing, i.e., various types of disorders of communication, their manifestations, classification and causes; evaluation skills, including procedures, techniques, and instrumentation for assessment; and management procedures and principles in habilitation and rehabilitation of communication disorders. The board shall accept dysphagia courses provided by qualified instructors.
- 3. Related areas—study pertaining to the understanding of human behavior, both normal and abnormal, as well as services available from related professions which apply to the contemporary practice of speech-language pathology/audiology, e.g., theories of learning and behavior; services available from related professions that also deal with persons who have disorders of communications; information from these professions about the sensory, physical, emotional, social or intellectual states of child or adult; and other areas such as general principles of program management, professional ethics, clinical supervision, counseling and interviewing.
- 4. Nonacceptable subject matter—marketing, personal development, time management, child abuse, human relations, collective bargaining, tours. While being desirable these subjects are not ap-

plicable to the licensees' skill, knowledge, and competence as expressed in Iowa Code section 272C.2, paragraph "g." Therefore, such courses will receive no credit toward the minimum 30 hours required for license renewal.

- c. Contributes to the professional competency of the licensee; and
- d. Is conducted by individuals who have education, training, or experience by reason of which said individuals may be considered qualified to present the subject matter of the program.
 - **301.3(3)** Poster sessions may be approved as independent study pursuant to subrule 301.4(3).

645—301.4(272C) Procedures for accreditation of sponsors and review of continuing education activities.

301.4(1) Accreditation of sponsors.

- a. An institution, organization, agency or individual desiring to be designated as an accredited sponsor of continuing education activities shall apply on a form provided by the board. If approved by the board, such institution, organization, agency or individual shall be designated as an accredited sponsor of continuing education activities, and the activities of such an approved sponsor which are relevant to speech pathology and audiology shall be deemed automatically approved for continuing education credit.
- b. All accredited sponsors shall issue a certificate of attendance to each licensee who attends a continuing education activity. The certificate shall include sponsor name and number; date of program; name of participant; total number of clock hours excluding introductions, breaks, meals, etc.; program title and presenter; program site; and whether the program is approved for speech pathology, audiology, or both.
- c. All accredited sponsors shall report to the board, on a form approved by the board, a list of attendees, license number, and number of continuing education clock hours, within 30 days of completion of each continuing education activity.
- d. The board may at any time reevaluate an accredited sponsor. If after such reevaluation the board finds there is a basis for consideration of revocation of the accreditation of a sponsor, the board shall give notice by ordinary mail to that sponsor of a hearing on such possible revocation at least 30 days prior to the hearing.
- **301.4(2)** *Review of programs*. The board may monitor and review any continuing education program already approved by the board. Upon evidence of significant variation in the program presented from the program approved, the board may disapprove all or any part of the approved hours granted the program.
- **301.4(3)** *Independent study.* The independent study plan must be submitted and approved prior to beginning the study. The projected date of completion must be recorded on the board-provided application form. An independent study report must be filed within 30 days after the projected date of completion. One 30-day extension may be granted upon the condition that such a request in writing is received within 30 days of the projected date of completion. A reminder will not be sent by the board.

Program presenters will not receive continuing education credit for programs presented. Presenters may request independent study credit for preparation.

The maximum independent study which can be accrued during any biennium is six hours of the required 30 hours.

301.4(4) Rescinded, effective 9/1/87.

This rule is intended to implement Iowa Code section 272C.2.

645—301.5(272C) Hearings. In the event of denial, in whole or part, of credit for a continuing education activity, the licensee shall have the right to request a hearing. The request must be sent within 20 days after receipt of the notification of denial. The hearing shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or a qualified hearing officer designated by the board. If the hearing is conducted by a hearing officer, the hearing officer shall submit a

transcript or tape recording of the hearing including exhibits to the board after the hearing with the proposed decision of the hearing officer. The final decision of the hearing shall be rendered by the board.

645—301.6(272C) Report of licensee. Each licensee shall file a signed report, on a form provided by the board no later than September 15 of each odd-numbered year. The report shall include the following information: title of continuing education activity, date(s), sponsor of activity, sponsor number (if board approved), and continuing education hours earned; or the date and location the licensee successfully completed the national teacher examination in speech pathology or audiology, as appropriate. A licensee who takes the licensing examination in lieu of earning continuing education credits shall have the results of the examination sent to the board by the agency administering the examination. The licensee's signature upon this form shall be regarded as verification that the licensee did attend and participate in the activities listed on the form.

The board shall select licensee's continuing education reports for audit. Each licensee to be accredited shall provide copies of verification of attendance for all reported activities. For activities not provided by an accredited sponsor, the licensee shall submit a description of the program content indicating that the content is integrally related to the practice of speech pathology or audiology and contributes directly to the provision of speech pathology or audiology services to the public. Submission of a false report of continuing education or failure to meet continuing education requirements will cause the license to lapse and may result in formal disciplinary action.

645—301.7(272C) Disability or illness. The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms provided by the board and signed by the licensee and an appropriately licensed health care professional, and the waiver is acceptable to the board. Waivers of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

This rule is intended to implement Iowa Code section 272C.2.

645—301.8(272C) Exemptions for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa, but who wishes to retain the license, may be granted a waiver of compliance with continuing education requirements. The licensee shall apply to the board on a form provided by the board. The application shall contain a statement that the licensee will not engage in the practice of speech pathology or audiology in Iowa without first complying with all regulations governing reinstatement after exemption.

645—301.9(272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these regulations shall, prior to engaging in the practice of speech pathology or audiology in the state of Iowa, satisfy the following requirements for reinstatement:

301.9(1) Submit written application for reinstatement on a form provided by the board.

301.9(2) Furnish, in addition to the application, evidence of one of the following:

a. The full-time practice of speech pathology or audiology in another state of the United States or District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

- b. Completion of a total number of hours of accredited continuing education computed by multiplying 15 by the number of years a waiver of compliance shall have been in effect for such applicant, including the biennium during which the request for inactive status was requested if the continuing education requirement for that biennium had not yet been satisfied to a maximum of 75 hours; or
- c. Successful completion of the licensing examination (the National Teaching Examination (NTE) for Speech Pathology or Audiology) conducted within one year immediately prior to the submission of such application for reinstatement. A passing score of 600 or greater is required.

301.9(3) Pay the current biennial license renewal fee and reinstatement fee.

This rule is intended to implement Iowa Code section 272C.2.

645—301.10(272C) Reinstatement of lapsed license.

301.10(1) A license to practice speech pathology and audiology shall be considered lapsed if not renewed within 30 days of the renewal date and if no certificate of exemption has been granted.

301.10(2) Those persons who have failed to renew a license to practice and have not previously received a certificate of exemption shall pay the past due renewal fees, reinstatement and penalty fees to a maximum of \$350. In addition, those persons shall complete all past due continuing education by multiplying 15 by the number of years the license shall have been lapsed to a maximum of 90 hours. Application shall be made on a form provided by the board.

645—301.11 to 301.99 Reserved.

645—301.100(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

301.100(1) "Board" means the board of speech pathology and audiology examiners.

301.100(2) "Licensee" means any person licensed to practice as a speech pathologist or audiologist or both in the state of Iowa.

645—301.101(272C) Complaint. A complaint of a licensee's professional misconduct shall be made in writing by any person to the Board of Speech Pathology and Audiology Examiners, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319. The complaint shall include complainant's address and telephone number, be signed and dated by the complainant or person acting on behalf of the complainant, shall identify the licensee, and shall give the address and any other information about the licensee which the complainant may have concerning the matter. The board of speech pathology and audiology examiners may by motion choose to investigate a complaint against a licensee.

645—301.102(272C) Report of malpractice claims or actions. Each licensee shall submit a copy of any judgment or settlement in a malpractice claim or action to the board within 30 days after the occurrence at the address given in rule 645—301.101(272C).

645—301.103(272C) Investigations.

301.103(1) Investigation of complaints or malpractice claims. The board of speech pathology and audiology examiners shall assign an investigation of a complaint or malpractice claim to a member of the board who will be known as the investigating board member or may request the special investigator from the department of inspections and appeals assigned to professional licensure to do the investigation. The investigating board member or special investigator may request information from any peer review committee which may be established to assist the board. The investigating board member or special investigator may consult with an assistant attorney general concerning the investigation on evidence produced from the investigation. The investigating board member or the special investigator shall report to the board. The board shall make a written determination whether there is probable cause

for a disciplinary hearing. If an investigating board member is appointed, this member shall not take part in the decision of the board, but may appear as a witness.

301.103(2) Investigative interviews.

- a. In the course of conducting or directing an investigation, the board may request the licensee to attend an informal investigatory interview before the board. The licensee is not required to attend the investigatory interview.
- b. Because an investigatory interview constitutes a part of the board's investigation of a potential disciplinary case, statements that are made and facts which are discussed at the investigatory interview may be considered by the board in the event the matter proceeds to a contested case hearing and those statements and facts are independently introduced into evidence.
- c. The licensee may be, but is not required to be, represented by an attorney at the informal discussion. The attorney may advise the licensee and may participate in general discussion and may, upon leave of the board, make statements on behalf of the licensee, but is not entitled to make procedural motions or objections or engage in argumentative advocacy on behalf of the licensee.
- d. The investigative interview shall be held in closed session pursuant to Iowa Code section 21.5(1).
- e. The licensee or the board may seek an informal stipulation or settlement of the case at any time during the investigation, including during or after an investigative interview. The chairperson or the chairperson's designee may negotiate on behalf of the board. All informal settlements are subject to approval of a majority of the full board. If approved, the informal settlement becomes the final disposition of the matter and is a public record. No board member is disqualified from participating in the adjudication of any resulting contested case by virtue of reviewing the investigative material or having participated in negotiation discussions. If the parties agree to an informal settlement during the investigative process, a statement of charges shall be filed simultaneously with the settlement document. In the event a settlement is not reached under this rule, the poststatement of charges settlement procedures set forth in rule 301.110(272C) may still be utilized.
- **645—301.104(272C) Alternative procedure.** A disciplinary hearing before the licensing board is an alternative to the procedure provided in Iowa Code sections 147.58 to 147.71.
- **645**—**301.105(272C) License denial.** Any request for a hearing before the board concerning the denial of a license shall be submitted by the applicant in writing to the board at the address in rule 301.101(272C) by certified mail, return receipt requested, within 30 days of mailing of a notice of denial of license.
- **645**—**301.106(272C) Notice of hearing.** If there is a finding of probable cause for a disciplinary hearing by the investigating board member or by the department, the department shall prepare the notice of hearing and transmit the notice of hearing to the respondent by certified mail, return receipt requested, at least ten days before the date of the hearing.
- **645—301.107(272C) Hearings open to the public.** A hearing of a licensing board concerning a licensee or an applicant shall be open to the public unless the licensee or applicant or the applicant's attorney requests in writing that the hearing be closed to the public.
- **645—301.108(272C) Hearings.** The board adopts the rules of the Iowa department of public health found in 645—Chapter 173 as the procedure for hearings before the board. The board may authorize an administrative hearing officer to conduct the hearings, administer oaths, issue subpoenas, and prepare written findings of fact and conclusions of law at the direction of the board. If a majority of the

board does not hear the disciplinary proceeding, a recording or a transcript of the proceedings shall be made available to the members of the board who did not hear the proceeding.

645—301.109(272C) Appeal. Any appeal to the district court from disciplinary action of the board or denial of license shall be taken within 30 days from the issuance of the decision by the board. It is not necessary to request a rehearing before the board to appeal to the district court.

645—301.110(272C) Informal settlement.

301.110(1) *Parties.*

- a. A contested case may be resolved by informal settlement. Settlement negotiations may be initiated at any stage of a contested case proceeding. Neither party is obligated to utilize this procedure to settle the case. Negotiation of an informal settlement may be initiated by the board, the assistant attorney general representing the public interest, or the respondent. Initiation by the respondent shall be directly with the assistant attorney general representing the public interest.
- b. The chairperson or the chairperson's designee has authority to negotiate on behalf of the board. **301.110(2)** Waiver of notice and opportunity to be heard. Consent to negotiation by the respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 during informal settlement negotiation, and the assistant attorney general is thereafter authorized to discuss informal settlement with the board's designee until that consent is affirmatively withdrawn.
- **301.110(3)** *Negotiation deadline.* Negotiations for a proposed settlement shall be completed at least seven days prior to the hearing date. However, in instances where additional time will clearly lead to a satisfactory settlement prior to the hearing date, the board chairperson may grant additional time.
- **301.110(4)** Board approval. The full board shall not be involved in negotiation until a final, written settlement executed by the respondent is submitted to the full board for approval. All informal settlements are subject to approval of a majority of the full board. If approved, the informal settlement becomes the final disposition of the matter and is a public record. If the board fails to approve an informal settlement, it shall be of no force or effect to either party.
- **301.110(5)** Participation of board member. The chairperson or a board member who is designated to act in negotiation of an informal settlement may review investigative material in the course of conducting the negotiation. The negotiating board member is not disqualified from participating in the adjudication of the contested case by virtue of reviewing the investigative material or having participated in negotiation discussions.
- **645—301.111(272C) Publication of decisions.** Final decisions of the board relating to disciplinary proceedings shall be transmitted to the appropriate professional association, the news media and employer.
- **645—301.112(272C) Method of discipline.** The board has the authority to impose the following disciplinary sanctions:
 - 1. Revoke a license.
 - 2. Suspend a license until further order of the board or a specified period.
- 3. Prohibit permanently, until further order of the board, or for a specified period, the engaging in specified procedures, methods or acts.
 - 4. Place a license on probation.
 - 5. Require additional education or training.
 - 6. Require reexamination.
 - 7. Impose civil penalties not to exceed \$1,000.
 - 8. Issue a citation or warning.
 - 9. Impose other sanctions allowed by law as may be appropriate.

- **301.112(1)** The board may impose any of these disciplinary sanctions when the board determines that the licensee is guilty of the following acts or offenses:
 - a. Fraud in procuring a license.
 - b. Professional incompetency.
- c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
 - d. Habitual intoxication or addiction to the use of drugs.
- *e.* Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.
 - f. Fraud in representations as to skill or ability.
 - g. Use of untruthful or improbable statements in advertisements.
 - h. Willful or repeated violations of the provisions of Iowa Code chapter 147.

301.112(2) Violation of the rules promulgated by the board.

301.112(3) Violation of the following code of ethics:

- a. Claims of expected clinical results shall be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.
- b. Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.
- c. Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.
- d. Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, or age.
- e. Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances shall be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.
- f. Licensees who dispense products to persons served professionally shall observe the following standards:
- 1. Products associated with professional practice must be dispensed to the person served as a part of a program of comprehensive habilitative care.
- 2. Fees established for professional services must be independent of whether a product is dispensed.
 - 3. Persons served must be provided freedom of choice for the source of services and products.
- 4. Price information about professional services rendered and products dispensed must be disclosed by providing to or posting for persons served a complete schedule of fees and charges in advance of rendering services, which schedule differentiates between fees for professional services and charges for products dispensed.
- g. Failure to comply with Food and Drug Administration rules 21 CFR \$801.420 (April 1, 1981) "Hearing aid devices; professional and patient labeling" and 21 CFR \$801.421 (April 1, 1981) "Hearing aid devices, conditions for sale."

301.112(4) Personal disqualifications:

- a. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
 - b. Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

301.112(5) Practicing the profession while the license is suspended.

301.112(6) Suspension or revocation of license by another state.

301.112(7) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

301.112(8) Prohibited acts consisting of the following:

- *a.* Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.
 - b. Permitting another person to use the licensee's license for any purpose.
 - c. Practice outside the scope of a license.
 - d. Verbally or physically abusing clients.

301.112(9) Unethical business practices, consisting of any of the following:

- a. False or misleading advertising.
- b. Betrayal of a professional confidence.
- c. Falsifying clients' records.
- d. Billing for services which were not rendered, or charging fees which are inconsistent with any prior agreements reached with the clients.
 - **301.112(10)** Failure to report a change of name or address within 30 days after it occurs.
- **301.112(11)** Submission of a false report of continuing education or failure to submit the annual report of continuing education.
- **301.112(12)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.
 - **301.112(13)** Failure to comply with a subpoena issued by the board.

This rule is intended to implement Iowa Code sections 272C.3 and 272C.4.

645—301.113(272C) Peer review committees.

- **301.113(1)** Each peer review committee for the profession may register with the board of examiners within 30 days after formation.
- **301.113(2)** Each peer review committee shall report in writing within 30 days of the action, any disciplinary action taken against a licensee by the peer review committee.
- **301.113(3)** The board may appoint a peer review committee consisting of not more than five persons who are licensed to practice speech pathology and a peer review committee consisting of not more than five persons who are licensed to practice audiology to advise the board in standards of practice and other matters relating to specific complaints as requested by the board. The members of the peer review committees shall serve at the pleasure of the board. The peer review committees shall observe the requirements of confidentiality provided in Iowa Code chapter 272C.

These rules are intended to implement Iowa Code sections 272C.2, 272C.4, 272C.5, 272C.6, 17A.10 and 17A.17.

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