

NURSING BOARD[655]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 1, “Administrative and Regulatory Authority,” Iowa Administrative Code.

The proposed amendments:

- Replace the current mission statement with the new mission statement.
- Change the election date of Board officers to occur prior to May 1 of each year.
- Establish standing committees after May 1 of each year.
- Alter scheduling requirement for future Board meeting dates.
- Remove the requirement that meetings must be held in Des Moines, Iowa.
- Replace the use of Robert’s Rules of Order with broader requirements for conducting meetings and ensuring equal rights and responsibilities for members.
- Eliminate references to provisions rescinded in 2001.
- Remove the subrule that provided for licensee notification in the Board newsletter.
- Remove reference to the state’s general fund.

Any interested person may make written comments or suggestions on or before February 25, 2014. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685, or e-mail rules.comments@iowa.gov. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256 or in the Board office at 400 S.W. 8th Street, by appointment.

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

These amendments are intended to implement Iowa Code chapters 17A, 147, and 152.

The following amendments are proposed.

ITEM 1. Amend rule 655—1.3(17A,147,152) as follows:

655—1.3(17A,147,152) Description and organization of the board.

1.3(1) Description of the board. The board derives its legal authority for regulating and enforcing regulations for nursing education, nursing practice and continuing education for nurses under the provisions of Iowa Code chapters 147, 147A, 152, 152E and 272C. The mission of the board is to protect the public health, safety and welfare by ~~ensuring that nursing is practiced by at least minimally competent licensed individuals who practice within their authorized scope of practice~~ regulating the licensure of nurses, the practice of nurses, and nursing education and continuing education.

1.3(2) Organization of the board and meetings. The composition of the board is defined in Iowa Code sections 147.14 and 147.19. The board shall:

- a. At the last regularly scheduled meeting prior to May 1:
 - (1) ~~Elect~~ elect a chairperson and vice chairperson from its membership to begin serving as officers on May 1.
 - (2) ~~Establish~~ At the first regularly scheduled meeting after May 1, establish standing committees.
 - (3) ~~c.~~ Schedule regular meeting dates through the summer of the following year.
 - (4) ~~Hold~~ and hold regularly scheduled meetings ~~in Des Moines, Iowa.~~

~~b. d.~~ Hold special meetings called by the chairperson or upon request of four members of the board to the chairperson or executive director. Special meetings may be held by electronic means in accordance with Iowa Code section 21.8.

~~e. e.~~ Make available to the public, the date, time, and location of board meetings.

~~d. f.~~ Make available to the public, the date on which board materials are due in the board office for the agenda of regularly scheduled meetings. Materials received three weeks prior to a scheduled board meeting shall be placed on the agenda. Materials from emergency or unusual circumstances may be added to the agenda with the chairperson's approval.

~~e. g.~~ Allow members of the public to be present during board meetings unless the board votes to hold a closed session.

(1) Anyone who has submitted materials for the agenda or whose presence has been requested by the board will be given the opportunity to address the board.

(2) At every regularly scheduled board meeting, time will be designated for "Public Comment." During the time on the agenda labeled "Public Comment," anyone may speak for up to two minutes per person. Requests to speak at a later time for two minutes per person when a particular topic comes before the board should be made at the time of "Public Comment" and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted to public comment at any one time unless the chairperson indicates otherwise.

(3) One who has not asked to address the board during "Public Comment" may be recognized by the chairperson if one raises a hand. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

~~f. h.~~ Hold a closed session if the board voted to do so in a public roll call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if less are than two-thirds of the board is present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. Minutes of all discussion, persons present, and action occurring at a closed session will be recorded along with a tape recording of the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

~~g. i.~~ Govern its meetings in accordance with Iowa Code chapter 21 ~~and its proceedings by "Robert's Rules of Order, Revised."~~ The board proceedings shall be conducted to ensure that all members have equal rights, privileges and obligations.

~~h. j.~~ Appoint a full-time executive director who, under the direction of the board, is responsible for the administration of policies and programs of the board and for the operation of the board office. Appointment or termination of appointment of the executive director shall require a majority vote of the entire board.

~~i. k.~~ Act on a petition for adoption of rules. Any person may request the promulgation, amendment, or repeal of a rule in accordance with Iowa Code section 17A.7 and 655—Chapter 8.

~~(1) to (4) Rescinded IAB 4/4/01, effective 5/9/01.~~

~~j. l.~~ Adopt, amend, or repeal rules in accordance with Iowa Code sections 17A.3, 17A.4, 17A.5, 17A.6, and 17A.7.

1.3(3) Information. Members of the public may obtain information or submit requests to the board office that relate to regulating and enforcing regulations on nursing education, nursing practice, and continuing education for nurses. Requests for information resulting in legally binding answers require a petition for rule making or a petition for declaratory ruling order. See 655—Chapter 8, "Petition Petitions for Rule Making"; 655—Chapter 9, "Declaratory Rulings Orders"; and 655—Chapter 10, "Agency Procedure for Rule Making."

1.3(4) Petition for declaratory orders. Any person may petition the board for a declaratory order as to the applicability of statute, rule, policy statement, decision or order which is under the board's jurisdiction. The petition shall be submitted in writing to the board office and shall be in accordance with 655—Chapter 9.

~~a. to e. Rescinded IAB 4/4/01, effective 5/9/01.~~

1.3(5) Public hearings. Public hearings shall be held in accordance with Iowa Code section 17A.4, subsection 1, paragraphs "a" and "b," with respect to rule making and 655—Chapter 10.

~~a. to e. Rescinded IAB 4/4/01, effective 5/9/01.~~

1.3(6) Public records and rosters. Public records and rosters of licensees shall be made available in accordance with Iowa Code chapter 22 and ~~sections~~ section 147.8 and 147.43 and 655—Chapter 11.

ITEM 2. Amend rule 655—1.4(147,152,272C) as follows:

655—1.4(147,152,272C) Newsletter.

1.4(1) The board may publish or contract with a vendor to publish a newsletter as a nonpublic forum to disseminate official information related to the regulated profession. This official information may include statutory requirements, statutory changes, rules, rule changes, proposed or pending rule changes, licensing requirements, license renewal procedures, board action, board interpretative rulings or guidelines, office procedures, disciplinary action, ethical or professional standards, education requirements, education opportunities (prelicense education, continuing education and professional development), board business, board meetings and board news.

~~1.4(2) When the board is required or allowed to mail notices to licensees about matters such as license renewal, the board may include such notices in the newsletter.~~

~~1.4(3) 1.4(2)~~ The newsletter ~~may include vendor advertising to enable~~ enables the board to communicate with licensees and other interested persons ~~without expending moneys appropriated from the state's general fund, and may include vendor advertising in order to defray the cost of the newsletter~~ and to provide a targeted opportunity for licensees to receive profession-specific information to facilitate entry into the profession and enhance professional performance.

~~1.4(4) 1.4(3)~~ All newsletter advertising must be consistent with the board's mission as set forth in subrule 1.3(1). The board derives its legal authority for regulating and enforcing regulations for nursing education, nursing practice and continuing education for nurses under the provisions of Iowa Code chapters 147, 147A, 152, 152E and 272C. ~~The mission of the board is to protect the public health, safety and welfare by ensuring that nursing is practiced by at least minimally competent licensed individuals who practice within their authorized scope of practice.~~

~~1.4(5) 1.4(4)~~ All newsletter advertising must be professional and respectful of the nature of the regulated profession, established as a nonpublic forum, and consistent with rules established by the board. Advertising shall be restricted to commercial offerings of goods and services directly related to the lawful practice of the profession or the regulation of the profession. Political, advocacy or issue-oriented advertising shall not be permitted.

~~1.4(6) 1.4(5)~~ Newsletter advertising shall be considered consistent with the board's mission if the advertising pertains to commercial offerings of goods or services in one or more of the following areas:

- a. Entry into the profession, such as prelicense education or internship opportunities.
- b. A licensee's compliance with statute or board rules, such as continuing education courses or publications containing professional standards.
- c. The lawful and competent performance of the profession, e.g., malpractice insurance, or goods or services uniquely used in the profession.
- d. Employment opportunities in the profession.
- e. A professional's marketing of professional services to other professionals.
- f. Education programs designed to enhance credentials of professionals, or professional-specific degrees.
- g. Private and public notices of scholarship and grant opportunities.

~~1.4(7) 1.4(6)~~ Newsletter advertising shall be clearly separated from the substantive sections of each newsletter. Vendors authorized to solicit newsletter advertising must do so consistent with the board's advertising guidelines in a manner which is viewpoint-neutral and nondiscriminatory in all respects. Goods or services advertised in a newsletter must be lawful for all possible readers of any age to view, use or buy. The front page of each newsletter containing advertising must include a prominent disclaimer notifying the reader that the board plays no role in the solicitation of advertising and does not explicitly or implicitly endorse any advertiser or any good or service advertised in the newsletter.