

NURSING BOARD[655]

Notice of Intended Action

**Proposing rule making related to waivers
and providing an opportunity for public comment**

The Board of Nursing hereby proposes to amend Chapter 15, “Waiver and Variance Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 17A.9A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.9A.

Purpose and Summary

During the 2020 Legislative Session, the Legislature passed 2020 Iowa Acts, House File 2389, which makes various amendments to Iowa Code chapter 17A. In section 10 of House File 2389, Iowa Code section 17A.9A is amended to remove references to “variances,” and the Iowa Code section now only uses the term “waiver” throughout. This proposed rule making updates the Board’s waiver rules to similarly remove references to “variances” and only use the term “waiver.”

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 Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on December 8, 2020. Comments should be directed to:

Kathy Weinberg
Iowa Board of Nursing
400 S.W. Eighth Street, Suite B
Des Moines, Iowa 50309
Email: kathy.weinberg@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 actions are proposed:

ITEM 1. Amend **655—Chapter 15**, title, as follows:

WAIVER AND VARIANCE RULES

ITEM 2. Amend rule 655—15.1(147,ExecOrd8,78GA,ch1176) as follows:

655—15.1(147,ExecOrd8,78GA,ch1176) Definition. For purposes of this chapter, a “waiver or variance” means action by a division board, which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term “waiver” shall include both a waiver and a variance.

ITEM 3. Amend rule 655—15.4(147,ExecOrd8,78GA,ch1176), introductory paragraph, as follows:

655—15.4(147,ExecOrd8,78GA,ch1176) Criteria for waiver or variance. In response to a petition completed pursuant to rule 655—15.6(147,ExecOrd8,78GA,ch1176), a division board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following: