

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

**Proposing rulemaking related to board administrative processes
and providing an opportunity for public comment**

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 4, “Board Administrative Processes,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A, 21, 147, 252J, 272C, and 272D, and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 21, 147, 252J, 272C, and 272D.

Purpose and Summary

The proposed rules publicly outline administrative processes of the professional licensing boards within the Licensing Division of the Department. This includes expectations of licensees to change their name and address, order duplicate certificates, and provide continuing education information in an audit, as well as board order authority.

A public hearing was held November 21, 2023, after proper notice. No public comment was received.

Fiscal Impact

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

Jobs Impact

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.249.7038
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024 9 to 9:20 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: meet.google.com/isb-pmab-qob Or dial: +1 813.252.1868 PIN: 724 486 884# More phone numbers: tel.meet/isb-pmab-qob?pin=8352415222450
February 14, 2024 9 to 9:20 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: meet.google.com/isb-pmab-qob Or dial: +1 813.252.1868 PIN: 724 486 884# More phone numbers: tel.meet/isb-pmab-qob?pin=8352415222450

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Rescind 645—Chapter 4 and adopt the following **new** chapter in lieu thereof:

CHAPTER 4 BOARD ADMINISTRATIVE PROCESSES

645—4.1(17A) Definitions.

“License” means a license to practice the specific practice governed by one of the boards defined in this chapter.

“Licensee” means a person licensed to practice the specific practice governed by one of the boards defined in this chapter.

645—4.2(17A) Purpose of board. The purpose of each professional licensing board is to administer and enforce the provisions of Iowa Code chapters 17A, 21, 147, and 272C and the practice-specific provisions in Iowa Code chapters 148A, 148B, 148C, 149, 151, 152A, 152B, 152C, 152D, 154, 154A, 154B, 154C, 154D, 154E, 155, 156, 157 and 158 applicable to each board. The mission of each professional licensing

board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of each board. Responsibilities of each professional licensing board include, but are not limited to:

4.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

4.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

4.2(3) Imposing discipline on licensees as provided by statute or rule.

645—4.3(17A,147,272C) Organization of board and proceedings.

4.3(1) Each professional licensing board is composed of members appointed by the governor and confirmed by the senate as defined in Iowa Code chapter 147.

4.3(2) Each board elects a chairperson and vice chairperson from its membership at the first meeting after April 30 of each year.

4.3(3) A majority of the members of each board constitutes a quorum.

4.3(4) Board meetings are governed in accordance with Iowa Code chapter 21.

4.3(5) Each professional licensing board has the authority to:

a. Develop and implement continuing education rules to ensure the continued competency of individuals licensed by the board.

b. Establish fees.

c. Establish committees of the board.

d. Hold a closed session if the board votes 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 fewer are present. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session. The records shall be stored securely in the board office.

e. Investigate alleged violations of statutes or rules that relate to the practice of licensees upon receipt of a complaint or upon the board's own initiation.

f. Initiate and impose licensee discipline.

g. Monitor licenses that are restricted by a board order.

h. Establish and register peer reviewers.

i. Refer complaints to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action.

j. Perform any other functions authorized by a provision of law.

645—4.4(17A) Name and address changes.

4.4(1) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

4.4(2) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—4.5(147) Duplicate certificate. A duplicate certificate is required if the current certificate is lost, stolen or destroyed. Duplicate certificates may be purchased online.

645—4.6(17A,147,272C) License denial.

4.6(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing and cite the reasons for which the application was denied.

4.6(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing by submitting a request in writing within 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing. The hearing and subsequent procedures will be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—4.7(272C) Audit of continuing education. The board may select licensees for audit following license renewal.

4.7(1) If selected for audit, the licensee will provide certificates of completion of continuing education within 30 days of notice. The documents will contain the course date, title, contact hours, sponsor and licensee's name. Extension of time may be granted on an individual basis.

4.7(2) All licensees must retain continuing education certificates for two years after the renewal.

4.7(3) If the submitted certificates are incomplete or unsatisfactory, the licensee may submit make-up credit to cover the deficit. The deadline for make-up credit is 90 days from the date of the notice of deficit.

645—4.8(272C,83GA,SF2325) Automatic exemption. A licensee is exempt from the continuing education requirement during the license biennium when the licensee:

1. Served active duty in the military service; or
2. Resided in another state or district having continuing education requirements; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States.

645—4.9(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption providing an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application.

4.9(1) The board may grant an extension of time to fulfill the continuing education requirement.

4.9(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

4.9(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—4.10(147,272C) Order for physical, mental, substance abuse or clinical competency examination. If the board has probable cause, a licensee may be required to submit to a physical, mental, substance abuse or clinical competency examination at the licensee's expense.

4.10(1) Content of order. A board order for a physical, mental, substance abuse or clinical competency examination shall include the following items:

- a. A description of the type of examination.
- b. The amount of time the licensee has to complete the examination.
- c. A statement indicating the licensee sign necessary releases for the board to communicate with the examiner of the evaluation or treatment facility.
- d. A statement that the licensee communicate with the board regarding the status of the examination.
- e. A statement that the licensee will have the examiner provide the examination results directly to the board within a specified period of time.

4.10(2) Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request that the board approve an alternative examiner or treatment facility. The board in its discretion shall determine whether to grant the request.

4.10(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. A licensee who fails to timely file a request for hearing to object to an examination order waives any future objection to the examination order in the event formal disciplinary charges are filed for failure to comply with the examination order or on any other grounds.

The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned to maintain the licensee’s confidentiality.

4.10(4) *Closed hearing.* Any hearing on an objection to the examination order shall be closed pursuant to Iowa Code section 272C.6(1).

4.10(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4). However, all investigative information regarding the examination order shall be provided to the licensee in the event the licensee files an objection, under subrule 4.15(3), in order to allow the licensee an opportunity to prepare for hearing.

4.10(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians’ or health care providers’ testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

4.10(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered physical, mental, substance abuse or clinical competency examination constitutes a violation of the rules of the board and is grounds for disciplinary action.

645—4.11(252J,272D) Noncompliance rules regarding child support and nonpayment of state debt.

4.11(1) *Child support noncompliance.* The board hereby adopts by reference 641—Chapter 192, “Child Support Noncompliance,” Iowa Administrative Code.

4.11(2) *Nonpayment of state debt.* The board hereby adopts by reference 641—Chapter 194, “Nonpayment of State Debt,” Iowa Administrative Code.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 252J, 272C and 272D.