Regulatory Analysis

Notice of Intended Action to be published: 655—Chapter 3
"Licensure to Practice—Registered Nurse/Licensed Practical Nurse"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 147, 152, 152E, and 272C

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A, 147, 152, 152E and 272C

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 19, 2024	6200 Park Avenue
9:30 a.m.	Des Moines, Iowa

Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Des Moines, Iowa 50321
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Purpose and Summary

The purpose of this proposed rulemaking is to set minimum standards for entry into the various nursing professions. Iowa residents, licensees and employers benefit from this rulemaking because it articulates the processes by which individuals apply for licensure as a Registered Nurse, Licensed Practical Nurse and Advanced Registered Nurse Practitioner. This includes the process for initial licensure, renewal and reinstatement. These requirements protect public safety by ensuring the professionals have minimum competency.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no direct cost to the general public, but there is a cost to the applicant because complying with the minimum requirements to enter into the profession is at the expense of the licensee. This includes costs to take the required examinations, schooling to obtain the required degrees, and application fees.

Staff salaries to support the work of the Board of Nursing are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards. There are 74,390 licensed nursing professionals in the state of Iowa. The Board utilizes staff to review application materials and maintain the licensure database.

- **Classes of persons that will benefit from the proposed rulemaking:**

The public and professionals benefit from the proposed rulemaking. Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could cause serious harm to the public during their practice.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are currently 74,390 licensed nursing professionals in the state of Iowa. Reviews are completed at the time of initial application and during reinstatement. If a licensee was disciplined in another state, the application may be forwarded to the full board for additional review prior to initial licensure or reinstatement. Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could harm the public.

- **Qualitative description of impact:**

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated by competent and qualified practitioners.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards. There are 74,390 licensed nursing professionals in the state of Iowa. The Board utilizes staff to review application materials and maintain the licensure database.

- **Anticipated effect on state revenues:**

Costs associated with implementing this rulemaking are paid by individual licensees or establishments, not the State. There is no anticipated impact on state revenues.

Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario.

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could harm the public. The Board believes the cost to license this profession justifies the benefits achieved because it ensures that Iowans are treated with competent and qualified practitioners.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Board has not identified a more cost-effective alternative to the licensure of nursing professionals. The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario.

Due to state government realignment, this Board is now part of the Department. The Department's Professional Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. These amendments support this effort. The Department is actively pursuing a single licensing platform to assist in standardizing licensing.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Board has not identified a more cost-effective alternative to the licensure of nursing professionals. The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession, but the Board would be concerned about the public safety of Iowans in that scenario.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

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Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking relates to high-stakes public safety concerns that are present whether the business is a small business or a large organization. The rulemaking is meant to ensure public safety in terms of licensing requirements for nursing professionals. While some nurses may work for a small business, many work for large corporations and hospitals. To exempt small businesses from adhering to this rulemaking would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business. If a licensee identifies a rule that is overly burdensome, the licensee may utilize the Department's established waiver procedures to request a waiver of that rule.

Text of Proposed Rulemaking

ITEM 1. Rescind 655—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
LICENSURE TO PRACTICE—REGISTERED NURSE/LICENSED PRACTICAL NURSE

655—3.1(17A,147,152,152E,272C) Definitions.

"Approved nursing program" means a nursing education program whose status has been recognized by the board or by a similar board in another jurisdiction that prepares individuals for licensure as a licensed practical nurse, registered nurse, or advanced registered nurse practitioner; or grants a baccalaureate, master's or doctorate degree with a major in nursing.

"CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

"Inactive license" means a registered nurse or licensed practical nurse license that has been placed on inactive status because it was not renewed by the fifteenth day of the month following the expiration date or means that the board has received notification that a licensee has declared another compact state as the primary state of residency.

"Late license" means a registered nurse or licensed practical nurse license that has not been renewed by the expiration date. The time between the expiration date and the fifteenth day of the month following the expiration date is considered a grace period.

"Licensee" means a person who has been issued a license to practice as a registered nurse, licensed practical nurse or advanced registered nurse practitioner under the laws of this state.

"Multistate license" means a license to practice as a registered nurse or licensed practical nurse issued to a qualified person under Iowa Code chapter 152E that authorizes the holder to practice in all party states under a multistate licensure privilege.

"Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse or a licensed practical nurse in a party state.

"NCSBN" means the National Council of State Boards of Nursing.

"Nurse licensure compact" means the agreement between party states, as set forth in Iowa Code chapter 152E, to allow mutual recognition of a nursing license.

"Overpayment" means payment in excess of the required fee. An overpayment less than $10 received by the board shall not be refunded.

"Party state" means any state that has adopted the nurse licensure compact.

655—3.2(17A,147,152,152E,272C) Fees for licensure. The following fees apply for licensure of registered nurses (RN), licensed practical nurses (LPN), and advanced registered nurse practitioners (ARNP):

3.2(1) Application for an initial license based on the registered nurse examination, $93 (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI)).

3.2(2) Application for an original license based on the practical nurse examination, $93 (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa DCI and the FBI).

3.2(3) Application for RN/LPN license by endorsement, $119 (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa DCI and the FBI).

3.2(4) Application for an initial license, renewal, or both of an ARNP, $81 for any period of licensure up to three years.

3.2(5) Certified statement that an RN/LPN is licensed in this state or registered as an ARNP, $25.

3.2(6) Reactivation of a license to practice as an RN/LPN, $175 for a license lasting more than 24 months up to 36 months (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa DCI and the FBI).

3.2(7) Reactivation of a license to practice as an ARNP, $81 for any licensing period up to three years.

3.2(8) Renewal of a license to practice as an RN/LPN, $99 for a three-year period.

3.2(9) Late renewal of an RN/LPN license, $50 (plus the renewal fee as specified in subrule 3.2(8)).

3.2(10) Check returned for any reason, $15. If licensure/registration has been issued by the board office based on a check for the payment of fees and the check is later returned by the bank, the board will request payment by certified check or money order.

3.2(11) Certified copy of an original document, $20.

3.2(12) Processing of the fingerprint cards and the Iowa DCI and FBI criminal history background checks, $50.

3.2(13) Petition for eligibility determination, $25.

655—3.3(17A,147,152,272C) Mandatory licensure.

3.3(1) A person in the practice of nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of caring for one's family, must have a current Iowa license, whether or not the person's employer is in Iowa and whether or not the person receives compensation. Any nurse participating in the care of a patient situated in Iowa, whether that care is provided through telephonic, electronic or in-person means, and regardless of the location of the nurse, must obtain Iowa licensure unless specifically exempted.

3.3(2) Current Iowa licensure is not mandatory when:

a. A nurse holds an active multistate license issued by a party state, pursuant to Iowa Code chapter 152E. A nurse who practices nursing in Iowa pursuant to a multistate licensure privilege is subject to the jurisdiction of the board, the courts, and the laws of Iowa.

b. A nurse holds an active license in another state and is providing services to patients in Iowa only during interstate transit.

c. A nurse holds an active license in another state and is providing emergency services in an area in which the governor of Iowa has declared a state of emergency.

3.3(3) A licensed practical nurse enrolled in an approved program for registered nurses shall hold an active licensed practical nurse license in all jurisdictions in which the licensed practical nurse provides patient care. A registered nurse who is enrolled in an approved program for advanced registered nurse practitioners shall hold an active registered nurse license in all jurisdictions in which the registered nurse provides patient care.

655—3.4(17A,147,152,272C) Licensure qualifications for registered nurse and licensed practical nurse. Applicants for registered nurse and licensed practical nurse licenses shall meet the following requirements:

3.4(1) Graduation from an approved nursing program.

3.4(2) Successful passage of the National Council Licensure Examination (NCLEX®) or the State Board Test Pool Examination, the national examination used prior to 1982. The passing standard is that established by the testing authority at the time the test was administered.

3.4(3) If applicable, board approval of an applicant with a criminal history, pursuant to rule 655—3.11(272C), or a record of prior disciplinary action, regardless of jurisdiction.

655—3.5(17A,147,152,272C) Licensure by examination.

3.5(1) *Board application.* A graduate of an approved nursing program seeking initial licensure as a registered nurse or licensed practical nurse shall submit the following:

a. A completed application for licensure by examination.

b. Payment of the application fee.

c. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

d. If the applicant has a criminal history, copies of all documents required by rule 655—3.11(272C).

e. An official transcript denoting the date of graduation and diploma or degree conferred, sent directly to the board from the nursing program.

3.5(2) *Test registration.* The applicant completes NCLEX® registration, including payment of applicable fees through the national test service agency.

3.5(3) *Americans with Disabilities Act accommodations.* An applicant with a disability may submit a request to the board for testing accommodations. The request must include:

a. The nature of the disability and the specific testing accommodations being requested.

b. Documentation from the applicant's health care provider describing the disability and the recommended accommodations.

c. Documentation from the applicant's nursing education program if testing accommodations were provided to the applicant during school.

The board's recommendation regarding approval of accommodation requests will be communicated to the national test service agency.

3.5(4) *Authorization to test.* An applicant will not receive an authorization to test until all of the requirements in subrules 3.5(1) and 3.5(2) are met.

a. An applicant will self-schedule the examination with an approved testing center and must test within 91 days of receiving the authorization to test. An applicant who does not test within 91 days of receiving the authorization to test is required to submit a new completed application for licensure by examination and fee to the board.

b. An applicant who does not appear for a testing appointment or does not complete the examination must follow the requirements for reexamination.

3.5(5) *Reexamination.* An applicant who fails the examination and reapplies within 12 months of submitting a prior application to the board is required to complete the requirements in paragraphs 3.5(1)*"a"* and *"b"* and subrule 3.5(2). An applicant who fails the examination and reapplies after 12 months of submitting a prior application to the board shall be required to complete all requirements in subrules 3.5(1) and 3.5(2).

3.5(6) *Licensure.* Upon satisfactory review of the documentation required by subrule 3.4(1) and proof of successful passage of the examination, the applicant will be issued a license to practice as a registered nurse or licensed practical nurse.

3.5(7) *Failure to complete the licensure process.* Once an application is initiated, the applicant has 12 months to complete the licensure process. The board reserves the right to destroy any applications and supporting documents after 12 months if the applicant has not completed the licensure process. Applicants who fail to complete the licensure process within 12 months are required to start the application process anew.

655—3.6(17A,147,152,272C) Licensure by endorsement.

3.6(1) *Board application.* A graduate of an approved nursing program seeking licensure as a registered nurse or licensed practical nurse in Iowa who has been licensed in another state shall submit the following:

a. A completed application for licensure by endorsement.

b. Payment of the application fee.

c. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

d. If the applicant has a criminal history, copies of all documents required by rule 655—3.12(272C).

e. Copies of relevant disciplinary documents if the applicant has had disciplinary action taken by another state.

f. Verification of the license from the original state of licensure, which may be done through www.nursys.com or by using the verification form depending on the requirements of the original state of licensure.

g. Proof of active licensure in any jurisdiction within the previous five years from the date of application or proof of completion of a nurse refresher course in accordance with rule 655—3.11(152) within the 12 months prior to the date of application.

h. An official transcript denoting the date of graduation and diploma or degree conferred, sent directly to the board from the nursing program. An applicant may be excused from this requirement if the nursing program is closed and records are no longer available.

3.6(2) *Temporary license.* An applicant who has submitted all documentation described in paragraphs 3.5(1)*"a"* through *"g"* may request a temporary registered nurse or licensed practical nurse license, which authorizes the practice of nursing in Iowa for a maximum of 30 days, pending receipt of official transcripts from the nursing program. A temporarily licensed licensee will automatically be issued a permanent license upon receipt of satisfactory transcripts from the nursing program.

3.6(3) *Licensure.* Upon satisfactory review of the documentation described in subrule 3.5(1), the applicant will be issued a license to practice as a registered nurse or licensed practical nurse.

3.6(4) *Failure to complete the licensure process.* Once an application is initiated, the applicant has 12 months to complete the licensure process. The board reserves the right to destroy any applications and supporting documents after 12 months if the applicant has not completed the licensure process. Applicants who fail to complete the licensure process within 12 months are required to start the application process anew.

3.6(5) *Changing primary state of residence for multistate license.* A nurse who holds a multistate license issued by a party state and who changes the nurse's primary state of residence to Iowa must apply for licensure in Iowa pursuant to this rule. Upon issuance of a multistate license by the board, the nurse's prior multistate license will be deactivated.

655—3.7(17A,147,152,272C) Applicants educated in a foreign country or in a U.S. territory that is not a member of NCSBN.

3.7(1) Applicant for licensure. An applicant seeking licensure in Iowa who was educated in a foreign country or in a U.S. territory that is not a member of NCSBN shall apply for licensure by examination pursuant to rule 655—3.5(17A,147,152,272C) or licensure by endorsement pursuant to rule 655—3.6(17A,147,152,272C), as applicable, but instead of submitting an official transcript, shall submit one of the following documents issued by CGFNS:

a. Credentials Evaluation Service (CES) Professional Report®.

b. VisaScreen® certificate or certificate verification letter verifying that a VisaScreen® certificate was issued.

c. CGFNS Certification Program® certificate or certificate verification letter verifying that a CGFNS Certification Program® certificate was issued.

3.7(2) An applicant shall be exempt from taking an English language proficiency test when all of the following requirements are met:

a. The nursing education was completed in a college, university, or professional school located in Australia, Barbados, Canada (except Quebec), Ireland, Jamaica, New Zealand, South Africa, Trinidad and Tobago, or the United Kingdom.

b. The language of instruction in the nursing program was English.

c. The language of the textbooks in the nursing program was English.

3.7(3) Social security number. To be eligible for a multistate license, an applicant must have a social security number. An applicant who does not have a social security number shall submit documentation of lawful presence and will only be eligible for a single state license.

655—3.8(17A,147,152,272C) License renewal and reactivation.

3.8(1) *Name and address changes.* Licensees must notify the board of any name or address change within 30 days of the change. Licensure documents are mailed to the licensee at the address on file in the board office. There is no fee for a change of name or address in board records.

3.8(2) *Initial licenses.* The board shall issue licenses by endorsement and examination for a 24- to 36-month period. When the license is renewed, it will be placed on a three-year renewal cycle. License expiration is on the fifteenth day of the licensee's birth month.

3.8(3) *Renewal.* The licensee may renew the license beginning 60 days prior to license expiration The licensee will:

a. Attest that Iowa is the primary state of residence or that the primary state of residence is a noncompact state. The board may request evidence of residency.

b. Submit the renewal application and the renewal fee.

c. Meet the continuing education requirement as set forth in 655—Chapter 5, prior to license renewal.

d. Complete the required mandatory reporter training.

(1) The course(s) shall be the curriculum provided by the department of health and human services.

(2) A licensee who regularly examines, attends, counsels or treats children in Iowa must indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)*"b"* in the previous three years or condition(s) for rule suspension as identified in subparagraph 3.8(3)*"d"*(5).

(3) A licensee who regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)*"b"* in the previous three years or condition(s) for rule suspension as identified in subparagraph 3.8(3)*"d"*(5).

(4) The licensee shall maintain written documentation for three years after mandatory training as identified in subparagraphs 3.8(3)*"b"*(2) and (3), including program date(s), content, duration, and proof of participation.

(5) The requirement for mandatory training for identifying and reporting child and dependent adult abuse will be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

1. Is engaged in active duty in the military service of this state or the United States.

2. Holds a current exemption based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 655—Chapter 5.

(6) The board may select licensees for audit of compliance with the requirements in subparagraphs 3.8(3)*"b"*(1) through (5).

3.8(4) *Late renewal.* The license is late when the license has not been renewed by the expiration date. The licensee will be assessed a late fee as specified in rule 655—3.2(17A,147,152,152E,272C). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee before the fifteenth day of the month following the expiration date.

3.8(5) *Inactive status.* The license becomes inactive when the license has not been renewed by the fifteenth day of the month following the expiration date.

a. If the inactive license is not reactivated, it remains inactive.

b. If the licensee resides in Iowa or a noncompact state, the licensee shall not practice nursing in Iowa until the license is reactivated to active status. If the licensee is identified as engaging in the practice of nursing with an inactive license, disciplinary proceedings may be initiated.

c. The licensee is not required to obtain continuing education credit or pay fees while the license is inactive.

3.8(6) *Changing primary state of residence for multistate license.* A licensee who holds a multistate license issued by this board and who changes the licensee's primary state of residency to another party state must apply for licensure in the new party state. Once the board has been notified by the new party state that a new license has been issued, the Iowa multistate license will become inactive.

3.8(7) *Reactivation.*

a. To reactivate an inactive license, the licensee shall comply with the following:

(1) The licensee shall submit:

1. A completed reactivation application.
2. Payment of the applicable fees.
3. A completed continuing education report form and supporting continuing education certificates.
4. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

(2) The licensee shall have obtained 36 contact hours of continuing education, as specified in 655—Chapter 5, within the 36 months prior to reactivation.

(3) If a licensee has not held an active license in any jurisdiction within the previous five years, the licensee must complete a nurse refresher course in accordance with rule 655—3.11(152) within 12 months of applying for reactivation.

b. Upon receipt of all necessary materials, the licensee will be issued a license for a 24- to 36-month period. At the time of the next renewal, the license will be placed on a three-year renewal cycle. License expiration is on the fifteenth day of the licensee's birth month.

c. An applicant who fails to complete the reactivation of licensure process within 12 months from the date of initial application must reapply. All fees are nonrefundable.

655—3.9(17A,147,152,272C) Verification. Upon written request from the licensee or another jurisdiction and payment of the verification fee as specified in rule 655—3.2(17A,147,152,152E,272C), the board will provide a certified statement to another jurisdiction or entity that the license of a registered nurse, licensed practical nurse or advanced registered nurse practitioner is active, inactive or encumbered/disciplined in Iowa.

655—3.10(17A,272C) License denial.

3.10(1) Prior to the denial of licensure to an applicant, the board issues a preliminary notice of denial that cites the factual and legal basis for denying the application, notifies the applicant of the appeal process and specifies the date upon which the denial will become final if not appealed.

3.10(2) An applicant who has been issued a preliminary notice of denial may appeal the notice and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director within 30 days following the date the preliminary notice of denial was mailed. The request for hearing shall specify the factual or legal errors in the preliminary notice of denial and provide any additional written information or documents in support of the licensure.

3.10(3) All hearings held pursuant to this rule shall be held in accordance with the process outlined in 655—Chapter 20.

3.10(4) If an applicant does not appeal a preliminary notice of denial, the preliminary notice of denial automatically becomes final.

655—3.11(152) Nurse refresher course.

3.11(1) A nurse refresher course shall meet the following requirements:

a. A minimum of 80 hours of theory, with content in basic nursing skills, pharmacology, physical assessment, intravenous (IV) therapy (registered nurse only), and legal and ethical considerations in health care; and

b. A minimum of 80 hours of hands-on supervised clinical learning experiences.

3.11(2) To participate in the clinical component of a nurse refresher course in Iowa, a licensee must have an active license to practice nursing in Iowa or a limited authorization issued by the board. A licensee shall request the limited authorization from the board prior to beginning the clinical component of a nurse refresher course.

3.11(3) To receive a certificate of completion from the nurse refresher course, a licensee must complete all requirements of the nurse refresher course to the satisfaction of the course provider. The course provider shall submit proof of the licensee's completion of the nurse refresher course directly to the board.

655—3.12(272C) Use of criminal convictions in eligibility determinations and initial licensing decisions.

3.12(1) *Definitions.*

"Complete criminal record" includes the complaint and judgment of conviction for each offense of which the applicant has been convicted, regardless of whether the offense is classified as a felony or a misdemeanor and regardless of the jurisdiction in which the offense occurred.

"Conviction" means a finding, plea, or verdict of guilt made or returned in a criminal proceeding, even if the adjudication of guilt is deferred, withheld, or not entered. "Conviction" includes Alford pleas and pleas of nolo contendere.

"Disqualifying offense" means a conviction directly related to the duties and responsibilities of the profession. A conviction is directly related to the duties and responsibilities of the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession, or (2) the circumstances under which an offense was committed are circumstances customary to a licensed profession.

"License" means a license issued by the board.

3.12(2) *License application.* Unless an applicant for licensure petitions the board for an eligibility determination pursuant to subrule 3.11(3), the applicant's convictions will be reviewed when the board receives a completed license application.

a. An applicant must disclose all convictions on a license application. Failure to disclose all convictions is grounds for license denial or disciplinary action following license issuance.

b. In order for the license application to be considered complete, an applicant with one or more convictions shall submit the complete criminal record for each conviction and a personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession.

c. An applicant must submit as part of the license application all evidence of rehabilitation that the applicant wishes to be considered by the board.

d. The board may deny a license if the applicant has a disqualifying offense, unless the applicant demonstrates by clear and convincing evidence that the applicant is rehabilitated pursuant to Iowa Code section 272C.15.

e. An applicant with one or more disqualifying offenses who has been found rehabilitated must still satisfy all other requirements for licensure.

f. Any application fees paid will not be refunded if the license is denied.

3.12(3) *Eligibility determination.*

a. An individual who has not yet submitted a completed license application may petition the board for a determination of whether one or more of the individual's convictions are disqualifying offenses that would render the individual ineligible for licensure. An individual with a conviction is not required to petition the board for an eligibility determination prior to applying for licensure.

b. To petition the board for an eligibility determination of whether one or more of the petitioner's convictions are disqualifying offenses, a petitioner shall submit all of the following:

(1) A completed eligibility determination form;

(2) The complete criminal record for each of the petitioner's convictions;

(3) A personal statement regarding whether each conviction directly relates to the duties and responsibilities of the profession and why the board should deem the petitioner rehabilitated;

(4) All evidence of rehabilitation that the petitioner wishes to be considered by the board; and

(5) Payment of a nonrefundable fee of $25.

3.12(4) *Appeal.* A petitioner deemed ineligible or an applicant denied a license because of a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing contested case proceedings will apply unless otherwise specified in this rule. If the petitioner or applicant fails to timely appeal, the board's written decision will become a final order.

a. An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

b. The contested case hearing shall be closed to the public, and the board's review of a proposed decision shall occur in closed session.

c. The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the petitioner's or applicant's convictions include at least one disqualifying offense. Upon the satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

d. A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

3.12(5) *Future petitions or applications.* If a final order determines a petitioner is ineligible, the petitioner may not submit a subsequent petition for eligibility determination or a license application prior to the date specified in the final order. If a final order denies a license application, the applicant may not submit a subsequent license application or a petition for eligibility determination prior to the date specified in the final order.

These rules are intended to implement Iowa Code chapters 17A, 147, 152, 152E, and 272C.