

NURSING BOARD[655]

[Prior to 8/26/87, see Nursing, Board of[590], renamed Nursing Board[655]
under the “umbrella” of Public Health Department by 1986 Iowa Acts, ch 1245]

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CHAPTER 1
ADMINISTRATIVE AND REGULATORY
AUTHORITY

[Prior to 8/26/87, Nursing Board[590] Ch 1]

655—1.1(17A,147,152) Definitions for purposes of nursing board.

“Agency” or *“board”* means the Iowa board of nursing.

“Board office” means the office of the Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685.

“Department” means the department of public health.

“License” means a certificate issued to a person to practice as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner under the laws of this state.

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

“Other states” means any of the United States, District of Columbia, or territories that have jurisdiction over the practice of nursing within their boundaries.

655—1.2(17A,147,152) Severability. Should any rule, paragraph, phrase, sentence, or clause of any chapter of the rules of the board of nursing be declared invalid or unconstitutional for any reason, the remainder of the rules shall not be affected thereby.

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 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, elect a chairperson and vice chairperson from its membership to begin serving as officers on May 1.

b. At the first regularly scheduled meeting after May 1, establish standing committees.

c. Schedule regular meeting dates and hold regularly scheduled meetings.

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

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.

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.

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 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.

i. Govern its meetings in accordance with Iowa Code chapter 21. The board proceedings shall be conducted to ensure that all members have equal rights, privileges and obligations.

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.

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.

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 order. See 655—Chapter 8, “Petitions for Rule Making”; 655—Chapter 9, “Declaratory 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.

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.

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 section 147.8 and 655—Chapter 11.

[ARC 0085C, IAB 4/18/12, effective 5/23/12; ARC 1541C, IAB 7/23/14, effective 8/27/14]

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) The newsletter enables the board to communicate with licensees and other interested persons 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(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.

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(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(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.

[ARC 1541C, IAB 7/23/14, effective 8/27/14]

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

[Filed 5/12/70]

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CHAPTER 2
NURSING EDUCATION PROGRAMS
[Prior to 8/26/87, Nursing Board[590] Ch 2]

655—2.1(152) Definitions.

“*Approval*” means recognition status given to nursing education programs based on the programs’ compliance with the criteria specified in this chapter. Approval may be granted or continued for any time period determined by the board for up to six years.

“*Clinical facilities*” means locations where students directly care for patients/clients under the supervision of a qualified faculty member.

“*Clinical instruction*” means hands-on learning situations in which students directly care for patients/clients within a relevant setting, under the supervision of a qualified faculty member.

“*Content*” means the subject matter in a given area of study.

“*Controlling institution*” means the institution that has authority over and administrative accountability for the program(s).

“*Curriculum*” means content, lab/simulation, observation and clinical experiences developed, implemented and evaluated by faculty to facilitate achievement of program outcomes and to meet the learning needs of students.

“*Debriefing*” means an activity that follows a simulation experience and that is led by a faculty member, encourages a participant’s reflective thinking, and provides feedback regarding the participant’s performance.

“*Faculty*” means the teaching staff in a nursing education program. This definition includes anyone who provides didactic, simulation, laboratory, or clinical instruction in nursing when assigned by the program to provide this instruction for courses included in the nursing curriculum. The definition applies regardless of the amount of time spent teaching, the level of payment, the type of contract, the temporary nature of the position, or the location of the learner.

“*Head of program*” means the dean, chairperson, director, or coordinator of the nursing education program(s) who is responsible for the administration of the program(s).

“*Improvement status*” means the status on which a program is placed after three consecutive years of NCLEX® results below the 95 percent of the national NCLEX® passing percentage.

“*Interim approval*” means approval granted to a new nursing program, at which time students may be admitted into the program.

“*Lab/simulation*” means activities that mimic the reality of a clinical environment and that are designed to demonstrate procedures, decision making and critical thinking through interactive experiences.

“*Learning experiences*” means experiences that shall include content and clinical instruction and that may include components of lab/simulation, practicum, and observation.

“*Located in Iowa*” means a college or university that is accredited by the Higher Learning Commission, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

“*Master’s degree*” means the title conferred by a college or university upon completion of a program of graduate study that requires a level of academic accomplishment and subject mastery substantially beyond that required for a baccalaureate degree.

“*National NCLEX® passing percentage*” means the percentage of first-time testers who achieve a passing score on the NCLEX® examination for licensed practical nurse or registered nurse licensure, calculated on a calendar year basis.

“*NCLEX®*” means the National Council Licensure Examination, the examination currently used for initial licensure as a registered nurse or licensed practical nurse.

“*NCLEX® passing percentage*” means the percentage of first-time testers who achieve a passing score on the NCLEX® examination for licensed practical nurse or registered nurse licensure within six months of graduation from a nursing program, calculated on a calendar year basis.

“*Observation*” means learning experiences in a relevant setting that meet program outcomes but do not require on-site faculty supervision and where the student does not directly care for patients/clients.

“*Out-of-state program*” means an approved nursing program within United States jurisdiction that provides clinical experiences in Iowa.

“*Practicum*” means a course of study designed especially for the preparation of nurses that involves the supervised practical application of previously studied theory.

“*Preceptor*” means a licensed individual who meets Iowa board of nursing qualifications as specified in this chapter, is on staff at the facility where the experience occurs, is selected by the educational facility in collaboration with the clinical facility, and is responsible for the on-site direction of the student over a period of time.

“*Preceptorship*” means an experience between a preceptor and a nursing student over a period of time that is congruent with program outcomes.

“*Program*” means a course of study by any method of instruction or delivery that leads to a nursing diploma, degree or certificate. Multiple-site programs offered by one controlling institution shall be considered one program if the philosophy and curriculum of all the sites are the same.

“*Qualified nursing faculty*” means individuals who meet board faculty qualifications as specified in this chapter and the qualifications of the parent institution.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.2(152) Programs eligible for board approval. Programs eligible for board approval shall include all of the following:

1. At least a one-academic-year course of study or its equivalent in theory and practice as described by the board that leads to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination as described in 655—Chapter 3.

2. At least a two-academic-year course of study or its equivalent in theory and practice as described by the board that leads to a degree in nursing and to eligibility to apply for registered nurse licensure by examination as described in 655—Chapter 3.

3. A course of study designed for registered nurses that leads to a baccalaureate degree with a major in nursing.

4. A course of study designed for registered nurses that leads to a master’s degree with a major in nursing.

5. A course of study designed for registered nurses who hold a master’s degree in nursing that leads to a certificate in advanced practice nursing and eligibility for licensure as an advanced registered nurse practitioner as described in 655—Chapter 7. When the certificate is in a population focus, the course of study shall lead to eligibility to apply for certification in the population focus by a national professional nursing organization recognized by the board.

6. A post-master’s course of study that leads to a doctoral degree with a major in nursing.

7. A course of study that leads to a doctorate in nursing practice.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.3(152) Application for interim approval of a nursing program.

2.3(1) Before establishing a nursing program, a controlling institution shall submit a program application to the board that includes the following information and documentation:

a. Name and address of the controlling institution and accreditation status of the controlling institution.

b. A written statement explaining how the college or university meets the definition of “located in Iowa.”

c. A written statement of intent to establish a nursing program, including the academic and licensure levels of the program and the primary method of instruction.

d. The establishment of an advisory committee composed of representatives of the community and nurses. Minutes of advisory committee meetings shall be kept on file.

e. Completion of a needs assessment which includes:

- (1) Documentation of the present and future need for the program in the state, including availability of potential students and need for entry-level nurses.
- (2) Potential effect on existing nursing programs.
- (3) Availability of qualified head of the program and faculty.
- (4) Source and description of clinical resources for the program.
- (5) Evidence of potential students and anticipated enrollment.
- (6) Documentation of adequate academic facilities and staff to support the nursing program.
- (7) Evidence of financial resources adequate for the planning, implementation and continuation of the nursing program.
- (8) Tentative time schedule for planning and implementing the nursing program and the intended date for entry of the first class into the program.

2.3(2) The board shall approve or deny the program application to establish a nursing program. If the board approves the program application, the controlling institution shall then submit to the board a program proposal within one year of the application that includes, but is not limited to, the following:

- a. Evidence of employment of the head of the program, including the individual's qualifications, at least six months prior to the beginning of the first nursing course.
- b. Program philosophy, objectives and outcomes that reflect the proposed level of education.
- c. Organizational chart of the educational institution documenting the relationship of the nursing program within the institution.
- d. Curriculum plan that meets the criteria in rule 655—2.10(152).
- e. Letter of intent from clinical facilities securing clinical opportunities and documentation of the facility type, size, number of beds, and type of patients.
- f. Evidence of provision of qualified faculty. Faculty shall be employed by the controlling institution prior to the beginning of teaching assignments. Faculty members who teach nursing shall meet the qualifications outlined in subrule 2.11(2).
- g. Updated time schedule.
- h. Proposed five-year budget for the nursing education program.

2.3(3) The board may conduct a site visit to the controlling institution and clinical facilities to validate information submitted in the program proposal prior to determining interim approval status.

2.3(4) Interim approval may be granted to the program based on the program proposal and a site visit.

- a. The controlling institution shall publish the interim approval status of the program.
- b. The head of the program shall submit one electronic copy and one hard copy of a program progress report four weeks prior to each regularly scheduled board meeting until full approval as described in rule 655—2.4(152) is granted by the board. The progress report shall include the following:
 - (1) Updated information in all areas identified in the initial proposal.
 - (2) Current number of admissions and enrollments.
 - (3) Current number of qualified faculty.
 - (4) New course offerings, including descriptions, credit hours, outcomes/objectives, placement of course and curriculum submitted six months prior to the offering of courses.
 - (5) Changes requiring board notification and approval as outlined in subrule 2.17(3).
- c. Interim approval shall continue until the board conducts a review of program materials, completes a site visit, and grants approval to the program following graduation of the first class and submission of results of the national examination for licensure or advanced practice certification, if applicable.
- d. The board may at any time seek additional program information from the controlling institution and head of the program.

2.3(5) The board may deny interim approval based on the program proposal and a site visit.

- a. In order to be reconsidered, the controlling institution shall resubmit a program proposal within six months from the time of program application.

b. One year from the initial application, the controlling institution may resubmit a program application to the board in order to be reconsidered.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.4(152) Approval and reapproval procedures. The full approval procedure for programs with interim approval and the reapproval procedure of programs for colleges or universities located in Iowa are as follows.

2.4(1) The board shall provide the program with the schedule and the criteria for approval or reapproval.

2.4(2) The program shall provide to the board the nursing education program report and requested materials addressing all aspects of the program outlined in rules 655—2.8(152) to 655—2.17(152) and documenting how the criteria for approval are met. Documentation may include current information submitted by the program to other approving and accrediting entities.

2.4(3) A representative of the board shall make a site visit to the program:

- a.* To grant full approval to programs with interim approval.
- b.* With the purpose of determining if the program continues to meet the criteria for approval.
- c.* If there is at any time evidence that the program does not meet the criteria for approval.

2.4(4) The board shall provide to the head of the program a report addressing any recommendations as a result of the site visit and nursing education program report. The head of the program shall be provided an opportunity to respond in writing to the recommendations.

2.4(5) The nursing education program report and the program response shall be submitted to the board for board review.

2.4(6) The board shall determine the approval status of the program.

a. Full approval may be granted or continued, within any time frame determined by the board, up to six years.

b. Provisional approval may be granted as determined by the board.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.5(152) Provisional approval.

2.5(1) Provisional approval may be granted at the board's discretion to a program if the board determines that the program does not meet the criteria for approval during the full approval procedure or at any time during the progression of the program.

2.5(2) At the time of provisional approval, the board:

- a.* Shall notify the president of the academic institution and head of the nursing program, in writing, of the program's provisional approval status;
- b.* Shall meet with representatives of the program and controlling institution to discuss the length of provisional approval, set conditions for achieving full approval, and identify expected outcomes; and
- c.* May require progress reports and a site visit.

2.5(3) Throughout provisional approval:

a. The program shall notify all students and prospective students of the program's provisional approval status; and

b. The board may require progress reports, conduct site visits, and request board appearances.

2.5(4) Prior to the expiration of a program's provisional approval, the board shall meet with representatives of the program and controlling institution to determine if the outcomes are met. The board shall determine whether to grant the program full approval, extend provisional approval, or initiate proceedings to deny or withdraw approval.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.6(152) Denial or withdrawal of board approval.

2.6(1) If a program does not meet the conditions imposed during provisional approval to return to full approval within the time period specified, the board may initiate proceedings to deny or withdraw approval of the program. To initiate proceedings, the board shall issue to the program a notice of intent to deny or withdraw approval. The notice of intent shall set forth the basis for the denial or withdrawal

and describe the process for appealing the notice. If a program appeals, a contested case hearing shall be scheduled. The hearing shall be governed by the rules found in 655—Chapter 20.

2.6(2) If, after a contested case proceeding, the board denies or withdraws approval of a program, the program shall immediately notify all enrolled students of the denial or withdrawal of approval. Such notification must include the date of denial or withdrawal of approval and a statement that students must graduate from an approved program to be eligible for licensure. The program shall assist all enrolled students with transferring to an approved program.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.7(152) Closure of an approved program.

2.7(1) Prior to program closure, the controlling institution shall submit a written plan for board approval. The plan shall include reasons for closure and the date of closure, which is defined as the date when the last student graduates. The plan shall also address a provision for the graduation of enrolled students, retention of adequate numbers of qualified faculty, retention of approved curriculum, maintenance of educational resources and student services, and a provision for student and graduate transcripts. When a program intends to close prior to the graduation of enrolled students who are actively taking nursing courses, the plan shall be submitted to the board at least 12 months prior to closure, except when closure is occurring as a result of an emergency or unforeseen circumstances. The board may shorten the 12-month time period if the board determines that the controlling institution has made adequate provisions for enrolled students.

2.7(2) The program shall continue to meet the criteria for board approval until all enrolled students have graduated or the board has approved a plan for closure prior to graduation of the students. The board may require progress reports during the closure process. Prior to closure, the controlling institution shall notify the board regarding the location and maintenance of student and graduate transcripts and records to enable retrieval after the program closes.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.8(152) Organization and administration of the program.

2.8(1) The program shall meet the following criteria:

a. Authorization. Authorization for conducting a program is granted in accordance with Iowa Code chapter 261B.

b. Authority and administrative responsibility. The authority and administrative responsibility of the program shall be vested in the head of the program, who is responsible to the controlling institution.

c. Organizational chart. The organizational chart(s) shall clearly indicate the lines of authority and communication within the program and with the central administration, other units within the controlling institution, cooperating agencies, and advisory committees.

d. Finances.

(1) The controlling institution shall allocate adequate funds to carry out the purposes of the program.

(2) The head of the program shall prepare the budget with the assistance of the faculty.

e. Ethical practices. Ethical practices and standards, including those for recruitment and advertising, shall be consistent with those of the controlling institution and shall be made available to students and prospective students.

f. Contractual agreements. Written contractual agreements shall exist between the program and the clinical facilities. The agreements shall include:

(1) Identification of responsibilities of both parties related to patient or client services.

(2) Provision for faculty control, selection and guidance of student learning experiences.

(3) Provision for termination of the agreement.

(4) Provision for annual review.

(5) Provision that the facility is in good standing with its regulatory agency.

g. Accrediting and approving agencies.

(1) The controlling institution or program shall be accredited by the Higher Learning Commission.

(2) When the program is located at a community college, the controlling institution shall be approved by the Iowa department of education.

(3) When the program is offered under the auspices of the United States armed forces, it shall be accredited by the U.S. Department of the Army.

h. Philosophy/mission and program outcomes. The faculty shall develop a philosophy or mission statement and program outcomes that shall be:

- (1) Consistent with the philosophy or mission of the controlling institution.
- (2) Reflective of faculty beliefs about nursing, education and professional standards.
- (3) A guide in the development, implementation and evaluation of the program.
- (4) Available to students and prospective students.

i. Program evaluation. A written plan shall outline the evaluation process for all aspects of the program and shall identify the methodology, tools, responsible parties and time frame. Evidence of implementation shall reflect achievement of program outcomes.

2.8(2) The head of a program shall meet the following requirements:

a. Current licensure as a registered nurse in Iowa. An individual is currently licensed when licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

b. Two years of experience in clinical nursing.

c. Two years of teaching experience in a nursing education program.

d. Academic qualifications:

(1) The head of a program who was employed on or before July 1, 1992, shall be considered adequately prepared as long as that person remains in that position.

(2) The head of a program hired after July 1, 1992, shall have a master's or doctoral degree with a major in nursing at either level at the time of hire. The date of hire is the first day of employment as head of the program with compensation at a particular nursing education program.

(3) If a program offers a baccalaureate or higher degree in nursing, the head of the program shall have a doctoral degree at the time of hire.

e. Submission of qualifications to the board office within one month of appointment.

2.8(3) A nursing education program shall have one head of the program.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.9(152) Resources of the controlling institution. The controlling institution is responsible for provision of resources adequate to meet program needs and outcomes.

2.9(1) *Human resources.* Human resources shall include the following:

a. Head of program.

b. Faculty.

c. Secretarial and other support and staff services to ensure appropriate use of faculty time and expertise.

d. Support staff for online or distance education or both.

2.9(2) *Physical resources.* Physical resources may include the following:

a. Classrooms, conference rooms, laboratories, simulation laboratories, offices, and equipment.

b. Student facilities.

2.9(3) *Learning resources.* Learning resources shall include the following:

a. Library.

b. Print media.

c. Computer-mediated resources.

d. Laboratory/simulation laboratory equipment.

2.9(4) *Financial resources.* Financial resources shall be adequate to support and carry out the mission of the controlling institution.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.10(152) Curriculum.

2.10(1) The curriculum of a program shall:

- a. Reflect the philosophy/mission and program outcomes supported by the nursing faculty.
- b. Identify program outcomes and define how learning experiences support outcomes.
- c. Reflect current standards of nursing practice and education.
- d. Be consistent with laws governing the practice of nursing.
- e. Ensure sufficient preparation for the safe and effective practice of nursing.
- f. Include planned learning experiences and strategies that demonstrate integration of knowledge and attainment of the program outcomes.
- g. Reflect the roles for which the student is being prepared.
- h. Be evaluated on a regular basis by the faculty and reflect achievement of student outcomes as demonstrated in the program evaluation plan.
- i. When offered within a college or university:
 - (1) Be comparable in quality and requirements to other degree programs within the college or university.
 - (2) Be planned in accordance with the college or university calendar.
 - (3) Assign credit hours for learning experiences that are consistent with the college or university pattern.
 - (4) Provide a teaching/learning environment (classroom, clinical, laboratory, or simulation) that supports achievement of expected outcomes.

2.10(2) Standardized examinations may be used to supplement a program's curriculum but shall not prevent a student's academic progression or graduation. At the time of enrollment, students shall be informed of the schedule and procedure for any standardized examinations utilized in the curriculum. The program shall have a process and procedure for remediation of students who do not pass the standardized examinations.

2.10(3) Prelicensure programs.

a. The curriculum of a program leading to eligibility for initial licensure as a licensed practical nurse or registered nurse shall include:

- (1) Content that is consistent with the practice of nursing as defined in Iowa Code section 152.1.
- (2) Content in medical, surgical, gerontological, mental health, and nursing of childbearing families and children that reflects current nursing practice and that encompasses health needs throughout the life span.
- (3) Opportunities to participate in the nursing process and to develop competencies in direct patient care, problem-solving methodologies, clinical judgment, communication, and the use of current equipment and technology.
- (4) Content in nursing history and trends, including professional, legal, and ethical aspects.
- (5) Supporting content from the natural and social sciences.

b. In addition to the requirements identified in paragraph 2.10(3) "a," the curriculum of a program leading to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination shall:

- (1) Be consistent with the scope of practice of a licensed practical nurse as outlined in rules 655—6.3(152) and 655—6.6(152).
- (2) Focus on supportive or restorative care provided under the supervision of a registered nurse or physician pursuant to Iowa Code section 152.1(4).
- (3) Provide learning experiences in medical, surgical and gerontological nursing.
- (4) Provide content in nursing of childbearing families and children and mental health that is supported by one or more of the following: clinical instruction, lab/simulation, or observation experiences adequate to meet program outcomes.

c. In addition to the requirements identified in paragraph 2.10(3) "a," the curriculum of a program leading to a degree in nursing and to eligibility to apply for registered nurse licensure by examination shall:

- (1) Be consistent with the scope of practice of a registered nurse as outlined in rules 655—6.2(152) and 655—6.7(152).

(2) Focus on attaining, maintaining and regaining health and safety for individuals and groups by utilizing the principles of leadership, management, nursing informatics, and client education.

(3) Provide learning experiences in medical, surgical, mental health and gerontological nursing.

(4) Provide content in nursing of childbearing families and children that is supported by one or more of the following: clinical instruction, lab/simulation, or observation experiences adequate to meet program outcomes.

(5) Provide content in nursing research when the program leads to a baccalaureate, master's or doctoral degree.

(6) Provide learning experiences in community health nursing when the program leads to a baccalaureate, master's or doctoral degree.

2.10(4) Postlicensure programs for registered nurses who do not hold a baccalaureate degree in nursing.

a. The curriculum of a program that leads to a baccalaureate degree in nursing shall include learning experiences in nursing that will enable the student to achieve competencies comparable to outcomes of the prelicensure baccalaureate education, including content in nursing research and learning experiences in community health nursing.

b. The curriculum of a program that leads to a master's degree in nursing shall include content and learning experiences in nursing that will enable the student to achieve competencies comparable to outcomes of the prelicensure baccalaureate education and master's education, including content in nursing research and learning experiences in community health nursing.

2.10(5) Master's, post-master's, and doctoral programs for registered nurses who hold a baccalaureate degree in nursing.

a. The curriculum of a program leading to a master's or doctoral degree in nursing shall include in-depth study of:

(1) Nursing science, which includes content, practicum experiences and research.

(2) Advanced role areas in nursing.

b. The curriculum of a program leading to a master's degree or post-master's certificate in a nursing population focus, eligibility to apply for certification in the population focus by a national professional nursing organization approved by the board, and licensure as an advanced registered nurse practitioner shall:

(1) Be consistent with the scope of practice of the advanced registered nurse practitioner as described in 655—Chapter 7.

(2) Include advanced learning experiences in a specialty area of nursing.

2.10(6) Nursing courses with a clinical or practicum component or both. The nursing program shall notify students and prospective students in writing that nursing courses with a clinical or practicum component may not be taken by a person:

a. Who has been denied licensure by the board.

b. Whose license is currently suspended, surrendered or revoked in any United States jurisdiction.

c. Whose license is currently suspended, surrendered or revoked in another country due to disciplinary action.

2.10(7) Nursing programs with a simulation component shall:

a. Ensure that the simulation component does not exceed 50 percent of total clinical hours in a course.

b. Demonstrate that the simulation activities are linked to program outcomes.

c. Demonstrate that simulation activities are based on evidence-based practices.

d. Have written policies and procedures regarding the method of debriefing each simulated activity and a plan for orienting faculty to simulation.

e. Have short-term and long-term plans for integration and maintenance of simulation in the curriculum.

f. Have faculty educated in the use of simulation and who demonstrate ongoing expertise and competence.

g. Evaluate simulation activities based on faculty and student feedback.
[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.11(152) Faculty.

2.11(1) Program requirements. The program shall provide:

- a. A sufficient number of faculty who satisfy the requirements in subrule 2.11(2).
- b. Written personnel policies and position descriptions.
- c. A faculty development program that furthers the competence of individual faculty members and the faculty as a whole.
- d. A written teaching-load policy.
- e. A nursing faculty organization that operates according to written bylaws and that meets on a regular basis. Minutes shall be available for reference.
- f. In a prelicensure program, a ratio of one faculty member to a maximum of eight students for hands-on learning situations in which students directly care for clients in a relevant setting.

2.11(2) Faculty member requirements. A faculty member who teaches nursing shall meet the following requirements:

a. Current licensure as a registered nurse in Iowa prior to teaching. An individual is currently licensed when licensed in another state and recognized for licensure in Iowa pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

b. Two years of experience in clinical nursing.

c. Academic qualifications:

(1) A faculty member who was employed on or before July 1, 1992, shall be considered adequately prepared as long as that faculty member remains in that position. A faculty member who was hired to teach in a prelicensure registered nurse program after July 1, 1992, shall have at least a baccalaureate degree with a major in nursing or an applicable field at the time of hire. This person shall make annual progress toward the attainment of a master's or doctoral degree with a major in nursing or an applicable field. At least one degree shall be in nursing.

1. Applicable fields include but are not limited to education, anthropology, gerontology, counseling, psychology, sociology, health education, health administration, and public health. A person who wishes to fulfill this requirement with education in an applicable field not listed may petition the board for a determination of applicability.

2. The date of hire is the first day of employment with compensation at a particular nursing education program.

3. "Annual progress" means a minimum of one course per year taken as part of an organized plan of study. A written plan of study shall be kept in the employee's file.

(2) A faculty member who was hired to teach after July 1, 1992, in a practical nursing program or at the first level of an associate degree nursing program with a ladder concept shall have a baccalaureate or higher degree in nursing or an applicable field at the time of hire.

(3) A registered nurse hired to teach in a master's program shall hold a master's or doctoral degree with a major in nursing at the time of hire. A registered nurse teaching in a population focus shall hold a master's degree with a major in nursing, advanced level certification by a national professional nursing organization approved by the board in the population focus area in which the individual teaches, and current licensure as an advanced registered nurse practitioner according to the laws of the state(s) in which the individual teaches. Faculty preparation at the doctoral or terminal degree level shall be consistent with the mission of the program.

(4) A faculty member hired only to teach in the clinical setting shall be exempt from subparagraphs (1) and (2) if the faculty member is closely supervised to ensure proper integration of didactic content into the clinical setting. If hired after July 1, 1992, a faculty member hired to teach only in the clinical setting shall have a baccalaureate degree in nursing or an applicable field or shall make annual progress toward the attainment of such a degree.

2.11(3) Functions of faculty. Faculty members shall:

- a. Develop, implement, and evaluate the purpose, philosophy/mission, and outcomes of the program.
- b. Design, implement, evaluate, and revise the curriculum as demonstrated in the program evaluation plan.
- c. Provide students with written policies as specified in subrule 2.12(1).
- d. Participate in academic advisement and guidance of students.
- e. Provide for admission, progression, and graduation of students.
- f. Provide for student evaluation, self-evaluation, and peer evaluation of teaching effectiveness.
- g. Participate in activities to ensure competency in area(s) of responsibility.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.12(152) Program responsibilities.

2.12(1) Policies affecting students. Programs shall provide for the development, implementation and communication of the following student policies on an annual basis:

- a. Admission/enrollment. Licensure if applicable according to 655—subrule 3.2(1).
- b. Transfer or readmission.
- c. Withdrawal.
- d. Progression.
- e. Grading system.
- f. Suspension or dismissal.
- g. Graduation.
- h. Health.
- i. Counseling.
- j. Grievance procedure.

2.12(2) Information about the program and controlling institution. The following information shall be published and provided to prospective and current students on an annual basis:

- a. Philosophy/mission and outcomes of the program.
- b. General description of the program.
- c. Curriculum plan.
- d. Course descriptions.
- e. Resources.
- f. Faculty.
- g. Tuition, fees and refund policies.
- h. Ethical practices, including recruitment and advertising.
- i. Official dates.
- j. The program's NCLEX® passing percentage for the prior calendar year, as published by the board of nursing.

2.12(3) Changes to program. A nursing program may not make a change to a program during a student's academic plan of study unless the change confers the benefit to the student.

2.12(4) Program records. The following records shall be dated and maintained according to the policies of the controlling institution:

- a. Course syllabi.
- b. Minutes.
- c. Faculty personnel records.
- d. Catalogs and program bulletins.
- e. Curriculum revisions and reports to the board.
- f. Graduate nursing file excluding the final transcript and summative performance statements.

2.12(5) Student and graduate records.

a. Policies shall specify methods for permanent maintenance and protection of records against loss, destruction and unauthorized use.

b. The final record shall include the official transcript and summative performance statement.

(1) The final official transcript shall include:

1. Legal name of student.
2. Dates of admission, completion of the program and graduation.
3. Courses that were accepted for transfer.
4. Evidence of authenticity.
5. Degree granted.

(2) The final official transcript shall be maintained permanently.

(3) The summative performance statement shall relate the performance of the student at the time of graduation to the program outcomes and shall be maintained for three years.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.13(152) Student criminal history checks.

2.13(1) The program shall initiate criminal history and child and dependent adult abuse record checks of students and prospective students to ensure a student's ability to complete the clinical education component of the program in accordance with Iowa Code section 152.5.

2.13(2) The program shall:

a. Notify all students and prospective students of the nursing program's written policy and procedure concerning criminal history and child and dependent adult abuse record checks.

b. Conduct record checks on all students:

(1) Applying for the nursing program.

(2) Returning to the clinical education component of the nursing program. Time frames between record checks may be determined by the program.

(3) Anytime during the student's enrollment in the nursing program pursuant to the program's policy and procedure.

c. Request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks.

d. Follow the guidelines and standards set forth by the department of human services in conducting record checks and in determining a student's ability to complete the clinical education component of a nursing program based on the record checks.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.14(152) Clinical facilities.

2.14(1) The clinical facilities shall provide learning experiences that meet curriculum objectives and outcomes.

2.14(2) The program shall provide information to the board about clinical facilities used for learning experiences.

a. The clinical facilities shall be accredited/approved by the appropriate agencies and shall have evidence of good standing by their regulatory body.

b. There shall be evidence that student experiences are coordinated when more than one program uses the same facility.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.15(152) Preceptorship.

2.15(1) A preceptor shall be selected by the nursing program in collaboration with a clinical facility to provide supportive learning experiences consistent with program outcomes.

2.15(2) The qualifications of a preceptor shall be appropriate to support the philosophy/mission and outcomes of the program.

a. The preceptor shall be employed by or maintain a current written agreement with the clinical facility in which a preceptorship experience occurs.

b. The preceptor shall be currently licensed as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner according to the laws of the state in which the preceptor practices.

c. The preceptor shall function according to written policies for selection, evaluation and reappointment developed by the program. Written qualifications shall address educational preparation, experience, and clinical competence.

d. The program shall be responsible for informing the preceptor of the responsibilities of the preceptor, faculty and students. The program shall retain ultimate responsibility for student learning and evaluation.

2.15(3) The program shall inform the board of preceptorship learning experiences.

a. Written preceptorship agreements shall be reviewed annually by the program.

b. The board may conduct a site visit to settings in which preceptorship experiences occur.

c. The rationale for the ratio of students to preceptors shall be documented by the program.

2.15(4) An individual who is not a registered nurse or a licensed practical nurse may serve as a preceptor when appropriate to the philosophy/mission and outcomes of the program.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.16(152) Results of graduates who take the licensure examination for the first time. The program shall notify the board when the program's NCLEX® passing percentage is lower than 95 percent of the national NCLEX® passing percentage for one calendar year.

2.16(1) A program whose NCLEX® passing percentage is lower than 95 percent of the national NCLEX® passing percentage shall submit an institutional plan using the board's template and appear before the board as directed.

2.16(2) After submission of the institutional plan, for each consecutive calendar year that a program's NCLEX® passing percentage is lower than 95 percent of the national NCLEX® passing percentage, the program shall submit an institutional plan evaluation using the board's template and appear before the board as directed.

2.16(3) Programs with a NCLEX® passing percentage that falls below 95 percent of the national NCLEX® passing percentage for three consecutive calendar years shall be placed on improvement status after the third year.

2.16(4) A program on improvement status shall:

a. Notify all current and prospective students of the program's improvement status.

b. Submit quarterly reports using the board's template and present the reports to the board as directed.

2.16(5) Board staff may conduct a site visit to the program at any time while the program is on improvement status.

2.16(6) Programs that remain on improvement status for two consecutive calendar years shall submit a revised institutional plan and appear before the board as directed. The board shall:

a. Review the revised institutional plan and formulate an action plan for the program on improvement status.

b. Individualize the action plan for each program.

2.16(7) A program shall be removed from improvement status when the program's NCLEX® passing percentage is above 95 percent of the national NCLEX® passing percentage for one calendar year.

[ARC 3497C, IAB 12/6/17, effective 1/10/18]

655—2.17(152) Reports to the board.

2.17(1) Annual reports. The head of the program shall submit an annual report that includes:

a. Progress toward achievement of goals identified by the program for the previous academic year.

b. Qualifications and major responsibilities of the head of the program and each faculty member.

c. Policies for admission, enrollment, progression and graduation of students.

d. Policies for student health and welfare.

e. Current enrollment by class/cohort.

f. Number of admissions and graduations per year for the past five years.

g. Attrition and retention data by class/cohort.

h. Passing percentages of graduates on the national licensure examinations for the past five years.

i. Passing percentages of graduates on the advanced registered nurse practitioner certification examinations for the past five years.

j. Employment data for graduates.

k. Curriculum plan.

l. Descriptions of resources, clinical facilities, preceptorship experiences and contractual arrangements.

m. Audited statement of income and expenditures of the nursing program.

n. Goals for the current academic year.

o. Catalog or equivalent of the controlling institution or program.

2.17(2) *Special reports.* The program shall notify the board of the following:

a. Change of controlling institution. Information shall include official name of the program(s) and controlling institution, organizational chart of the controlling institution, and names of administrative officials.

b. Changes in administrative personnel in the program or controlling institution.

c. Opening of a new site or campus.

2.17(3) *Changes requiring board notification and approval.* The program shall submit one electronic copy and one hard copy of a proposed change for board approval at least four weeks prior to the next scheduled board meeting when the outcome will:

a. Lengthen or shorten the plan of study.

b. Add or delete academic credit in a course required for graduation.

c. Delete a course required for graduation.

d. Add a new course. A program shall submit the following to be implemented within six months of an offering of a course:

(1) Course description.

(2) Outcomes/objectives.

(3) Placement of course.

(4) Curriculum plan.

e. Alter graduation requirements.

f. Reduce the human, physical or learning resources provided by the controlling institution to meet program needs as described in rule 655—2.9(152).

g. Substantively alter the philosophy/mission of the program.

h. Revise the predominant method of instruction or delivery, including transition from on-site to self-study or distance learning.

i. Entail delivery of a cooperative program of study with an institution that does not provide a degree in nursing.

j. Increase the number of student admissions by 20 percent or more.

2.17(4) If a program makes changes as part of a plan to improve the program's NCLEX® passing percentage, pursuant to rule 655—2.16(152), such changes must also be separately submitted to the board for approval pursuant to this rule.

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These rules are intended to implement Iowa Code section 152.5 and chapter 152E.

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

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

“Accredited or 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.

“Address” means a street address in any state when a street address is available or a rural route address when a street address is not available.

“Applicant” means a person who is qualified to take the examination or apply for licensure by endorsement.

“Endorsement” means the process by which a registered nurse/licensed practical nurse licensed in another jurisdiction becomes licensed in Iowa.

“Examination” means the tests used to determine minimum competency prior to the issuance of a registered nurse/licensed practical nurse license.

“Fees” means those fees collected which are based upon the cost of sustaining the board’s mission to protect the public health, safety and welfare. The nonrefundable fees set by the board are as follows:

1. Application for original 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)).
2. Application for 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 DCI and the FBI).
3. Application for registered nurse/licensed practical nurse license by endorsement, \$119 (plus the fee for evaluation of the fingerprint cards and the criminal history background checks by the DCI and the FBI).
4. Application for original license or renewal as an advanced registered nurse practitioner, \$81 for any period of licensure up to three years.
5. For a certified statement that a registered nurse/licensed practical nurse is licensed in this state or registered as an advanced registered nurse practitioner, \$25.
6. For written verification of licensure status, not requiring certified statements, \$3 per license.
7. For reactivation of a license to practice as a registered nurse/licensed practical nurse, \$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 DCI and the FBI).
8. For reactivation of a license to practice as an advanced registered nurse practitioner, \$81 for any period of licensure up to three years.
9. For the renewal of a license to practice as a registered nurse/licensed practical nurse, \$99 for a three-year period.
10. For a duplicate or reissued wallet card or original certificate to practice as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner, \$20.
11. For late renewal of a registered nurse/licensed practical nurse license, \$50, plus the renewal fee as specified in paragraph “9” of this definition.
12. For a 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 shall request payment by certified check or money order.
13. For a certified copy of an original document, \$20.
14. For special licensure, \$62.
15. For the evaluation of the fingerprint cards and the DCI and FBI criminal history background checks, \$50.

“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 the board has received notification that a licensee has declared another compact state as primary

state of residency. Pursuant to 655—subrule 16.2(8), the former home state license shall no longer be valid upon the issuance of a new home state license.

“*Late license*” means a registered nurse or licensed practical nurse license that has not been renewed by the expiration date on the wallet card. 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.

“*NCLEX®*” means National Council Licensure Examination for registered nurse/licensed practical nurse licensure.

“*Overpayment*” means payment in excess of the required fee. Overpayment less than \$10 received by the board shall not be refunded.

“*Reactivation*” means the process whereby an inactive licensee obtains a current license.

“*Reinstatement*,” pursuant to rule 655—20.36(17A,147,152,272C), means the process by which any person whose license to practice nursing has been suspended, revoked or voluntarily surrendered by order of the board may apply for license consideration.

“*Temporary license*” means a license issued on a short-term basis for a specified time pursuant to subrule 3.5(4).

“*Unlicensed student*” means a person enrolled in a nursing education program who has never been licensed as a registered nurse or licensed practical/vocational nurse in any U.S. jurisdiction.

“*Verification*” means the process whereby the board provides a certified statement that the license of a registered nurse/licensed practical nurse/advanced registered nurse practitioner is active, inactive, or encumbered/disciplined.

This rule is intended to implement Iowa Code sections 147.80 and 147.82.

[ARC 1130C, IAB 10/30/13, effective 12/4/13; ARC 1815C, IAB 1/7/15, effective 2/11/15; ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—3.2(17A,147,152,272C) Mandatory licensure.

3.2(1) A person who practices nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of one’s family, shall have a current Iowa license, whether or not the employer is in Iowa and whether or not the person receives compensation. Any nurse who participates 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 by the licensure compact agreement. The nurse shall maintain verification of licensure and shall have it available for inspection when engaged in the practice of nursing in Iowa.

3.2(2) Current Iowa licensure is not mandatory when:

a. A nurse who resides in another party state is recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E. The nurse shall maintain verification of licensure and shall have it available for inspection when engaged in the practice of nursing in Iowa.

b. A nurse who holds an active license in another state provides services to patients in Iowa only during interstate transit.

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

3.2(3) A nurse who is enrolled in an approved nursing program shall hold an active license in the U.S. jurisdiction(s) in which the nurse provides patient care.

This rule is intended to implement Iowa Code section 147.2.

[ARC 1815C, IAB 1/7/15, effective 2/11/15]

655—3.3(17A,147,152,272C) Licensure qualifications for registered nurse and licensed practical nurse.

3.3(1) Applicants shall meet the requirements set forth in Iowa Code sections 147.3 and 152.7. Requirements include:

a. Graduation from an approved nursing program preparing registered nurses as defined in Iowa Code section 152.5(1) for registered nurse applicants or graduation from an approved nursing

program preparing practical nurses as defined in Iowa Code section 152.5(1) for licensed practical nurse applicants.

b. Passing NCLEX® or the State Board Test Pool Examination, the national examination used prior to 1982.

c. Board approval of an applicant with a criminal history or a record of prior disciplinary action, regardless of jurisdiction.

3.3(2) The requirement listed in paragraph 3.3(1) “*b*” is subject to the following exceptions:

a. A practical nurse applicant must have written the same examination as that administered in Iowa and achieved a score established as passing for that test by the board unless the applicant graduated and was licensed prior to July 1951.

b. An applicant whose national examination scores do not meet the Iowa requirements in effect at the time of the examination and who wishes to become licensed in Iowa may appeal to the board. The board may require the applicant to pass the current examination.

This rule is intended to implement Iowa Code sections 147.2 and 152.7(3).

[ARC 8222B, IAB 10/7/09, effective 11/11/09; ARC 1815C, IAB 1/7/15, effective 2/11/15]

655—3.4(17A,147,152,272C) Licensure by examination.

3.4(1) Applicants shall meet qualifications for licensure set forth in subrule 3.3(1).

3.4(2) The board contracts with the National Council of State Boards of Nursing, Inc. to use the NCLEX® for registered nurses and licensed practical nurses.

a. The NCLEX® is administered according to guidelines and passing standards established by the National Council of State Boards of Nursing, Inc.

b. NCLEX® results are reported as pass or fail.

c. Examination statistics are available to the public.

3.4(3) Application—graduates of approved programs.

a. The board shall:

(1) Provide information about licensure application to applicants, nursing education programs in Iowa, and others upon request.

(2) Determine eligibility of each applicant upon receipt of an application, fees, official nursing transcript, fingerprint cards and a signed waiver form.

b. The applicant shall:

(1) Submit a completed application for license by examination.

(2) Submit two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint cards and the DCI and FBI criminal history background checks will be assessed to the applicant.

(3) Submit fee for application for license by examination plus the fee for evaluation of the fingerprint cards and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

(4) Register for the NCLEX® and submit registration fee to the national test service agency.

(5) Direct the nursing program to submit to the board an official nursing transcript denoting the date of graduation and diploma or degree conferred.

(6) Inform the board that the primary state of residence is Iowa or a noncompact state and provide a current street address and mailing address, if different.

(7) Submit a copy of the court document(s) with the license application if the applicant has a criminal history.

(8) Complete NCLEX® registration through the national test service agency within 12 months of board receipt of the application for license, fingerprint cards, signed waiver form, and fees. The board reserves the right to destroy documents after 12 months.

(9) Self-schedule the examination with an approved testing center.

(10) Applicants who do not test within 91 days of authorization from the national test service agency are required to submit a new application and fee to the board.

3.4(4) Application—individuals educated and licensed in another country.

- a.* The board shall:
- (1) Provide information about licensure application to applicants and others upon request.
 - (2) Determine eligibility of each applicant upon receipt of:
 1. Application for license by examination.
 2. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.
 3. Application fee for license by examination plus the fee for evaluation of the fingerprint cards and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.
 4. Official nursing transcript denoting date of graduation validated by the Commission on Graduates of Foreign Nursing Schools (CGFNS) International.
 5. Validation of licensure/registration in the original country by CGFNS International.
 6. Credentials Evaluation Service Professional report submitted by CGFNS International for licensed practical nurse and registered nurse applicants.
 7. Verification of ability to read, write, speak and understand the English language as determined by the results of the International English Language Testing System (IELTS), Pearson Test of English Academic (PTE), or Test of English as a Foreign Language (TOEFL) for licensed practical nurse and registered nurse applicants. Applicants shall be exempt from the IELTS, PTE or TOEFL examination when the native language is English; 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; language of instruction in the nursing program was English; and language of the textbooks in the nursing program was English.
- b.* The applicant shall:
- (1) Submit completed application for license by examination, including two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.
 - (2) Submit fee for application for license by examination plus the fee for evaluation of the fingerprint cards and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.
 - (3) Register for the NCLEX® and submit registration fee to the national test service agency.
 - (4) Direct CGFNS International to validate the official nursing transcript.
 - (5) Direct CGFNS International to validate licensure/registration in the original country.
 - (6) Complete the Credentials Evaluation Service Professional report application through CGFNS International for licensed practical nurse and registered nurse applicants.
 - (7) Complete IELTS, PTE or TOEFL requirements for licensed practical nurse and registered nurse applicants, unless exempt.
 - (8) Inform the board of primary state of residence and a current street address and mailing address, if different.
 - (9) Submit a copy of the court document(s) with the license application if the applicant has a criminal history.
 - (10) Self-schedule the examination with an approved testing center.
 - (11) Complete NCLEX® registration through the national test service agency within 12 months of board receipt of the application for license, fingerprint cards, signed waiver form, and fees. The board reserves the right to destroy documents after 12 months.
 - (12) Applicants who do not test within 91 days of authorization from the national test service agency are required to submit a new application and fee to the board.
- 3.4(5) Application—individuals with disabilities.** Individuals with disabilities as defined in the Americans with Disabilities Act shall be provided modifications during the NCLEX®.
- a.* The board shall:
- (1) Notify applicants of the availability of test modifications for individuals with documented disabilities.
 - (2) Upon request, notify applicants of the process for obtaining board approval of test modification as defined in paragraph 3.4(5) “*b.*”

- (3) Determine eligibility for test modification upon receipt of:
 1. Written request from the applicant for test modifications during the NCLEX®.
 2. Written documentation of the applicant's disability and need for test modifications, including results of appropriate diagnostic testing, submitted by a qualified professional with expertise in the area of the diagnosed disability.
 3. Written documentation of test modifications, if any, granted to the applicant while enrolled in the nursing education program.
 - b.* The applicant shall:
 - (1) Submit to the board a written request for specific modifications during the NCLEX®.
 - (2) Obtain appropriate documentation supporting the request for accommodations, including results of appropriate diagnostic testing, submitted by a qualified professional with expertise in the areas of the diagnosed disability. Documentation could include recent reports, test results, evaluations and assessments of the candidate's need for accommodations due to a disability (physical or mental impairment) that substantially limits one or more major life activities.
 - (3) Direct the nursing program to submit to the board documentation of test modifications provided to the applicant while enrolled in the nursing education program, if any were granted.
 - (4) Complete examination application requirements defined in subrule 3.4(3) or 3.4(4).

3.4(6) Reexamination.

- a.* An applicant who has graduated from an approved practical nurse program and has failed the NCLEX-PN® is eligible to take the NCLEX-PN® an indefinite number of times.
- b.* An applicant who has graduated from an approved registered nurse program and has failed the NCLEX-RN® is eligible to take the NCLEX-RN® an indefinite number of times.
- c.* An applicant who fails the NCLEX® and reapplies within 12 months for license by examination shall be required to complete an application for license by examination, submit the fee for application by examination, complete NCLEX® registration and submit a registration fee to the national test service agency.
- d.* An applicant who fails the NCLEX® and reapplies, after 12 months have passed, for license by examination shall be required to complete an application for license by examination, submit two completed fingerprint cards, a signed waiver form, and 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), pursuant to rule 655—3.1(17A,147,152,272C), complete NCLEX® registration and submit a registration fee to the national test service agency.
- e.* Applicants for the examination who do not appear for the appointment or do not complete the examination will be required to complete the examination requirements defined in paragraphs 3.4(6) "a" to "d."

3.4(7) Certificate of license by examination. Upon completion of the relevant qualifications for license by examination and passing of the NCLEX® as defined in these rules, the board shall issue a certificate of license by examination and a current license to practice as a registered nurse/licensed practical nurse. The board staff may issue a certificate of license prior to receipt of a report on the applicant from the DCI/FBI.

This rule is intended to implement Iowa Code sections 147.36, 147.80 and 152.7(3).
 [ARC 8222B, IAB 10/7/09, effective 11/11/09; ARC 8810B, IAB 6/2/10, effective 7/7/10; ARC 1131C, IAB 10/30/13, effective 12/4/13; ARC 1815C, IAB 1/7/15, effective 2/11/15]

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

3.5(1) Qualifications for licensure by endorsement. The endorsee shall meet the qualifications for licensure defined in subrule 3.3(1).

3.5(2) Applicants currently licensed in another state. Application for licensure to practice as a registered nurse or licensed practical nurse by endorsement shall be made according to the following process:

- a.* The board shall:
 - (1) Provide application forms and instructions to applicants upon request.

(2) Determine eligibility of each applicant upon receipt of an application, fees, official nursing transcript, and verification of license submitted by state of original license or the National Council of State Boards of Nursing, Inc., electronic nurse licensure system (NURSYS®).

b. The applicant shall:

(1) Submit a completed application form for license by endorsement.

(2) Submit two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint cards and the DCI and FBI criminal history background checks will be assessed to the applicant.

(3) Submit the fee for license by endorsement plus the fee for evaluation of the fingerprint cards and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

(4) Direct the nursing program to submit to the board an official nursing transcript denoting the date of graduation and diploma or degree conferred.

(5) Provide verification of state of original licensure by one of the following:

1. Submit the application form for verification of original licensure to state of original licensure.

2. Apply directly to the online verification system (NURSYS®) if the original state of licensure participates in NURSYS®.

(6) Attest that Iowa is the primary state of residence if the applicant is changing primary state of residence from another party state as outlined in rule 655—16.2(152E) or that the primary state of residence is a noncompact state. The board may request evidence of residency.

(7) Complete the application process within 12 months from the date of receipt of the application. The board reserves the right to destroy the documents after 12 months.

c. An endorsement applicant who has been disciplined by a licensing authority in another state must indicate the jurisdiction of the action(s) when submitting application materials. A copy of all relevant disciplinary documents will be obtained for board review prior to a determination regarding licensure. The board may impose conditions for licensure.

d. An endorsement applicant who has a criminal history must submit a copy of the court document(s) when submitting application materials. The board may impose conditions for licensure.

e. An applicant who fails to complete the licensure process within 12 months from the date of receipt of the application must reapply.

3.5(3) *Application—individuals educated and licensed in another country.*

a. The board shall:

(1) Provide application forms and instructions to applicants upon request.

(2) Determine eligibility of each applicant upon receipt of an application, two completed fingerprint cards and a signed waiver form, fees, official nursing transcript denoting date of graduation validated by CGFNS International, validation of licensure/registration in the original country by CGFNS International, Credentials Evaluation Service Professional report from CGFNS International, and verification of original license submitted by state of original license or the National Council of State Boards of Nursing, Inc., electronic nurse licensure system (NURSYS®).

b. The applicant shall:

(1) Submit completed application for licensure by endorsement, including two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

(2) Submit fee for application for licensure by endorsement plus the fee for evaluation of the fingerprint cards and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

(3) Direct CGFNS International to validate the official nursing transcript.

(4) Direct CGFNS International to validate licensure/registration in the original country.

(5) Complete the Credentials Evaluation Service Professional report application through CGFNS International for licensed practical nurse and registered nurse applicants, or direct CGFNS International to verify that a certificate letter was issued, or send the completed Credentials Evaluation Service Professional report to the board.

(6) Inform the board of primary state of residence and a current street address and mailing address, if different.

(7) Submit a copy of the court document(s) with the license application if an applicant has a criminal history.

3.5(4) *Temporary license.* A temporary license shall be issued to an applicant who is licensed in another state if the applicant meets the qualifications for a license as outlined in subrule 3.3(1). The application form and endorsement fee plus the fee for evaluation of the fingerprint cards and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C), verification of license form and two completed fingerprint cards and signed waiver form to facilitate a national criminal history background check shall be on file in the office of the board prior to the issuance of the temporary license.

a. A temporary licensee may use the appropriate title of registered nurse or licensed practical nurse and the appropriate abbreviation R.N. or L.P.N.

b. The temporary wallet card must be signed by the licensee to be valid. The temporary license shall be issued for a period of 30 days. A second temporary license may be issued for a period not to exceed 30 days or at the discretion of the executive director.

c. A temporary license may be issued to an applicant who has incurred disciplinary action in another state when the license is not currently encumbered.

d. A temporary license may not be issued to an applicant with a criminal history.

e. A temporary license shall not be issued to an applicant educated and licensed in another country until the Credentials Evaluation Service Professional report application through CGFNS International has been received by the board, CGFNS International has verified that a certificate letter was issued, or CGFNS International submits a previously completed Credentials Evaluation Service Professional report to the board.

3.5(5) *Certificate of license by endorsement.* Upon completion of the endorsement procedures defined in these rules, the board shall issue a certificate of license by endorsement and a current license to practice as a registered nurse/licensed practical nurse. The board staff may issue a certificate of license prior to receipt of a report on the applicant from the DCI/FBI.

This rule is intended to implement Iowa Code sections 147.2 and 152.9.
[ARC 8222B, IAB 10/7/09, effective 11/11/09; ARC 8810B, IAB 6/2/10, effective 7/7/10; ARC 1815C, IAB 1/7/15, effective 2/11/15]

655—3.6(17A,147,152,272C) *Special licensure for those licensed in another country.* A special license may be granted by the board on an individual basis to allow a nurse licensed in another country who is not eligible for endorsement to practice nursing in Iowa for a fixed period of time under certain conditions. Special licensure shall allow the nurse to provide care in a specialty area, provide consultation or teaching where care is directed, serve as a research or teaching assistant, or obtain clinically based continuing education.

1. Upon request, the board shall provide application materials to the applicant or sponsor.

2. The applicant shall provide identifying information, criminal history, history of licensure in another jurisdiction, and reason for special licensure.

3. The applicant shall complete the application, submit a fee as identified in rule 655—3.1(17A,147,152,272C), and provide evidence of certification by CGFNS International, official results of the TOEFL test or official results of the International English Language Testing System (IELTS). The applicant shall have a minimum score of 540 for the paper-based TOEFL test, a minimum score of 207 for the computer-based TOEFL test, or a minimum score of 83 for the Internet-based TOEFL test. The applicant shall score a minimum of 6.5 for the IELTS test.

4. Board staff shall determine the validity of the request based on the need, duration and location of special licensure identified on the application, and staff shall notify the applicant of ineligibility for special licensure if the application is incomplete or indicates a criminal history or evidence of licensure in another jurisdiction.

5. The board shall grant special licensure to eligible applicants. The license shall be identified as a special license and identify duration and conditions as designated in this rule. The period of special licensure shall be determined by the board and may be extended at the request of the applicant.

6. If the board denies special licensure, the individual may be eligible for licensure by examination in accordance with subrule 3.4(4).

7. The licensee shall be subject to all rules and regulations promulgated by the board except those pertaining to verification, renewal, late renewal, inactivation, reactivation and continuing education requirements.

This rule is intended to implement Iowa Code section 147.2.

[ARC 8222B, IAB 10/7/09, effective 11/11/09; ARC 1815C, IAB 1/7/15, effective 2/11/15]

655—3.7(17A,147,152,272C) License cycle.

3.7(1) Name and address changes. Written notification to the board of name and address changes is required within 30 days of the event. 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.

3.7(2) New 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. Expiration shall be on the fifteenth day of the birth month.

3.7(3) Renewal. The licensee may renew the license beginning 60 days prior to license expiration. Renewal is available online at the board's website or by mail upon request. When the licensee has satisfactorily completed the requirements for renewal, a wallet card shall be mailed to the licensee.

a. The licensee shall:

(1) Attest that Iowa is the primary state of residence as outlined in rule 655—16.2(152E) or that the primary state of residence is a noncompact state. The board may request evidence of residency.

(2) Submit the renewal application and the renewal fee as specified in rule 655—3.1(17A,147,152, 272C).

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

(4) Complete the required mandatory reporter training set forth in paragraph 3.7(3)“b.”

b. Mandatory reporter training.

(1) The course shall be a curriculum approved by the Iowa department of public health.

(2) A licensee who regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for rule suspension as identified in subparagraph 3.7(3)“b”(6).

(3) A licensee who regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for rule suspension as identified in subparagraph 3.7(3)“b”(6).

(4) A licensee who regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training on abuse identification and reporting in dependent adults and children or condition(s) for rule suspension as identified in subparagraph 3.7(3)“b”(6). Training may be completed through separate courses as identified in subparagraphs 3.7(3)“b”(2) and (3) or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.

(5) The licensee shall maintain written documentation for five years after mandatory training as identified in subparagraphs 3.7(3)“b”(2) to (4), including program date(s), content, duration, and proof of participation.

(6) The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall 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 waiver by the board based on evidence of significant hardship in complying with training requirements, including waiver 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.

(7) The board may select licensees for audit of compliance with the requirements in subparagraphs 3.7(3)“b”(1) to (6).

3.7(4) *Late renewal.* The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in rule 655—3.1(17A,147,152,272C).

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 on the wallet card.

3.7(5) *Inactive status.* The license shall become inactive when the license has not been renewed by the fifteenth day of the month following the expiration date on the wallet card or the board office has been notified by another compact state that a licensee has declared a new primary state. Pursuant to 655—subrule 16.2(8), the former home state license shall no longer be valid upon the issuance of a new home state license.

a. If the inactive license is not reactivated, it shall remain 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 practicing nursing with an inactive license, disciplinary proceedings shall be initiated.

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

d. To reactivate the license, the licensee shall complete the reactivation requirements.

(1) The licensee shall be provided an application, a continuing education report form, two fingerprint cards, a waiver form, and statement of the fees. The reactivation fee and criminal history background check fee are specified in the definition of “fees” in rule 655—3.1(17A,147,152,272C).

(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) Upon receipt of the completed reactivation application, required continuing education materials, two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check, fees for both the reactivation and the criminal history background check and verification that the primary state of residence is Iowa or a noncompact state, the licensee shall 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. Expiration shall be on the fifteenth day of the licensee’s birth month. The board staff may issue a certificate of license prior to receipt of a report on the applicant from the DCI/FBI.

(4) 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.

3.7(6) *Duplicate wallet card or certificate.* A duplicate wallet card or certificate shall be required if the current card or certificate is lost, stolen, destroyed or not received by the licensee within 60 days from the date the license is issued. The licensee shall be issued a duplicate wallet card or certificate upon receipt of an application for a duplicate wallet card or certificate and receipt of the fee as specified in rule 655—3.1(17A,147,152,272C). If the licensee notifies the board that the wallet card or certificate has not been received within 60 days after being issued, no fee shall be required. A fee is applicable when the licensee fails to notify the board of a name or address change.

3.7(7) *Reissue of a certificate or wallet card.* The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of

the fee as specified in rule 655—3.1(17A,147,152,272C). No fee shall be required if an error was made by the board on the original document.

This rule is intended to implement Iowa Code sections 147.2, 147.10, 147.11, 272C.2, and 272C.3 and chapter 152.

[ARC 8222B, IAB 10/7/09, effective 11/11/09; ARC 1815C, IAB 1/7/15, effective 2/11/15; ARC 3465C, IAB 11/22/17, effective 1/1/18]

655—3.8(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—3.1(17A,147,152,272C), the board shall 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.

This rule is intended to implement Iowa Code sections 147.2 and 147.8.

[ARC 1815C, IAB 1/7/15, effective 2/11/15]

655—3.9(17A,272C) License denial.

3.9(1) Prior to the denial of licensure to an applicant, the board shall issue 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.

3.9(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.

3.9(3) All hearings held pursuant to this rule shall be held in accordance with the process outlined in 655—Chapter 20.

3.9(4) If an applicant does not appeal a preliminary notice of denial, the preliminary notice of denial automatically becomes final and a notice of denial will be issued.

This rule is intended to implement Iowa Code chapters 17A and 272C.

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⁰ Two or more ARCs

¹ History relating also to “Licensure to Practice—Licensed Practical Nurse,” Ch 4 prior to IAC 5/23/84.

² Effective date of 11/9/88 delayed 70 days by the Administrative Rules Review Committee at its October meeting. Delay lifted by ARRC 11/16/88.

CHAPTER 4 DISCIPLINE

[Prior to 5/23/84, IAC, "Disciplinary Proceedings" appeared as Ch 8]

[Prior to 5/23/84, "Licensure to Practice—Licensed Practical Nurse" appeared as Ch 4. See Ch 3.]

[Prior to 8/26/87, Nursing Board[590] Ch 4]

655—4.1(17A,147,152,272C) Board authority. The board of nursing may discipline a registered nurse, a licensed practical nurse or an advanced registered nurse practitioner for any grounds stated in Iowa Code chapters 147, 152, 272C and 272D, or rules promulgated thereunder.
[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—4.2(17A,147,152,272C) Complaints and investigations. Complaints are allegations of wrongful acts or omissions relating to the ethical or professional conduct of a licensee.

4.2(1) In accordance with Iowa Code section 272C.3(1) "c," the board shall investigate or review, upon written complaint or upon its own motion pursuant to other information received by the board, alleged acts or omissions which the board reasonably believes constitute cause for licensee discipline.

4.2(2) The executive director, or an authorized designee, may review and investigate any complaint information received, in order to determine the probability that a violation of Iowa law or administrative rule has occurred.

655—4.3(17A,147,152,272C) Issuance of investigatory subpoenas. The board shall have the authority to issue an investigatory subpoena in accordance with the provisions of Iowa Code section 17A.13.

4.3(1) The executive director or designee may, upon the written request of a board investigator or on the executive director's own initiative, subpoena books, papers, records and other real evidence which are necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;
- c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

4.3(2) A written request for a subpoena or the executive director's written memorandum in support of the issuance of a subpoena shall contain the following:

- a. The name and address of the person to whom the subpoena will be directed;
- b. A specific description of the books, papers, records or other real evidence requested;
- c. An explanation of why the documents sought to be subpoenaed are necessary for the board to determine whether it should institute a contested case proceeding; and
- d. In the case of a subpoena request for mental health records, confirmation that the conditions described in subrule 4.3(1) have been satisfied.

4.3(3) Each subpoena shall contain the following:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production or inspection and copying;
- d. The time within which a motion to quash or modify the subpoena must be filed;
- e. The signature, address and telephone number of the executive director or designee;
- f. The date of issuance;
- g. A return of service.

4.3(4) Any person who is aggrieved or adversely affected by compliance with the subpoena and who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or

modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.

4.3(5) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to issue a decision or the board may issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

4.3(6) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

4.3(7) If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either (1) the person is notified that the investigation has been concluded with no formal action, or (2) there is a final decision in the contested case.

655—4.4(17A,147,152,272C) Board action. The board shall review complaints and investigative materials and do one of the following:

4.4(1) Close the complaint case without action.

4.4(2) Request further inquiry, including peer review.

4.4(3) Issue a confidential letter of warning to the licensee. A letter of warning is not formal disciplinary action and is not a public document.

4.4(4) Determine the existence of sufficient probable cause and file a statement of charges or approve a combined statement of charges and settlement agreement.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—4.5(17A,147,152,272C) Peer review committee. Any case may be referred to peer review for evaluation of the professional services rendered by the licensee.

4.5(1) The board shall enter into a contract with peer reviewers to provide peer review services. The board or board staff shall determine which peer reviewer(s) will review a case and what investigative information shall be referred to a peer reviewer.

4.5(2) Peer reviewers shall review the information provided by the board and provide a written report to the board. The written report shall contain an opinion of the peer reviewer regarding whether the licensee conformed to minimum standards of acceptable and prevailing practice of nursing and the rationale supporting the opinion.

4.5(3) Peer reviewers shall observe the confidentiality requirements imposed by Iowa Code section 272C.6(4).

4.5(4) The board shall review the committee's findings and proceed with action available under rule 655—4.4(17A,147,152,272C).

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—4.6(17A,147,152,272C) Grounds for discipline. A licensee may be disciplined for failure to comply with the rules promulgated by the board and for any wrongful act or omission related to nursing practice, licensure or professional conduct.

4.6(1) In accordance with Iowa Code section 147.55(1), behavior which constitutes fraud in procuring a license may include, but need not be limited to, the following:

a. Falsification of the application, credentials, or records submitted to the board for licensure or license renewal as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner.

b. Fraud, misrepresentation, or deceit in taking the licensing examination or in obtaining a license as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner.

c. Impersonating any applicant in any examination for licensure as a registered nurse, licensed practical nurse, or advanced registered nurse practitioner.

4.6(2) In accordance with Iowa Code section 147.55(2), professional incompetency may include, but need not be limited to, the following:

- a.* Lack of knowledge, skill, or ability to discharge professional obligations within the scope of nursing practice.
- b.* Deviation by the licensee from the standards of learning, education, or skill ordinarily possessed and applied by other nurses in the state of Iowa acting in the same or similar circumstances.
- c.* Willful or repeated departure from or failure to conform to the minimum standards of acceptable and prevailing practice of nursing in the state of Iowa.
- d.* Willful or repeated failure to practice nursing with reasonable skill and safety.
- e.* Willful or repeated failure to practice within the scope of current licensure or level of preparation.
- f.* Failure to meet the standards as defined in 655—Chapter 6, Iowa Administrative Code.
- g.* Failure to meet the standards as defined in 655—Chapter 7, Iowa Administrative Code.
- h.* Failure to comply with the requirements of Iowa Code chapter 139A.

4.6(3) In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of a profession may include, but need not be limited to, the following:

- a.* Oral or written misrepresentation relating to degrees, credentials, licensure status, records and applications.
- b.* Falsifying records related to nursing practice or knowingly permitting the use of falsified information in those records.

4.6(4) In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct or practice harmful or detrimental to the public may include, but need not be limited to, the following:

- a.* Performing nursing services beyond the authorized scope of practice for which the individual is licensed or prepared.
- b.* Allowing another person to use one's nursing license for any purpose.
- c.* Failing to comply with any rule promulgated by the board related to minimum standards of nursing.
- d.* Improper delegation of nursing services, functions, or responsibilities.
- e.* Committing an act or omission which may adversely affect the physical or psychosocial welfare of the patient or client.
- f.* Committing an act which causes physical, emotional, or financial injury to the patient or client.
- g.* Failing to report to, or leaving, a nursing assignment without properly notifying appropriate supervisory personnel and ensuring the safety and welfare of the patient or client.
- h.* Violating the confidentiality or privacy rights of the patient or client.
- i.* Discriminating against a patient or client because of age, sex, race, ethnicity, national origin, creed, illness, disability, sexual orientation or economic or social status.
- j.* Failing to assess, accurately document, evaluate, or report the status of a patient or client.
- k.* Misappropriating medications, property, supplies, or equipment of the patient, client, or agency.
- l.* Fraudulently or inappropriately using or permitting the use of prescription blanks, obtaining or attempting to obtain prescription medications under false pretenses, or assisting others to obtain or attempt to obtain prescription medication under false pretenses.
- m.* Practicing nursing while under the influence of alcohol, marijuana, or illicit drugs or while impaired by the use of legitimately prescribed pharmacological agents or medications.
- n.* Being involved in the unauthorized manufacture or distribution of a controlled substance.
- o.* Being involved in the unauthorized possession or use of a controlled substance.
- p.* Engaging in behavior that is contradictory to professional decorum.
- q.* Failing to report suspected wrongful acts or omissions committed by a licensee of the board.
- r.* Failing to comply with an order of the board.
- s.* For an advanced registered nurse practitioner, prescribing, dispensing, administering, or distributing drugs in an unsafe manner.

t. For an advanced registered nurse practitioner, prescribing, dispensing, administering or distributing drugs without accurately documenting it or without assessing, evaluating, or instructing the patient or client.

u. For an advanced registered nurse practitioner, prescribing, dispensing, administering or distributing drugs to individuals who are not patients or are outside the licensee's specialty area.

v. Engaging in repeated verbal or physical conduct which interferes with another health care worker's performance or creates an intimidating, hostile, or offensive work environment.

w. Failing to properly safeguard or secure medications.

x. Failing to properly document or perform medication wastage.

4.6(5) For purposes of this subrule, "patient" is defined to include the patient and the patient's family or caretakers who are present with the patient while the patient is under the care of the licensee. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct or practice harmful or detrimental to the public may include, but need not be limited to, the following professional boundaries violations:

a. Sexual contact with a patient, regardless of patient consent.

b. Making lewd, suggestive, demeaning, or otherwise sexual comments to a patient, regardless of patient consent.

c. Initiating, or attempting to initiate, a sexual, emotional, social, or business relationship with a patient, for personal gain, regardless of patient consent.

d. Soliciting, borrowing, or misappropriating money or property from a patient, regardless of patient consent.

e. Repeatedly divulging personal information to a patient for nontherapeutic purposes, regardless of patient consent.

f. Engaging in a sexual, emotional, social, or business relationship with a former patient when there is a risk of exploitation or harm to the patient, regardless of patient consent.

4.6(6) In accordance with Iowa Code section 147.55(4), habitual intoxication or addiction to the use of drugs may include, but need not be limited to, the following:

a. Excessive use of alcohol which may impair a licensee's ability to practice the profession with reasonable skill and safety.

b. Excessive use of drugs which may impair a licensee's ability to practice the profession with reasonable skill and safety.

4.6(7) In accordance with Iowa Code section 147.55(5), conviction of a crime related to the profession or occupation of the licensee or conviction of any crime that would affect the licensee's ability to practice within a profession means the following:

a. Pleading guilty to or being convicted of a crime related to the profession of nursing, or conviction of any crime that would affect the licensee's ability to practice nursing, regardless of whether the judgment of conviction or sentence was deferred, and regardless of the jurisdiction wherein the action occurred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

b. Reserved.

4.6(8) In accordance with Iowa Code section 147.55(6), fraud in representation as to skill or ability.

4.6(9) In accordance with Iowa Code section 147.55(7), use of untruthful or improbable statements in advertisements.

4.6(10) In accordance with Iowa Code section 147.55(8), willful or repeated violations of provisions of Iowa Code chapter 147, 152, or 272C.

4.6(11) In accordance with Iowa Code section 147.55(9), other acts or offenses as specified by board rule, including the following:

a. Failing to provide written notification of a change of address to the board within 30 days of the event.

b. Failing to notify the board within 30 days from the date of the final decision in a disciplinary action taken by the licensing authority of another state, territory or country.

c. Failing to notify the board of a criminal conviction within 30 days of the action, regardless of whether the judgment of conviction or sentence was deferred, and regardless of the jurisdiction where it occurred.

d. Failing to submit an additional completed fingerprint packet as required and applicable fee, when a previous fingerprint submission has been determined to be unacceptable, within 30 days of a request made by board staff.

e. Failing to respond to the board during a board audit or submit verification of compliance with continuing education requirements or exceptions, within the time period provided.

f. Failing to respond to the board during a board audit or submit verification of compliance with training in child or dependent adult abuse identification and reporting or exceptions, within the time period provided.

g. Failing to respond to the board during a board audit or submit verification of compliance with the requirements for the supervision of fluoroscopy set forth in 655—subrule 7.2(2) or exceptions, within the time period provided.

h. Failing to respond to or comply with a board investigation or subpoena.

i. Engaging in behavior that is threatening or harassing to the board, board staff, or agents of the board.

j. Violating an initial agreement or contract with the Iowa nurse assistance program committee.

4.6(12) In accordance with Iowa Code section 147.2 or 147.10:

a. Engaging in the practice of nursing in Iowa prior to licensure or not pursuant to the nurse licensure compact.

b. Engaging in the practice of nursing in Iowa on an inactive license.

4.6(13) In accordance with Iowa Code section 152.10(2):

a. Continued practice while knowingly having an infectious or contagious disease which could be harmful to a patient's welfare, without taking precautions to meet the current standard of care.

b. Having a license to practice nursing as a registered nurse, licensed practical/vocational nurse or advanced registered nurse practitioner revoked or suspended or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence of such fact. "Certified copy" means a complete and accurate copy of a document, as verified by the board or the agency providing that document. "Certified copy" includes an electronic version of a document provided to another agency or individual by the board, or received from another agency, so long as the electronic record is:

- (1) Obtained directly from the official Web site of the board or other agency;
- (2) Regularly updated by the board or the other agency in accordance with standard practice;
- (3) Accessible as a "read only" document;
- (4) Properly safeguarded to prevent the document from being altered; and
- (5) Certified from another agency in accordance with the laws applicable in that jurisdiction.

c. Having a license to practice nursing as a registered nurse, licensed practical/vocational nurse or advanced registered nurse practitioner revoked or suspended, or having other disciplinary action taken, by a licensing authority in another state which has adopted the nurse licensure compact contained in Iowa Code section 152E.1 or the advanced practice registered nurse compact contained in Iowa Code section 152E.3 and which has communicated information relating to such action pursuant to the coordinated licensure information system established by the compact. If the action taken by the licensing authority occurs in a jurisdiction which does not afford the procedural protections of Iowa Code chapter 17A, the licensee may object to the communicated information and shall be afforded the procedural protections of Iowa Code chapter 17A.

d. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice nursing.

e. Being adjudicated mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

f. Inability to practice nursing with reasonable skill and safety by reason of illness or as a result of a mental or physical condition.

[ARC 0084C, IAB 4/18/12, effective 5/23/12; ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—4.7(17A,147,152,272C) Sanctions. A sanction is a disciplinary action by the board which resolves a contested case. The board may impose one or more of the following:

1. Revocation.
2. Suspension.
3. Restriction on engaging in specified procedures or acts.
4. Probation.
5. Order a physical, mental or substance abuse evaluation, alcohol or drug screening, or clinical competency evaluation.

6. Civil penalty. A fine may be imposed in accordance with Iowa Code section 272C.3(2) “e.” Assessment of a fine shall be specified in the order and may not exceed a maximum amount of \$1,000. Fines may be incurred for:

- Practicing without an active license: \$50 for each calendar month or part thereof, beginning on the date that a license enters inactive status.
 - Failing to respond to the board during a board audit or to submit verification of compliance with the continuing education requirements or exceptions: \$50 for each contact hour that is not verified.
 - Violating rule 655—4.6(17A,147,152,272C): an amount deemed appropriate.
7. Additional education, reexamination, or both.
 8. Citation and warning.
 9. Such other sanctions allowed by law as may be appropriate.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—4.8(17A,147,152,272C) Voluntary surrender. A voluntary surrender of licensure may be submitted to the board as resolution of a contested case or in lieu of continued compliance with a disciplinary decision of the board. A voluntary surrender, when accepted by the board, has the same force and effect as an order of revocation.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

These rules are intended to implement Iowa Code chapter 17A and Iowa Code sections 147.55, 152.10, 272C.4, 272C.5, 272C.6, and 272C.9.

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CHAPTER 5
CONTINUING EDUCATION
[Prior to 8/26/87, Nursing Board[590] Ch 5]

655—5.1(272C) Definitions.

“*Academic offering*” means an extension course, independent study, or other course which is offered for academic credit or audit by an accredited institution of higher education.

“*Approved provider*” means a person, organization, or institution that holds an Iowa approved provider number and has met the criteria specified in subrule 5.3(4).

“*Approved provider number*” means the board-assigned number which identifies an Iowa approved provider.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period; or the selection of Iowa approved providers for verification of adherence to continuing education approved provider requirements during a specified time period.

“*Certification*” means evidence of advanced credentials earned by a licensee who has met all eligibility criteria.

“*Continuing education*” means planned, organized learning activities which are designed to maintain, improve, or expand nurses’ knowledge and skills or to develop new knowledge and skills relevant to nursing for the enhancement of practice, education, administration, or theory development.

“*Continuing education credit*” means contact hours or continuing education units (CEUs) to show evidence of course attendance.

“*Extended course*” means an organized program of study offered in a series of sessions.

“*Informal offering*” means a workshop, seminar, webinar or online course, institute, conference, lecture, extended course, provider-designed self-study, or learner-designed self-study which is offered for credit in contact hours or continuing education units.

“*Learner-designed self-study*” means lecture development, research, preparation of articles for publication, development of patient care programs or patient education programs, or projects directed at resolving administrative problems in which the learner takes the initiative and the responsibility for assessing, planning, implementing, and evaluating an educational activity under the guidance of an Iowa approved provider.

“*Nonapproved provider*” means a person, organization, or institution that does not hold an Iowa approved provider number. The board may recognize credit from nonapproved providers as specified in subrule 5.2(7).

“*Practicum*” means a course-related, planned and supervised clinical experience which includes clinical objectives and assignment to practice in a laboratory setting or with patients/clients/families for attainment of the objectives.

“*Provider-designed self-study*” means a program that the provider designs for the nurse to complete at the nurse’s own pace, e.g., home study, programmed instruction.

[ARC 3311C, IAB 9/13/17, effective 1/1/18]

655—5.2(272C) Continuing education—licensees.

5.2(1) Board authority. The board derives its authority under Iowa Code chapter 272C to establish continuing education requirements as a prerequisite to obtain a current license and to establish an audit system to ensure compliance.

5.2(2) Requirements. To renew a license, the licensee shall verify the completion of 36 contact hours or 3.6 CEUs of credit or an exemption to the continuing education requirements. The hours shall be completed between the effective date and the expiration date of the license. The cost of continuing education is the responsibility of the licensee.

5.2(3) Accumulating hours or credit.

a. Units of measurement used for continuing education courses shall be as follows:

(1) One contact hour = 60 minutes of didactic instruction, work on learner-designed self-study, and clinical or laboratory practicum in an informal offering.

- (2) One CEU = 10 contact hours.
- (3) One academic semester hour = 15 contact hours.
- (4) One academic quarter hour = 10 contact hours.

b. Continuing education credit will not be accepted for the same course more than once within a license period.

c. Continuing education credit shall not be carried over to a future license period.

d. Approved make-up credit shall not be used more than once.

5.2(4) *Appropriate subject matter.*

a. Appropriate subject matter for continuing education credits reflects the educational needs of the nurse learner and the health needs of the consumer. Appropriate subject matter is limited to offerings that are scientifically founded and predominantly for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

- (1) Nursing practice related to health care of patients/clients/families in any setting.
- (2) Professional growth and development related to nursing practice roles with a health care focus.
- (3) Sciences upon which nursing practice, nursing education, or nursing research is based, e.g., nursing theories and biological, physical, behavioral, computer, social, or basic sciences.
- (4) Social, economic, ethical and legal aspects of health care.
- (5) Management of or administration of health care, health care personnel, or health care facilities.
- (6) Education of patients or patients' significant others, students, or personnel in the health care field.

b. Continuing education credit shall not be awarded for the following:

- (1) Self-help and self-care that are not scientifically supported.
- (2) Cardiopulmonary resuscitation and basic life support classes.
- (3) Orientation in-service activities.

c. Academic offerings shall meet the qualifications of appropriate subject matter as specified above or meet the requirements of a nursing education program which extends beyond the education completed for the original nursing license. The licensee shall retain a transcript exhibiting a passing grade for each academic offering.

5.2(5) *Options for continuing education.* The following are options to complete continuing education requirements:

a. Informal offerings by the following entities:

- (1) Board-approved providers.
- (2) Other approved providers from state boards of nursing that have mandatory continuing education requirements.
- (3) American Nurses Credentialing Center (ANCC) Commission on Accreditation.
- (4) National League for Nursing (NLN).
- (5) National Federation of Licensed Practical Nurses Continuing Education (NFLPN) and the NFLPN Education Foundation.
- (6) National Association for Practical Nurse Education and Service, Inc. (NAPNES).

b. National certification or recertification which is related to the practice of nursing and is current at the time of a license renewal. The national certification or recertification shall be recognized as 36 contact hours of continuing education.

c. Completion of a board-approved nurse refresher course. Hours of participation will be recognized as contact hours of continuing education.

d. Participation as a preceptor for a nursing student or employee transitioning into a new clinical practice area, for a minimum of 120 hours in a one-to-one relationship as part of an organized preceptorship program. A licensee shall maintain documentation issued by the institution supervising the student or employee demonstrating the objectives of the preceptorship and the hours completed. A preceptorship shall be recognized as 12 contact hours of continuing education.

e. Completion of a nurse residency program. A residency program shall be recognized as 36 contact hours of continuing education.

f. Academic offerings provided by the following entities:

- (1) Community colleges.
- (2) Public and private colleges and universities.
- (3) Governmental academies.

5.2(6) Documentation. Licensees are required to keep the following documentation, as applicable, for a period of four years: certificates of attendance, letters verifying special approval for informal offerings from nonapproved providers, transcripts, proof of certification and documentation of compliance with an exemption. The certificates of attendance shall include licensee name, course date, course title, awarded hours, and provider approval information.

5.2(7) Special approval process. An informal offering from a nonapproved provider or an organization not specified in subrule 5.2(5) shall be accepted when the offering is specially approved by the board for an individual licensee. A licensee shall obtain special approval from the board staff, prior to the completion of the licensure period, in order to receive credit acceptable to fulfill the requirements. Special approval requires submission of a completed application and a brochure, advertisement, or course description and a certificate of attendance for the offering. Course content shall meet the qualifications of appropriate subject matter as specified in subrule 5.2(4). The licensee shall retain the approval letter from the board staff and the certificate of attendance received from the nonapproved provider. A denial of approval may be appealed to the board within 30 days of the denial.

5.2(8) Exemptions to continuing education. A licensee shall be exempt from continuing education requirements if the licensee:

- a. Served honorably on active duty in the United States military services during the license period. A licensee who claims this exemption shall retain evidence of active duty to be presented upon request.
- b. Possesses a current license to practice in another state that has mandatory continuing education requirements, so long as the license is active and the licensee resides in a state other than Iowa at the time of renewal or reactivation.
- c. Worked as a registered nurse or licensed practical nurse for the government or foreign service or in missionary work, if the licensee was assigned to duty outside of the United States during the relevant time period. A licensee who claims this exemption shall retain evidence of employment outside of the United States to be presented upon request.
- d. Had a physical or mental disability or illness during the relevant time period and applied for an extension of time to complete continuing education requirements or for a medical exemption from the continuing education requirements. An application is available upon request and requires the signature of a health care provider who can attest to the existence of a disability or illness during the license period. The application form shall be submitted prior to license expiration. A licensee shall not claim an extension of time or exemption from continuing education requirements on a license renewal application pursuant to this rule unless and until the licensee has received approval. A licensee who obtains approval shall retain a copy of the written approval to be presented upon request.

5.2(9) Failure to meet requirement or qualify for an exemption. A licensee who fails to meet continuing education requirements or qualify for an exemption prior to license expiration cannot renew the license and has the following options:

- a. Complete the continuing education requirements or qualify for an exemption during the late renewal period. The licensee may be required to submit to an audit of continuing education following the late renewal and may be reaudited in the next renewal period when late credit has been accepted. Continuing education credit shall not be used more than once.
- b. If the licensee does not renew within 30 days after license expiration, the license shall be placed on inactive status. An inactive license may be reactivated pursuant to 655—subrule 3.7(5).

5.2(10) Audit of licensees. The board may select licensees for audit following a period of licensure.

- a. The licensee must submit verification of compliance with continuing education requirements or of exemptions for the period of licensure being audited. Verification for satisfactory completion of the audit includes legible copies of certificates of attendance, transcripts, proof of certification, documentation of special approval of informal offerings from nonapproved providers, documentation of compliance with exemptions in subrule 5.2(8), or other appropriate documentation.

b. The licensee must submit verification of completion of the mandatory reporter training course approved by the Iowa department of public health in the previous five years as specified in 655—subrule 3.7(3).

c. Verification must be submitted within 30 days after the date of the audit notification. An extension of time may be granted on an individual basis.

d. If submitted materials are incomplete or unsatisfactory, the licensee shall be notified. The licensee shall be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of the documentation for this make-up credit is within 90 days of the board office notification. The licensee may be reaudited during the next renewal period when make-up credit has been accepted. The make-up credit shall not be reused for the current renewal period.

e. The board shall notify the licensee of satisfactory completion of the audit.

f. Failure to complete the audit satisfactorily or falsification of information may result in board action as described in 655—Chapter 4.

g. Failure to notify the board of a current mailing address will not absolve the licensee of the audit requirement.

[ARC 3311C, IAB 9/13/17, effective 1/1/18]

655—5.3(272C) Continuing education—providers.

5.3(1) Board authority. The board derives its authority under Iowa Code chapter 272C to establish requirements for becoming an Iowa approved provider and maintaining that status. The board also has the authority to audit approved providers.

5.3(2) Initial approval process for providers. Initial approval is granted upon the submission of required materials and the determination by the board or its representative that the materials fulfill the criteria for approved providers specified in subrule 5.3(4).

a. An application for Iowa provider approval, including the procedural instructions and requirements, is available on the board's Web site.

b. Upon receipt of three copies of the completed application materials, a review is held by a committee composed of at least three appointees of the board.

(1) The review is held at the board office within 60 days of receipt of the application.

(2) The committee review is based on the criteria specified in subrule 5.3(4).

(3) If the submitted materials meet the requirements, the committee shall approve the provider for five years and issue a provider number to the provider. The approved provider shall be notified by staff of the decision within two weeks of the committee review.

(4) If the committee finds submitted materials are incomplete or unsatisfactory, staff shall notify the provider applicant of the decision within two weeks of the committee review. The applicant is given the opportunity to meet the criteria and for an additional review to be held at the board office within six weeks of receipt of the revised application materials.

(5) If the applicant is unable to meet the criteria within two committee reviews or one year from the receipt of the initial application at the board office, whichever comes first, the committee shall recommend nonapproval at the next regularly scheduled board meeting.

(6) Notice of this recommendation of nonapproval shall be provided to the applicant by staff at least 30 days before the board meeting.

(7) The board shall make a decision regarding each recommendation of nonapproval at a board meeting.

c. A provider applicant who wishes to appeal the board's decision regarding nonapproval shall file an appeal within 30 days of the board's decision of nonapproval. A timely appeal shall initiate a contested case proceeding regarding the provider applicant's approval status. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

d. A provider applicant who has been denied approved provider status may apply no sooner than one year after denial to become an approved provider by starting the initial approval process.

5.3(3) *Reapproval process for approved providers.* Reapproval is granted upon the submission of required materials and the determination by the board or its representatives that the materials fulfill the criteria for approved providers specified in this chapter.

a. The board staff shall send an application for reapproval to an approved provider six months before the expiration of the current approval. The completed application shall be submitted to the board office no later than three months prior to the expiration of the current approval.

b. Upon receipt of the application for reapproval, a review shall be made by board staff at the board office within 30 days of receipt of the application.

(1) The review is based on the criteria specified in subrule 5.3(4).

(2) If the submitted materials meet the requirements, staff shall issue a renewal of the approved provider status for a five-year period.

(3) If the submitted materials are incomplete or unsatisfactory, staff shall notify the provider of the decision within two weeks of the review. The provider shall be given the opportunity to meet the criteria within 30 days of the receipt of the board office notification. If the provider is unable to meet the requirements, staff shall recommend nonapproval at the next regularly scheduled board meeting.

(4) Notice of this recommendation of nonapproval shall be provided to the applicant at least 30 days before the board meeting.

(5) The board shall make a decision regarding each recommendation of nonapproval at the board meeting.

(6) A renewal applicant who wishes to appeal the board's decision regarding nonapproval shall file an appeal within 30 days of the board's decision of nonapproval. A timely appeal shall initiate a contested case proceeding regarding the provider applicant's approval status. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

(7) A reapproval applicant who has been denied reapproval may reapply no sooner than one year after denial. The initial approval process must be followed to reapply.

5.3(4) *Criteria for approved providers.* Approved providers shall adhere to criteria indicative of quality continuing education for nurses. Provider approval applies to all programs regardless of geographic location.

a. Criteria related to appropriate subject matter. Appropriate subject matter for continuing education credits reflects both the educational needs of the nurse learner and the health needs of the consumer. Subject matter is limited to offerings that are scientifically founded and predominantly for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

(1) Nursing practice related to health care of patients/clients/families in any setting.

(2) Professional growth and development related to nursing practice roles with a health care focus.

(3) Sciences upon which nursing practice, nursing education, or nursing research is based, e.g., nursing theories and biological, physical, behavioral, computer, social, or basic sciences.

(4) Social, economic, ethical and legal aspects of health care.

(5) Management of or administration of health care, health care personnel, or health care facilities.

(6) Education of patients or patients' significant others, students, or personnel in the health care field.

b. Continuing education credit shall not be awarded for the following:

(1) Self-help or self-care that is not scientifically supported.

(2) Cardiopulmonary resuscitation and basic life support classes.

(3) Orientation in-service activities.

c. Criteria related to operation of an approved continuing education providership. The provider shall:

(1) Have a consistent, identifiable authority who has overall responsibility for the operation of the providership. The authority shall be knowledgeable in administration and have the capability to organize, execute, and evaluate the overall operations of the providership.

(2) Have an organizational chart to delineate lines of authority and communication within the providership, including any other cooperative or advisory committees. The organizational chart must illustrate the reporting structure of the providership within the parent organization, if applicable.

(3) Develop and implement mission, vision and values statements specific to the providership, and a strategic plan for their implementation.

(4) Maintain financial integrity so that participants receive the continuing education for which they have paid.

(5) Maintain participant and program records.

(6) Demonstrate and guarantee active nursing participation in the planning and administration of informal offerings. Nursing participation shall be documented in a written statement of policy, in denotation on the organizational chart, and in planning minutes.

(7) Develop a subject matter plan which indicates the mechanism of assessing the practice gaps of the nurse learner and describes how the provider shall meet the appropriate subject matter criteria as specified in subparagraphs 5.3(4) "a"(1) to (6).

(8) Demonstrate planning for each offering that includes a statement of purpose and measurable and observable learning outcomes. The outcomes shall address the educational needs and shall result in narrowing or closing the identified practice gap(s).

(9) Provide notification to licensees of the availability of informal offerings. A brochure or written advertisement shall be developed for all informal offerings other than learner-designed self-study, and an electronic copy shall be sent to the board prior to each offering. The brochure or written advertisement shall accurately describe the activities by including the date, time, and location of the informal offering, a statement of purpose, educational objectives, the intended audience, credentials of instructors, the amount of continuing education credit to be awarded, and, if applicable, costs and items covered by the fee and refund policy. The board-approved provider number shall appear on the brochure or written advertisement.

(10) Structure the program content and learning experience to relate to the stated purpose and objectives. Program content shall cover one topic or a group of closely related topics. Current, relevant, scientifically based supportive materials shall be used.

(11) Develop policies and procedures for verification of satisfactory completion of the activity by each participant. Policy shall include a system for verification of satisfactory completion, the control methods to ensure completion and a method to inform participants that completion of the offering is required prior to the awarding of credit. The provider may make an exception and award partial credit in extreme emergency conditions. The provider may award credit to other members of the providership who attend but do not serve as organizers during the actual offering. The provider may base the verification of satisfactory completion of an extended course on the participant's meeting the course objectives rather than on the number of sessions attended. The provider may award credit to a nurse for learner-designed self-study such as lecture development, research, preparation of articles for publication, development of patient care programs or patient education programs, or projects directed at resolving administrative problems.

(12) Develop policies and procedures for management of continuing education programs, including registration procedures, tuition refund, and enrollee grievances.

(13) Assign credit according to a uniform measure of credit: One contact hour equals 60 minutes. Credit shall not be awarded for courses less than one contact hour.

(14) If desired, cosponsor an offering provided by a nonapproved provider. When cosponsoring is pursued, the approved provider is responsible for ensuring that all criteria are met. A cosponsorship contract or letter of agreement shall delineate responsibilities of all parties, which include the approved provider awarding the credit and maintaining the program and participant records. Cosponsoring is not acceptable for learner-designed self-study.

(15) An approved provider shall notify the board within 30 days of changes in the administrative authority or address of the providership, or the provider's inability to meet the approved provider criteria.

d. Criteria related to record system and maintenance of continuing education programs. The provider shall:

(1) Maintain participant records for a minimum of four years from the date of program completion. The participant records shall include the name of the licensee, license number, contact hours awarded, titles of offerings, and dates of offerings. The record system policy and procedure shall provide for secure storage and retrieval of the participant records, shall limit employee access and shall describe security measures. Upon request from an individual nurse or the board, individual attendance and information regarding each offering shall be available within two weeks after the request. If individual nurses are assessed a fee for this retrieval service, the fee shall be specified. The board may not be charged for record retrieval requests.

(2) Maintain program records for a minimum of four years from the date of program completion. Program records for all informal offerings, other than learner-designed self-study, shall include a brochure or advertising, roster of participants to whom credit was awarded, and a summary of the program including participant and provider evaluations. The approved provider shall submit records for one informal offering in the most recent year for renewal of the approved provider status. Program records for learner-designed self-study shall include the written agreement between the learner and provider, date of completion, and learner and provider evaluations.

(3) Furnish a certificate to each participant documenting the date the credit was earned. The front of the certificate shall display: participant's name, provider number, contact hours awarded, date(s) of the offering, program title, and a reminder to the participant to retain the certificate for four years. A certificate issued by electronic means must be a print-only file.

e. Criteria related to faculty who teach informal offerings. The faculty shall:

(1) Be current, knowledgeable, and skillful in the subject matter of the offering by supplying evidence of further education in the subject. Such education shall be acquired through course completion or an advanced degree, experience in teaching in the specialized area within the three years preceding the offering, or one year of work experience in the specialized area within the three years preceding the offering.

(2) If applicable, be skillful in assisting a nurse in designing a learner-designed self-study program by having experience or education in course design.

(3) Include an actively licensed nurse if the subject matter is nursing or if the informal offering is learner-designed self-study.

(4) Utilize teaching methodologies appropriate to the subject, audience, and time allotment.

(5) Utilize current supportive materials by drawing from resources that are predominantly less than five years old unless the topic is of an historical nature.

(6) Not receive credit when teaching participants unless the faculty is presenting the offering for the first time. Faculty may receive partial credit for other presentations attended as part of the same offering.

(7) Not receive credit for learner-designed self-study from a provider which employs the faculty in the regular administration of the providership.

f. Criteria related to evaluation of continuing education programs. The provider shall include:

(1) A design for participants to assess achievement of program objectives, faculty effectiveness, and teaching-learning methodologies, resources and facilities for each offering.

(2) A summary evaluation process to assess the effectiveness of the offering and identify how results may be used to plan future offerings.

(3) A method of notifying the participants that the evaluation may be submitted directly to the board.

5.3(5) *Voluntary relinquishment of an approved providership.* An approved provider may voluntarily relinquish its provider number in one of two ways: Method one is to notify the board in writing that it no longer wants to be an Iowa approved provider. Method two is when an approved provider does not submit the required materials for reapproval or is unable to be located by the board, by certified mail, the board will consider that the provider has voluntarily relinquished its approved provider status.

a. When the approved providership has been voluntarily relinquished, the provider shall discontinue providing continuing education as an Iowa approved provider.

b. The provider shall maintain the records as required in subrule 5.3(4) for four years after the last credit was granted or shall transfer the records to the custody of the board.

c. The board staff shall notify other states which have mandatory nursing continuing education of the relinquishment of the approved provider status and the reason(s) for relinquishment.

d. The provider whose approved provider status has been voluntarily relinquished may apply to become an approved provider by starting the initial approval process.

5.3(6) *Audit of approved providers.* The board shall monitor approved providers for adherence to criteria as established in this chapter.

a. The board may order an audit of an approved provider or may audit as a result of a written complaint. A written complaint may be filed with the board against a provider for acts or omissions which indicate a failure to meet the criteria established in this chapter.

b. The board may revoke the approved-provider status for willful or repeated failure to meet one or more of the criteria specified in subrule 5.3(4).

c. A notice of revocation shall be issued to the provider. A provider who wishes to appeal the board's decision regarding revocation shall file an appeal within 30 days of the board's decision of revocation. A timely appeal shall initiate a contested case proceeding regarding the provider's revocation. The contested case shall be conducted according to the provisions of Iowa Code chapter 17A and 655—Chapter 20. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

d. A provider whose approved-provider status has been revoked shall no longer advertise that the provider is an approved provider. The provider number shall no longer be used or appear in brochures, advertisements, certificates, or other materials.

e. A provider whose approved-provider status has been revoked shall maintain the records required in subrule 5.3(4) for four years after the last credit was granted or shall transfer the records to the custody of the board.

f. The board shall notify other states that have mandatory nursing continuing education of the revocation of the approved-provider status and the reason(s) for revocation.

g. A provider whose approved-provider status has been revoked may reapply no sooner than one year after the revocation of approval. The initial approval process must be followed to reapply.

[ARC 3311C, IAB 9/13/17, effective 1/1/18]

These rules are intended to implement Iowa Code sections 272C.2 and 272C.3.

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CHAPTER 6
NURSING PRACTICE FOR
REGISTERED NURSES/LICENSED PRACTICAL NURSES

655—6.1(152) Definitions.

“*Accountability*” means being obligated to answer for one’s acts, including the act of supervision.

“*Advanced registered nurse practitioner (ARNP)*” means a nurse with current licensure as a registered nurse in Iowa or who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in 2000 Iowa Acts, House File 2105, section 8, and is also registered in Iowa to practice in an advanced role. The ARNP is prepared for an advanced role by virtue of additional knowledge and skills gained through a formal advanced practice education program of nursing in a specialty area approved by the board. In the advanced role, the nurse practices nursing assessment, intervention, and management within the boundaries of the nurse-client relationship. Advanced nursing practice occurs in a variety of settings, within an interdisciplinary health care team, which provide for consultation, collaborative management, or referral. The ARNP may perform selected medically delegated functions when a collaborative practice agreement exists.

“*Basic nursing education*” means a nursing program preparing a person for initial licensure to practice nursing as a registered nurse or licensed practical nurse.

“*Board*” as used in this chapter means the Iowa board of nursing.

“*Certified clinical nurse specialist*” means an ARNP prepared at the master’s level who possesses evidence of current certification as a clinical specialist in an area of nursing practice by a national professional nursing association as approved by the board.

“*Certified nurse-midwife*” means an ARNP educated in the disciplines of nursing and midwifery who possesses evidence of current certification by a national professional nursing association approved by the board. The certified nurse-midwife is authorized to manage the care of normal newborns and women, antepartally, intrapartally, postpartally or gynecologically.

“*Certified nurse practitioner*” means an ARNP educated in the disciplines of nursing who has advanced knowledge of nursing, physical and psychosocial assessment, appropriate interventions, and management of health care, and who possesses evidence of current certification by a national professional nursing association approved by the board.

“*Certified registered nurse anesthetist*” means an ARNP educated in the disciplines of nursing and anesthesia who possesses evidence of current certification by a national professional nursing association approved by the board.

“*Competence in nursing*” means having the knowledge and the ability to perform, skillfully and proficiently, the functions within the role of the licensed nurse.

“*Expanded intravenous therapy certification course*” means the Iowa board of nursing course required for licensed practical nurses to perform procedures related to the expanded scope of practice of intravenous therapy.

“*Midline catheter*” means a long peripheral catheter in which the distal end resides in the mid to upper arm, but the tip terminates no further than the axilla.

“*Minimum standards*” means standards of practice that interpret the legal definition of nursing as well as provide criteria against which violations of the law can be determined.

“*Nursing diagnosis*” means a judgment made by a registered nurse, following a nursing assessment of individuals and groups about actual or potential responses to health problems, which forms the basis for determining effective nursing interventions.

“*Nursing facility*” means an institution as defined in Iowa Code chapter 135C. This definition does not include acute care settings.

“*Nursing process*” means ongoing assessment, nursing diagnosis, planning, intervention, and evaluation.

“*Peripheral intravenous catheter*” means a catheter three inches or less in length.

“*Peripherally inserted central catheter*” means a soft flexible central venous catheter inserted into an extremity and advanced until the tip is positioned in the vena cava.

“*Proximate area*” means that the registered nurse analyzes the qualifications of the licensed practical nurse in relationship to nursing needs of the client in determining the appropriate distance within the building and the time necessary to be readily available to the licensed practical nurse.

“*Unlicensed assistive personnel*” is an individual who is trained to function in an assistive role to the registered nurse and licensed practical nurse in the provision of nursing care activities as delegated by the registered nurse or licensed practical nurse.

This rule is intended to implement Iowa Code chapter 152.
[ARC 9329B, IAB 1/12/11, effective 2/16/11]

655—6.2(152) Minimum standards of nursing practice for registered nurses.

6.2(1) The registered nurse shall recognize and understand the legal implications within the scope of nursing practice. The scope of nursing practice considered to be minimum standards of nursing practice shall not be interpreted to include those practices currently ascribed to the advanced registered nurse practitioner.

6.2(2) The registered nurse shall utilize the nursing process in the practice of nursing, consistent with accepted and prevailing practice. The nursing process is ongoing and includes:

- a. Nursing assessments about the health status of an individual or group.
- b. Formulation of a nursing diagnosis based on analysis of the data from the nursing assessment.
- c. Planning of nursing care which includes determining goals and priorities for actions which are based on the nursing diagnosis.
- d. Nursing interventions implementing the plan of care.
- e. Evaluation of the individual’s or group’s status in relation to established goals and the plan of care.

6.2(3) The registered nurse shall conduct nursing practice by respecting the rights of an individual or group.

6.2(4) The registered nurse shall conduct nursing practice by respecting the confidentiality of an individual or group, unless obligated to disclose under proper authorization or legal compulsion.

6.2(5) The registered nurse shall recognize and understand the legal implications of accountability. Accountability includes but need not be limited to the following:

a. Performing or supervising those activities and functions which require the knowledge and skill level currently ascribed to the registered nurse and seeking assistance when activities and functions are beyond the licensee’s scope of preparation.

b. Assigning and supervising persons performing those activities and functions which do not require the knowledge and skill level currently ascribed to the registered nurse.

c. Using professional judgment in assigning and delegating activities and functions to unlicensed assistive personnel. Activities and functions which are beyond the scope of practice of the licensed practical nurse may not be delegated to unlicensed assistive personnel. For the purposes of this paragraph, “unlicensed assistive personnel” does not include certified emergency medical services personnel authorized under Iowa Code chapter 147A performing nonlifesaving procedures for which those individuals have been certified and which are designated in a written job description, after the patient is observed by a registered nurse.

d. Supervising, among other things, includes any or all of the following:

(1) Direct observation of a function or activity.

(2) Assumption of overall responsibility for assessing, planning, implementing, and evaluating nursing care.

(3) Delegation of nursing tasks while retaining accountability.

(4) Determination that nursing care being provided is adequate and delivered appropriately.

e. Executing the regimen prescribed by a physician. In executing the medical regimen as prescribed by the physician, the registered nurse shall exercise professional judgment in accordance with minimum standards of nursing practice as defined in these rules. If the medical regimen prescribed by the physician is not carried out, based on the registered nurse’s professional judgment, accountability shall include but need not be limited to the following:

(1) Timely notification of the physician who prescribed the medical regimen that the order(s) was not executed and reason(s) for same.

(2) Documentation on the medical record that the physician was notified and reason(s) for not executing the order(s).

f. Wearing identification which clearly identifies the nurse as a registered nurse when providing direct patient care unless wearing identification creates a safety or health risk for either the nurse or the patient.

655—6.3(152) Minimum standards of practice for licensed practical nurses.

6.3(1) The licensed practical nurse shall recognize and understand the legal implications within the scope of nursing practice. The licensed practical nurse shall perform services in the provision of supportive or restorative care under the supervision of a registered nurse or physician as defined in the Iowa Code.

6.3(2) The licensed practical nurse shall participate in the nursing process, consistent with accepted and prevailing practice, by assisting the registered nurse or physician. The licensed practical nurse may assist the registered nurse in monitoring, observing and reporting reactions to therapy.

6.3(3) The licensed practical nurse shall not perform any activity requiring the knowledge and skill ascribed to the registered nurse, including:

a. The initiation of or assessment related to procedures/therapies requiring the knowledge or skill level ascribed to the registered nurse.

b. The initiation of intravenous solutions, intravenous medications and blood components.

c. The administration of medicated intravenous solutions, intravenous medications and blood components.

d. The initiation or administration of medications requiring the knowledge or skill level currently ascribed to the registered nurse.

6.3(4) A licensed practical nurse, under the supervision of a registered nurse, may engage in the limited scope of practice of intravenous therapy. The licensed practical nurse shall be educated and have documentation of competency in the limited scope of practice of intravenous therapy. Limited scope of practice of intravenous therapy may include:

a. Addition of intravenous solutions without adding medications to established peripheral intravenous sites.

b. Regulation of the rate of nonmedicated intravenous solutions to established peripheral intravenous sites.

c. Administration of maintenance doses of analgesics via the patient-controlled analgesia pump set at a lock-out interval to established peripheral intravenous sites.

d. Discontinuation of peripheral intravenous therapy.

e. Administration of a prefilled heparin or saline syringe flush, prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse, to an established peripheral lock, in a licensed hospital, a nursing facility or a certified end-stage renal dialysis unit.

6.3(5) When nursing tasks are delegated by the registered nurse to the licensed practical nurse in a certified end-stage renal dialysis unit, the facility must have a written policy that defines the practice and written verification of the education and competency of the licensed practical nurse in accordance with the facility's written policy. Nursing tasks which may be delegated to the licensed practical nurse for the sole purpose of hemodialysis treatment include:

a. Initiation and discontinuation of the hemodialysis treatment utilizing any of the following established vascular accesses: central line catheter, arteriovenous fistula, graft.

b. Administration, during hemodialysis treatment, of local anesthetic prior to cannulation of the vascular access site.

c. Administration of prescribed dosages of heparin solution or saline solution utilized in the initiation and discontinuation of hemodialysis.

d. Administration, during hemodialysis treatment via the extracorporeal circuit, of the routine intravenous medications erythropoietin, Vitamin D Analog, intravenous antibiotic solutions prepackaged

by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse, and iron, excluding any iron preparation that requires a test dose. The registered nurse shall administer the first dose of erythropoietin, Vitamin D Analog, antibiotics, and iron.

6.3(6) The licensed practical nurse may provide nursing care in an acute care setting. When the nursing care provided by the licensed practical nurse in an acute care setting requires the knowledge and skill level currently ascribed to the registered nurse, a registered nurse or physician must be present in the proximate area. Acute care settings requiring the knowledge and skill ascribed to the registered nurse include, but are not limited to:

- a. Units where care of the unstable, critically ill, or critically injured individual is provided.
- b. General medical-surgical units.
- c. Emergency departments.
- d. Operating rooms. (A licensed practical nurse may assist with circulating duties when supervised by a registered nurse circulating in the same room.)
- e. Postanesthesia recovery units.
- f. Hemodialysis units.
- g. Labor and delivery/birthing units.
- h. Mental health units.

6.3(7) The licensed practical nurse may provide nursing care in a non-acute care setting. When the nursing care provided by the licensed practical nurse in a non-acute care setting requires the knowledge and skill level currently ascribed to the registered nurse, the registered nurse or physician must be present in the proximate area. The non-acute care settings requiring the knowledge and skill level ascribed to the registered nurse include, but are not limited to:

- a. Community health. (Subrules 6.6(1) and 6.6(4) are exceptions to the “proximate area” requirement.)
- b. School nursing. (Subrules 6.6(2) and 6.6(3) are exceptions to the “proximate area” requirement.)
- c. Occupational nursing.
- d. Correctional facilities.
- e. Community mental health nursing.

6.3(8) The licensed practical nurse shall conduct nursing practice by respecting the rights of an individual or group.

6.3(9) The licensed practical nurse shall conduct nursing practice by respecting the confidentiality of an individual or group, unless obligated to disclose under proper authorization or legal compulsion.

6.3(10) The licensed practical nurse shall recognize and understand the legal implications of accountability. Accountability includes but need not be limited to the following:

- a. Performing those activities and functions which require the knowledge and skill level currently ascribed to the licensed practical nurse and seeking assistance when activities and functions are beyond the licensee’s scope of preparation.
- b. Accepting responsibility for performing assigned and delegated functions and informing the registered nurse when assigned and delegated functions are not executed.
- c. Executing the medical regimen prescribed by a physician. In executing the medical regimen as prescribed by the physician, the licensed practical nurse shall exercise prudent judgment in accordance with minimum standards of nursing practice as defined in these rules. If the medical regimen prescribed by the physician is not carried out based on the licensed practical nurse’s prudent judgment, accountability shall include but need not be limited to the following:

- (1) Timely notification of the physician who prescribed the medical regimen that said order(s) was not executed and reason(s) for same.

- (2) Documentation on the medical record that the physician was notified and reason(s) for not executing the order(s).

d. Wearing identification which clearly identifies the nurse as a licensed practical nurse when providing direct patient care unless wearing identification creates a safety or health risk for either the nurse or the patient.

This rule is intended to implement Iowa Code chapters 152 and 152E.
[ARC 9329B, IAB 1/12/11, effective 2/16/11]

655—6.4(152) Additional acts which may be performed by registered nurses.

6.4(1) A registered nurse shall be permitted to practice as a diagnostic radiographer while under the supervision of a licensed practitioner provided that appropriate training standards for use of radiation-emitting equipment are met as outlined in 641—42.1(136C).

6.4(2) A registered nurse, licensed pursuant to Iowa Code chapter 152, may staff an authorized ambulance, rescue, or first response service provided the registered nurse can document equivalency through education and additional skills training essential in the delivery of out-of-hospital emergency care. The equivalency shall be accepted when documentation has been reviewed and approved at the local level by the medical director of the ambulance, rescue, or first response service in accordance with the form adopted by the Iowa department of public health bureau of emergency medical services. An exception to this subrule is the registered nurse who accompanies and is responsible for a transfer patient.

This rule is intended to implement Iowa Code section 147A.12 and chapters 136C and 152.

655—6.5(152) Additional acts which may be performed by licensed practical nurses.

6.5(1) A licensed practical nurse shall be permitted to supervise unlicensed assistive personnel under the provisions of Iowa Code section 152.1(5)“*b.*”

a. Supervision, among other things, includes any or all of the following:

- (1) Direct observation of a function or activity.
- (2) Delegation of nursing tasks while retaining accountability.
- (3) Determination that nursing care being provided is adequate and delivered appropriately.

b. Supervision shall be in accordance with the following:

(1) A licensed practical nurse working under the supervision of a registered nurse shall be permitted to supervise in an intermediate care facility for persons with an intellectual disability or in a residential health care setting.

(2) A licensed practical nurse working under the supervision of a registered nurse may direct the activities of other licensed practical nurses and unlicensed assistive personnel in an acute care setting in giving care to individuals assigned to the licensed practical nurse. The registered nurse must be in the proximate area.

(3) A licensed practical nurse working under the supervision of a registered nurse may supervise in a nursing facility if the licensed practical nurse completes the National Healthcare Institute’s Supervisory Course for Iowa’s Licensed Practical Nurses within 90 days of employment in a supervisory role. Documentation of the completion of the course shall be maintained by the licensed practical nurse. A licensed practical nurse shall be entitled to supervise without completing the course if the licensed practical nurse was performing in a supervisory role on or before October 6, 1982. A licensed practical nurse who is currently enrolled as a full-time student in a registered nurse program and is scheduled to graduate within one year is not required to complete the course. If the licensed practical nurse does not obtain a registered nurse license within one year, the licensed practical nurse must take the course to continue supervisory duties.

6.5(2) A licensed practical nurse shall be permitted to practice as a diagnostic radiographer while under the supervision of a licensed practitioner provided that appropriate training standards for use of radiation-emitting equipment are met as outlined in 641—42.1(136C).

6.5(3) A licensed practical nurse shall be permitted to perform, in addition to the functions set forth in subrule 6.3(4), procedures related to the expanded scope of practice of intravenous therapy upon completion of the board-approved expanded intravenous therapy certification course.

6.5(4) To be eligible to enroll in the course, the licensed practical nurse shall:

- a. Hold a current unrestricted Iowa license or an unrestricted license in another state recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.
- b. Have documentation of 1040 hours of practice as a licensed practical nurse.
- c. Be practicing in a licensed hospital, a nursing facility or a certified end-stage renal dialysis unit whose policies allow the licensed practical nurse to perform procedures related to the expanded scope of practice of intravenous therapy.

6.5(5) The course must be offered by an approved Iowa board of nursing provider of nursing continuing education. Documentation of course completion shall be maintained by the licensed practical nurse and employer.

6.5(6) The board-approved course shall incorporate the responsibilities of the licensed practical nurse when providing intravenous therapy via a peripheral intravenous catheter, a midline catheter and a peripherally inserted central catheter (PICC) to children, adults and elderly adults. When providing intravenous therapy, the LPN shall be under the supervision of a registered nurse. Procedures which may be performed if delegated by the registered nurse are as follows:

- a. Initiation of a peripheral intravenous catheter for continuous or intermittent therapy using a catheter not to exceed three inches in length.
- b. Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of premixed electrolyte solutions or premixed vitamin solutions. The first dose shall be administered by the registered nurse. The solutions must be prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse.
- c. Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of solutions containing potassium chloride that do not exceed 40 meq per liter and that do not exceed a dose of 10 meq per hour. The first dose shall be administered by the registered nurse. The solutions must be prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse.
- d. Administration, via a peripheral intravenous catheter, midline catheter, and a PICC line, of intravenous antibiotic solutions prepackaged by the manufacturer or premixed and labeled by a registered pharmacist or registered nurse. The first dose shall be administered by the registered nurse.
- e. Maintenance of the patency of a peripheral intravenous catheter, midline catheter, and a PICC line with a prefilled heparin or saline syringe flush, prepackaged by the manufacturer or premixed by a registered pharmacist or registered nurse.
- f. Changing the dressing of a midline catheter and a PICC line per sterile technique.

6.5(7) Procedures which shall not be delegated by the registered nurse to the licensed practical nurse are as follows:

- a. Initiation and discontinuation of a midline catheter or a peripherally inserted central catheter (PICC).
- b. Administration of medication by bolus or IV push except maintenance doses of analgesics via a patient-controlled analgesia pump set at a lock-out interval.
- c. Administration of blood and blood products, vasodilators, vasopressors, oxytocics, chemotherapy, colloid therapy, total parenteral nutrition, anticoagulants, antiarrhythmics, thrombolytics, and solutions with a total osmolarity of 600 or greater.
- d. Provision of intravenous therapy to a client under the age of 12 or any client weighing less than 80 pounds, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(4).
- e. Provision of intravenous therapy in any other setting except a licensed hospital, a nursing facility and a certified end-stage renal dialysis unit, with the exception of those activities authorized in the limited scope of practice found in subrule 6.3(4).

This rule is intended to implement Iowa Code chapters 136C and 152.
[ARC 9329B, IAB 1/12/11, effective 2/16/11; ARC 3801C, IAB 5/9/18, effective 6/13/18]

655—6.6(152) Specific nursing practice for licensed practical nurses.

6.6(1) The licensed practical nurse shall be permitted to provide supportive and restorative care in the home setting under the supervision of a registered nurse, as defined in subrule 6.2(5), or a physician. When the licensed practical nurse provides care under the supervision of the registered nurse, the initial assessment and ongoing application of the nursing process shall be provided by the registered nurse.

6.6(2) The licensed practical nurse shall be permitted to provide supportive and restorative care to a specific student in the school setting in accordance with the student's health plan when under the supervision of and as delegated by the registered nurse employed by the school district.

6.6(3) The licensed practical nurse shall be permitted to provide supportive and restorative care in a Head Start program under the supervision of a registered nurse, as defined in subrule 6.2(5), or a physician if the licensed practical nurse were in this position prior to July 1, 1985.

6.6(4) The licensed practical nurse shall be permitted to provide supportive and restorative care in a camp setting under the supervision of a registered nurse, as defined in subrule 6.2(5), or a physician. When the licensed practical nurse provides care under the supervision of the registered nurse, the initial assessment and ongoing application of the nursing process are performed by the registered nurse. The licensed practical nurse is responsible for requesting registered nurse consultation as needed.

6.6(5) The licensed practical nurse shall be permitted to provide supportive and restorative care in a county jail facility or municipal holding facility operating under the authority provided by Iowa Code chapter 356. The supportive and restorative care provided by the licensed practical nurse in such facilities shall be performed under the supervision of a registered nurse, as defined in subrule 6.2(5). The registered nurse shall perform the initial assessment and ongoing application of the nursing process. The registered nurse shall be available 24 hours per day by teleconferencing equipment, and the time necessary to be readily available on site to the licensed practical nurse shall be no greater than ten minutes. This exception to the proximate area requirement is limited to a county jail facility or municipal holding facility operating under the authority of Iowa Code chapter 356 and shall not apply in any other correctional facility.

6.6(6) The licensed practical nurse shall be permitted to conduct height, weight and hemoglobin screening and record responses to health questions asked in a standardized questionnaire under the supervision of a registered nurse in a Women, Infants and Children (WIC) clinic. A registered nurse employed by or under contract to the WIC agency will assess the competency of the licensed practical nurse to perform these functions and will be available for consultation. The licensed practical nurse is responsible for performing under the scope of practice for licensed practical nurses and requesting registered nurse consultation as needed. This exception to the proximate area requirement is limited to WIC clinics and to the services permitted in this subrule.

This rule is intended to implement Iowa Code sections 17A.3 and 152.1.

655—6.7(152) Specific nursing practice for registered nurses. A registered nurse, while circulating in the operating room, shall provide supervision only to persons in the same operating room.

This rule is intended to implement Iowa Code section 152.1.

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◊ Two or more ARCs

- ¹ Effective date of 5/6/81 delayed 70 days by the Administrative Rules Review Committee [Published IAB 4/29/81].
 Effective date of Chapter 6 delayed by the Administrative Rules Review Committee 45 days after convening of the next General Assembly pursuant to §17A.8(9) [Published IAB 8/5/81].
- ² Effective date of 4/21/82 delayed 70 days by the Administrative Rules Review Committee [Published IAB 4/28/82]. Delay lifted by committee on June 9, 1982.
- ³ Amendments to 6.3(5), paragraphs “g” and “h,” and 6.6 effective 7/1/85, IAB 8/15/84.
- ⁴ Effective date delayed until adjournment of the 1993 General Assembly by the Administrative Rules Review Committee at its meeting held February 8, 1993; subrule 6.4(2) nullified by 1993 Iowa Acts, HJR 17, effective April 23, 1993.

CHAPTER 7
ADVANCED REGISTERED NURSE PRACTITIONERS
[Prior to 8/26/87, Nursing Board[590] Ch 7]

655—7.1(17A,124,147,152) Definitions.

“*Advanced registered nurse practitioner*” or “*ARNP*” means a person who is currently licensed as a registered nurse under Iowa Code chapter 152 or chapter 152E who is licensed by the board as an advanced registered nurse practitioner.

“*Board*” as used in this chapter means the Iowa board of nursing.

“*Collaboration*” is the process whereby an ARNP and physician jointly manage the care of a client.

“*Controlled substance*” means a drug in Schedules II through V of subchapter II of Iowa Code chapter 124.

“*Dispense*” means to provide a prescription drug to a patient for self-use outside of the ARNP’s practice location. “Dispense” does not include administration.

“*National professional certification organization*” means the American Academy of Nurse Practitioners, the American Association of Critical Care Nurses, the American Midwifery Certification Board, the American Nurses Credentialing Center, the National Board of Certification and Recertification for Nurse Anesthetists, the National Certification Corporation, and the Pediatric Nursing Certification Board.

“*Opioid*” means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain.

“*Prescription monitoring program database*” or “*PMP database*” means a centralized database of reportable controlled substance prescriptions dispensed to patients and includes data access logs, security tracking information, and records of each individual who requests prescription monitoring program (PMP) information as operated by the board of pharmacy.

[ARC 4308C, IAB 2/13/19, effective 3/20/19]

655—7.2(152) Requirements for licensure as an ARNP.

7.2(1) Qualifications. An applicant for an ARNP license shall meet the following qualifications:

a. Hold an active unrestricted license as a registered nurse in accordance with 655—Chapter 3.
b. Graduation from an accredited graduate or postgraduate advanced practice educational program in one of the following roles, except as provided by subrule 7.2(2):

- (1) Certified nurse-midwife.
- (2) Certified registered nurse anesthetist.
- (3) Certified nurse practitioner.
- (4) Clinical nurse specialist.

c. Current certification issued by a national professional certification organization as a certified nurse-midwife or certified registered nurse anesthetist, or as a certified nurse practitioner or clinical nurse specialist in at least one of the following population foci:

- (1) Women’s health/gender-related.
- (2) Family (individual across the lifespan).
- (3) Psychiatric mental health.
- (4) Adult/gerontology.
- (5) Pediatrics.
- (6) Neonatal.

7.2(2) Exception. An applicant who has completed a formal advanced practice educational program but has not graduated from an accredited graduate or postgraduate advanced practice educational program may be licensed as an ARNP provided that the applicant possesses a current certification from a national professional certification organization as described in paragraph 7.2(1)“c.” This exception is intended to allow for the grandfathering of ARNPs who completed educational programs before the board required graduation from an accredited graduate or postgraduate advanced practice educational program.

[ARC 4308C, IAB 2/13/19, effective 3/20/19]

655—7.3(17A,147,152) Application process.

7.3(1) An applicant who wishes to be licensed as an ARNP shall submit the following to the board:

- a.* An ARNP application for each population focus.
- b.* A dated copy of the applicant's current advanced level certification issued by the appropriate national professional certification organization.
- c.* If the applicant is not licensed as a registered nurse in Iowa, verification of an active registered nurse license in another state recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.
- d.* A nonrefundable license fee of \$81.

7.3(2) The applicant shall request that official transcripts be sent directly to the board from the educational program verifying the coursework, date of completion of the program, and the degree conferred.

7.3(3) The executive director of the board or the executive director's designee shall have the authority to determine if all requirements have been met for licensure of the applicant as an ARNP. If all requirements have been met:

- a.* The applicant shall be issued a license and a certificate to practice as an ARNP which clearly denotes the applicant's name, title, and population focus, and the expiration date of the license.
- b.* The expiration date of the ARNP license shall be the same as the expiration date of the applicant's license to practice as a registered nurse.

7.3(4) Licensure completion. An applicant shall complete the ARNP licensure process within 12 months from the start of the application. The board reserves the right to destroy incomplete application materials after 12 months.

7.3(5) Renewal of licensure. An ARNP license may be renewed beginning 60 days prior to the license expiration date and ending 30 days after the expiration date. To renew, a licensee shall submit the information required by subrule 7.3(1). The expiration date assigned to a renewed ARNP license shall be the same as the expiration date of the licensee's license to practice as a registered nurse.

7.3(6) Inactive status. Failure to renew an ARNP license within 30 days after its expiration shall result in an inactive ARNP license.

- a.* Continuing to work as an ARNP with an inactive ARNP license may result in disciplinary action.
- b.* To reactivate the license, the licensee must reactivate the underlying license to practice as a registered nurse, if required, and shall complete the license renewal process for the ARNP license.

7.3(7) License denial. Rule 655—3.9(17A,272C) shall govern the denial of an application for an ARNP license.

[ARC 4308C, IAB 2/13/19, effective 3/20/19]

655—7.4(17A,147,152) Advanced nursing practice.

7.4(1) An ARNP shall practice within the ARNP's respective population foci. An ARNP shall practice in accordance with the applicable standard of care as described in guidelines published by national professional associations or other reputable sources.

7.4(2) An ARNP must maintain current certification with a national professional certification organization at all times while the ARNP license is active.

7.4(3) An ARNP licensed by the board may prescribe, administer, or dispense prescription drugs or devices, including controlled substances, within the ARNP's role and population foci and consistent with applicable state and federal laws.

7.4(4) An ARNP shall have the authority to practice to the full extent of the ARNP's license, education, and experience in the ARNP's respective population foci. An ARNP may:

- a.* Assess health status;
- b.* Obtain a relevant health and medical history;
- c.* Perform physical examinations;
- d.* Order preventive and diagnostic procedures;
- e.* Formulate a differential diagnosis;

- f.* Develop a treatment plan;
- g.* Develop a patient education plan;
- h.* Receive third-party reimbursement;
- i.* Maintain hospital privileges; and
- j.* Promote health maintenance.

7.4(5) Supervision of fluoroscopy. An ARNP shall be permitted to provide direct supervision in the use of fluoroscopic X-ray equipment, as defined in rule 641—38.2(136C).

- a.* The ARNP shall provide direct supervision of fluoroscopy pursuant to the following provisions:
 - (1) Completion of an educational course including content in radiation physics, radiobiology, radiological safety and radiation management applicable to the use of fluoroscopy, and maintenance of documentation verifying successful completion.
 - (2) Collaboration, as needed, as defined in rule 655—7.1(17A,124,147,152).
 - (3) Compliance with facility policies and procedures.
- b.* The ARNP shall complete an annual radiological safety course whose content includes, but is not limited to, the time, dose, distance, shielding and effects of radiation.
- c.* The ARNP shall maintain documentation of the initial educational course and all annual radiological safety updates.
- d.* The initial and annual education requirements are subject to audit by the board pursuant to 655—subrule 5.2(10).

7.4(6) Only a person currently licensed as an advanced registered nurse practitioner may use that title and the letters “ARNP” after the person’s name. A person currently licensed as an ARNP shall utilize the title “advanced registered nurse practitioner” or the letters “ARNP” after the person’s name. Utilization of the title which denotes the ARNP’s certification or population foci is at the discretion of the ARNP.

[ARC 4308C, IAB 2/13/19, effective 3/20/19]

655—7.5(17A,147,152) Standards of practice for treating patients. An ARNP shall follow the standards of practice for the ARNP’s respective population foci. Prior to treating a patient, an ARNP shall:

- 7.5(1)** Establish a patient-provider relationship.
- 7.5(2)** Perform and document the following, or have access to the patient’s health records where all of the following have been documented by other providers in the care team:
 - a.* Chief complaint;
 - b.* Pertinent health history;
 - c.* A focused assessment;
 - d.* Diagnosis; and
 - e.* Plan of treatment.

[ARC 4308C, IAB 2/13/19, effective 3/20/19]

655—7.6(17A,124,147,152,272C) Standards of practice for controlled substances. In addition to following the standards of practice for treating a patient described in rule 655—7.5(17A,147,152), an ARNP who prescribes or administers a controlled substance shall practice in accordance with the following:

- 7.6(1)** The health history shall include a personal and family substance abuse risk assessment, or the documented rationale for not performing the assessment.
- 7.6(2)** The health record must include documentation of the presence of one or more recognized indications for the use of a controlled substance.
- 7.6(3)** An ARNP is encouraged to utilize a treatment agreement if continuously prescribing one or more controlled substances.
- 7.6(4)** Throughout the course of the patient’s treatment, the ARNP shall provide ongoing education that includes, but is not limited to, the risks of using a controlled substance, and information regarding addiction, physical dependence, substance abuse, and tolerance, or document the rationale for not providing the education.

7.6(5) An ARNP shall maintain an active Drug Enforcement Administration (DEA) registration and an active controlled substances Act (CSA) registration to dispense, prescribe, or administer controlled substances, when required by the DEA and the board of pharmacy.

7.6(6) An ARNP shall not prescribe a controlled substance to the ARNP's self or to a family member unless the prescribing occurs in a clinical setting when an emergency situation arises and when there is no other qualified practitioner available to the patient.

7.6(7) The board may discipline an ARNP for prescribing opioids in dosage amounts that exceed what would be prescribed by a reasonably prudent ARNP in a similar practice.

7.6(8) An ARNP who has prescribed opioids to a patient during the renewal cycle is required to complete a minimum of two contact hours of continuing education regarding the U.S. Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain, including recommendations on limitations on dosages and the length of prescriptions, risk factors for abuse, and nonopioid and nonpharmacologic therapy options, as a condition of license renewal every three years. These hours may count towards the 36 contact hours required for license renewal. The ARNP shall maintain documentation of these hours, which may be subject to audit.

[ARC 4308C, IAB 2/13/19, effective 3/20/19]

655—7.7(124) Use of the prescription monitoring program.

7.7(1) Prior to the prescribing or dispensing of an opioid by an ARNP, the ARNP or the ARNP's authorized delegate shall query the PMP database and the ARNP shall review the patient's information contained in the PMP database.

7.7(2) This rule does not apply to an ARNP when treating a patient who is receiving inpatient hospice care or long-term residential facility care.

7.7(3) This rule does not apply to an ARNP who issues a medication order for an opioid to be administered to a patient at a hospital or clinic, because the ARNP is neither prescribing nor dispensing in this scenario.

7.7(4) An ARNP is responsible for understanding the board of pharmacy's rules governing use of the prescription monitoring program in 657—Chapter 37.

[ARC 4308C, IAB 2/13/19, effective 3/20/19]

655—7.8(152) Prescribing epinephrine auto-injectors in the name of a facility.

7.8(1) An ARNP may issue a prescription for one or more epinephrine auto-injectors in the name of a facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school.

7.8(2) An ARNP who prescribes epinephrine auto-injectors in the name of an authorized facility as defined in Iowa Code section 135.185(1), a school district, or an accredited nonpublic school, to be maintained for use pursuant to Iowa Code sections 135.185, 260.16 and 260.16A, provided the ARNP has acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, or assistance in the administration of an epinephrine auto-injector.

[ARC 4308C, IAB 2/13/19, effective 3/20/19]

These rules are intended to implement Iowa Code sections 17A.3, 124.551A, 124.552, 147.2, 147.10, 147.11, 147.72, 147.74, 147.76, 147.80, 147.107, 152.1, 152.6, 152.7, and 272C.2C.

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[Filed ARC 4308C (Notice ARC 4132C, IAB 11/21/18), IAB 2/13/19, effective 3/20/19]

CHAPTER 8
PETITIONS FOR RULE MAKING

The board of nursing hereby adopts the Uniform Rules on Agency Procedure relating to petitions for rule making which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

655—8.1(17A) Petition for rule making. In lieu of the words “(designate office)”, insert “board of nursing”.

In lieu of the words “(AGENCY NAME)”, insert “BOARD OF NURSING”.

655—8.3(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “the Executive Director, Board of Nursing, RiverPoint Business Park, 400 S.W. Eighth Street, Suite B, Des Moines, Iowa 50309-4685”.

[Filed 2/17/88, Notice 8/26/87—published 3/9/88, effective 4/13/88]

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

CHAPTER 9
DECLARATORY ORDERS

The board of nursing hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders which are printed in the first volume of the Iowa Administrative Code.

655—9.1(17A) Petition for declaratory order. In lieu of the words “(designate agency)”, insert “board of nursing”.

In lieu of the words “(designate office)”, insert “Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. Eighth Street, Suite B, Des Moines, Iowa 50309-4685”.

In lieu of the words “(AGENCY NAME)”, insert “BOARD OF NURSING”.

Delete the following: “(An agency may wish to describe here a simplified alternative petition form that would be more appropriate for some members of its clientele in light of their particular circumstances.)”.

655—9.2(17A) Notice of petition. In lieu of the underline insert “15” and delete the words “(15 or less)”.

In lieu of the words “(designate agency)”, insert “board of nursing”.

655—9.3(17A) Intervention.

9.3(1) In lieu of the underline, insert “15”.

9.3(2) In lieu of the words “(designate agency)”, insert “board of nursing”.

9.3(3) In lieu of the words “(designate office)”, insert “the board of nursing”.

In lieu of the words “(designate agency)”, insert “board of nursing”.

In lieu of the words “(AGENCY NAME)”, insert “BOARD OF NURSING”.

Delete the words “(An agency may wish to describe here a simplified alternative petition for intervention form that would be more appropriate for some members of its clientele in light of their particular circumstances.)”.

655—9.4(17A) Briefs. In lieu of the words “(designate agency)”, insert “board of nursing”.

655—9.5(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. Eighth Street, Suite B, Des Moines, Iowa 50309-4685”.

655—9.6(17A) Service and filing of petitions and other papers.

9.6(2) In lieu of the words “(specify office and address)”, insert “Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. Eighth Street, Suite B, Des Moines, Iowa 50309-4685”.

In lieu of the words “(agency name)”, insert “board of nursing”.

9.6(3) In lieu of the words “(uniform rule on contested cases X.12(17A))”, insert “655 IAC 20.17(17A)”.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—9.7(17A) Consideration. In lieu of the words “(designate agency)”, insert “board of nursing”.

655—9.8(17A) Action on petition.

9.8(1) In lieu of the words “(designate agency head)”, insert “board of nursing”.

9.8(2) In lieu of the words “as defined in (contested case uniform rule X.2(17A))”, insert “the date of mailing of a decision or order, or date of delivery if service is by other means, unless another date is specified”.

655—9.9(17A) Refusal to issue order.

9.9(1) In lieu of the words “(designate agency)”, insert “board of nursing”.

2. In lieu of the words “(designate agency)”, insert “board of nursing”.
3. In lieu of the words “(designate agency)”, insert “board of nursing”.
10. In lieu of the words “(designate agency)”, insert “board of nursing”.

Delete the words “(Where the agency’s experience enables it to define in advance other specific reasons for refusing to issue a declaratory ruling, it should include them here.)”.

655—9.12(17A) Effect of a declaratory order. In lieu of the words “(designate agency)”, insert “board of nursing”.

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[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

[Filed ARC 2339C (Notice ARC 2109C, IAB 8/19/15), IAB 1/6/16, effective 2/10/16]

CHAPTER 10
AGENCY PROCEDURE FOR RULE MAKING

The board of nursing hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to procedures for rule making which are printed in the first volume of the Iowa Administrative Code.

655—10.3(17A) Public rule-making docket.

10.3(2) Delete the words “(commission, council, director)”.

655—10.4(17A) Notice of proposed rule making.

10.4(3) In lieu of the words “(specify time period)”, insert “one year”.

655—10.5(17A) Public participation.

10.5(1) In lieu of the words “(identify office and address)”, insert “Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. Eighth Street, Suite B, Des Moines, Iowa 50309-4685”.

10.5(5) In lieu of the words “(designate office and telephone number)”, insert “the board of nursing at (515) 281-3255”.

655—10.6(17A) Regulatory analysis.

10.6(2) In lieu of the words “(designate office)”, insert “the board of nursing”.

655—10.10(17A) Exemptions from public rule-making procedures.

10.10(2) In lieu of the words “(List here narrowly drawn classes of rules where such an exemption is justified and a brief statement of the reasons for exempting each of them.)”, insert the following:

“*a.* The rule confers a benefit or removes a restriction on the public or some segment thereof.

“*b.* The effective date is necessary because of imminent peril to the public health, safety or welfare.”

655—10.11(17A) Concise statement of reasons.

10.11(1) In lieu of the words “(specify the office and address)”, insert “Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. Eighth Street, Suite B, Des Moines, Iowa 50309-4685”.

655—10.12(17A) Contents, style, and form of rule.

10.12(3) Delete the word “actual”.

655—10.13(17A) Agency rule-making record.

10.13(2) Contents.

c. In lieu of the words “(agency head)”, insert “board of nursing”.

10.13(4) Delete the words “(Alternatively, the agency can maintain the file indefinitely.)” and the words “(*Note: Alternatively to X.13(2) “*j*” and the amendment to X.13(4), an agency could keep a separate file of significant written criticisms to rules and maintain those for five years.)”.

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CHAPTER 11
EXAMINATION OF PUBLIC RECORDS

655—11.1(17A,22,147,152,272C) Definitions.

“*Access to records*” means the general right of the public to examine and copy records. In subrule 11.2(9), it also means the right of the subject of a confidential record to authorize its release, in writing, to a named third party.

“*Confidential record*” means a record which is not available to members of the public except as specified in Iowa Code section 22.7 or other law forbidding disclosure. Nothing in this definition shall be construed to deny access to the public portions of a record which contains a mixture of public and confidential information, or to broaden the definition of confidential information to include an entire document.

“*Custodian of records*” means the executive director of the board or that official’s designee.

“*Disclosure*” means the availability or release of a record.

“*Individual*” means a living person. It does not include persons such as sole proprietorships, partnerships, corporations, or educational institutions. A business firm which is identified by the name of one or more persons is not an individual within the meaning of this part.

“*Open records*” are those records which are not authorized or required to be kept confidential under Iowa Code section 22.7 or any other provision of the law.

“*Personally identifiable information*” means information about or pertaining to an individual in a record which identifies the person by personal identifier such as the name of the individual, number, symbol or other unique retriever assigned to the individual and which is contained in a system of records as defined in this subrule.

“*Record,*” when used in these rules means “public record,” includes all records, documents, tapes or other information stored or preserved in any medium of or belonging to the board.

“*Release of information*” means granting access to examine records and providing copies as requested.

“*Subject of a record*” means an individual under whose name or other personal identifier a record is kept in a system of records.

“*System of records*” means any group of records under the control of the board from which a record is retrieved by personal identifier and all records or group of records that are not retrievable by personal identifier. Papers maintained by individual employees of the board which are prepared, maintained, or discarded at the discretion of the employee are not part of the system of records; provided, that the personal papers are not used by the employee or the board to determine any rights, benefits, or privileges of the individuals.

655—11.2(17A,22,147,152,272C) Public information and inspection of records.

11.2(1) *Public information.* Any interested person may examine public records of the board by making a written request. This request may be mailed or presented in person to the executive director or the designee at the office of the board. Records shall only be examined at the board office during the board’s regular business hours, Monday through Friday from 8 a.m. to 4:30 p.m., excluding legal holidays. Unless otherwise provided by law, all records other than confidential records, maintained by the board shall be made available for public inspection.

11.2(2) *Inspection of records.* Procedures governing requests for the inspection of records are set out in subrule 11.2(1).

11.2(3) *Board records routinely available for public inspection.* The board collects and maintains the following records that are routinely available for public inspection:

- a. Board calendars, agenda, newsletter, news releases and other information intended for the public.
- b. Board decisions, orders, opinions and other statements of law or policy issued by the board in the performance of its function.
- c. The records of rule-making proceedings.

- d. Annual reports of the board.
- e. Reports and materials filed with the board by nursing education programs and continuing education providers.
- f. Board minutes except those resulting from meetings in closed sessions in accordance with Iowa Code section 21.5.
- g. Rulings on requests for waivers of board rules.
- h. Information about licensees (rosters and mailing lists).
- i. All of the records that are not specifically exempted from disclosure from subrule 11.2(4).

The board files of public records listed above may contain confidential records. Any request to review confidential records must be made in accordance with subrule 11.2(4). In addition, the board records listed in “a,” “b,” “d,” “f,” “g,” “h,” and “i” of this subrule may contain personally identifiable information.

Various legal and technical publications relating to nursing are also available for inspection by the public in the board office.

11.2(4) *Records not routinely available for public inspection.* The following records are not routinely available for public inspection. These records are withheld as specified in Iowa Code section 22.7.

a. Materials that are specifically exempted from disclosure by statute in which the board may in its discretion withhold from public inspection. Any person may request permission to inspect particular records withheld from inspection under this subrule. At the time of the request, the board will notify all interested parties. If the request is to review materials under this subrule, the board will withhold the materials from public inspection for 14 days to allow the party who submitted the materials an opportunity to seek injunctive relief.

b. Records which the board is authorized to withhold from public inspection under Iowa law include, but are not limited to, the following:

(1) Hospital records, medical records, and professional counselor records of the conditions, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient.

(2) Peace officers’ investigative reports as specified in Iowa Code section 22.7, except where disclosure is authorized elsewhere in the Code. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual.

(3) Personnel records of board staff and board members which may be confidential pursuant to Iowa Code section 22.7(11). The board maintains files containing information about employees, their families and dependents, and applicants for positions with the board. The files may include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship.

(4) Information in a report to the state department of public health, to a local board of health, or to a local health department, which identifies a person infected with a reportable disease.

(5) Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of the government, to the extent that the government body receiving those communications from such persons outside of the government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination. Notwithstanding this provision:

1. The communication is a public record to the extent that the person outside of government making that communication consents to its treatment as a public record.

2. Information contained in the communication is public record to the extent that it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

3. Information contained in the communication is public record to the extent that it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent that its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety and danger of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate that the disclosure of that information would jeopardize an investigation or would pose a clear and present danger.

(6) Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy under Iowa Code section 17A.3(1)“d.”

(7) Materials exempt from public inspection under any other provision of state law.

11.2(5) *Materials specifically exempt from disclosure by statute and which the board is prohibited from making available for public inspection.* The board is required to withhold the following materials from public inspection:

a. Records which include all complaint files, investigation files, other investigation reports and all other investigative information in the possession of the board or peer review committee acting under the authorization of the board or its employees or agents which relate to licensee application or discipline are privileged and confidential and are not subject to discovery, subpoena or other means of legal compulsion for their release to persons other than the licensee or applicant, the board, its employees and agents involved in licensee discipline. For further information and exceptions, see Iowa Code section 272C.6(4).

b. Minutes and tape recordings of portions of board meetings held in closed sessions in accordance with Iowa Code section 21.5(4).

c. Criminal history or prior misconduct of the examination applicant.

d. Information relating to the contents of the licensure examination.

e. Information relating to the examination results other than final score except for information about the results of the examination given to the person who took the examination.

11.2(6) *Requests that materials or information submitted to the board be withheld from public inspection.* Any person submitting information or materials to the board may submit a request that part or all of the information or materials not be made available for public inspection pursuant to the following requirements:

a. *Procedure.* The request shall be attached to the materials to which it applies, each page of which shall be clearly marked confidential.

b. *Content of the request.* Each request shall contain a statement of the legal basis for withholding the materials from inspection and the facts to support the legal basis relied upon. The facts underlying the legal basis shall be supported by affidavit executed by a corporate officer (or by an individual, if not a business entity) with personal knowledge of the specific facts. If the request is that the materials be withheld from inspection for a limited period of time, the period shall be specified.

c. *Compliance.* If a request complies with the requirements of paragraphs “a” and “b” of this subrule, the materials will be temporarily withheld from public inspection. The board will examine the documents to determine whether the documents should be afforded confidentiality. If the request is granted, the ruling will be placed in a public file in lieu of the materials withheld from public inspection.

d. *Request denied.* If a request for confidentiality is denied, the documents will be held confidential for 14 days to allow the applicant an opportunity to seek injunctive relief. After the 14 days expire, the materials will be available for public inspection, unless the board is directed by a court to keep the material confidential.

11.2(7) *Procedures for the inspection of board records which are routinely available for public inspection.* The records requested must be reasonably described by the person requesting them to permit their location by staff personnel. Members of the public will not be given access to the area in which records are kept and will not be permitted to search the files.

Advance requests to have records available on a certain date may be made by telephone or by correspondence.

a. Search fees. An hourly fee will be charged for searching for requested records. The fee will be based upon the pay scale of the employee who makes the search. No search fee will be charged if the records are not located, the records are not made available for inspection, or the search does not exceed one-quarter hour in duration.

b. Written request. Written requests shall list the telephone number (if any) of the person making the request, and for each document requested shall set out all available information which would assist in identifying and locating the document. The request should also set out the maximum search fee the person making the request is prepared to pay. If the maximum search fee is reached before all the requested documents have been located and copied the requesting person will be notified. When the requesting person requests that the board mail copies of the material, postage and handling expenses should also be included. Fees shall be paid directly to the board prior to the release of the requested information.

c. Procedure for written request. Records will be produced for inspection at the earliest possible date following a request. Records should be inspected within seven days after notice is given that the records have been located and are available for inspection or as otherwise agreed upon. After seven days, the records will be returned to storage and additional charges may be imposed for having to produce them again.

d. Copies. Copies of public records shall be made by the board staff and the charge shall be \$.10 per page.

11.2(8) *Procedures for inspection of board records which are not routinely available for public inspections.* Any person desiring to inspect board records which are not routinely available for public inspection shall file a request for inspection meeting the requirements of this subrule.

a. Content of request. The records must be reasonably described by the person requesting them so as to permit their location by staff personnel. Requests shall be directed to the Executive Director of the board.

b. Procedure. Requests for inspection shall be acted upon as follows:

(1) If the board is prohibited from disclosing the records, the request for inspection will be denied with a statement setting forth the specific grounds for denial.

(2) If the board is prohibited from disclosing part of a document from inspection, that part will be deleted and the remainder will be made available for inspection.

(3) In the case of requests to inspect records not routinely available for public inspection under subrule 11.2(4)“a”(1) through (9), the board will notify all interested parties of the request to view the materials. The board will withhold the materials from public inspection for 14 days to allow the party who submitted the material an opportunity to seek injunctive relief. If the request is granted by the board, or is partially granted and partially denied, the person who submitted the records to the board will be afforded 14 days from the date of the written ruling in which to seek injunctive relief. If injunctive relief is not requested within this period, the records will be produced for inspection.

11.2(9) *Procedure by which the subject of a confidential record may have a copy released to a named third party.* Upon request which complies with the following procedures, the board will disclose a confidential record to its subject or to a named third party designated by the subject. Positive identification is required of all individuals making a request.

a. In person request. Subjects of a confidential record who request that information be given to a named third party will be asked for positive means of identification. If an individual cannot provide suitable identification, the request will be denied.

Subjects of a confidential record who request that information be given to a named third party will be asked to sign a release form before records are disclosed.

b. Written request. All requests by subject of a confidential board record for release of the information to a named third party sent by mail shall be signed by the requester and shall include the requester’s current address and telephone number (if any). If positive identification cannot be made on the basis of the information submitted along with the information contained in the record, the request will be denied.

Subjects of a confidential record who request by mail that information be given to a named third party will be asked to sign a release form before the records are disclosed.

c. Denial of access to the record. If positive identification cannot be made on the basis of the information submitted or if data in the record are so sensitive that authorized access could cause harm or embarrassment to the individual to whom the record pertains, the board may deny access to the record pending the production of additional evidence of identity.

11.2(10) Procedure by which the subject of a board record may have additions, dissents or objections entered into the record. An individual may request an addition, dissent or any objection be entered into a board record which contains personally identifiable data pertaining to that individual. The request shall be acted on within a reasonable time.

a. Content of the request. The request must be in writing and addressed to the Executive Director of the board. The request should contain the following information:

- (1) A reasonable description of the pertinent record.
- (2) Verification of identity.
- (3) The requested addition, dissent or objection.
- (4) The reason for the requested addition, dissent or objection to the record.

b. Denial of request. If the request is denied, the requester will be notified in writing of the refusal and will be advised that the requester may seek board review of the denial within 20 working days after issuance of the denial.

11.2(11) Advice and assistance. Individuals who have questions regarding the procedures contained in these rules may contact the Executive Director of the board.

11.2(12) Data processing system. The board does not currently have a data processing system which matches, collates or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

655—11.3(17A,22,147,152,272C) Personally identifiable information.

11.3(1) Collection of personally identifiable information. This board is authorized to collect information, some of which is personally identifiable. The nature and extent of the personally identifiable information collected by the board, the legal authority for the collection of that information and a description of the means of storage are found in this section.

11.3(2) Personally identifiable information. The board maintains the following systems of records which may contain personally identifiable information:

a. Rule making. Rule-making records may contain information about individuals making written or oral comments or proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not retrieved by individual identifier, and is not stored in an automated data processing system.

b. Board records. Agendas, minutes and materials presented to all board members in preparation for board meetings are available from the Executive Director, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4).

c. Publications. News releases, annual reports, project reports, board newsletters, etc. are available from the office of the Executive Director.

Board news releases, annual reports, project reports, and newsletters may contain personally identifiable information about board staff or members of the board or committees. This information is not retrieved by individual identifier and is not stored on an automated data processing system.

d. Disciplinary reports. This information is available from the chief health professions investigator in the board office. These reports contain personally identifiable information about nurses who have had action taken by the board against their licenses. This information is retrieved by individual identifier and some of the information is stored on an automated data processing system. Some is stored as hard copy or microfilmed documents. This information is matched or compared with personally identifiable information in other record systems.

This information is dispersed pursuant to Iowa Code sections 272C.4 and 272C.6.

e. Declaratory rulings. Records may contain information about individuals making the requests for declaratory rulings or comments from other individuals concerning the rulings. This information is collected pursuant to Iowa Code section 17A.9. This information is retrieved by the individual requesting the ruling or topic and is not stored on an automated data processing system.

f. Licensing.

(1) Records pertaining to licensure by examination may include:

1. Transcripts from nursing education programs. This information is collected pursuant to Iowa Code section 152.7.

2. Application for licensure by examination. This information is collected pursuant to Iowa Code sections 147.8 and 147.29.

3. Application for licensure by endorsement. This information is collected pursuant to Iowa Code section 147.44.

4. Birth certificates (part of previous requirement for licensure; no longer required). This information is collected pursuant to Iowa Code section 147.3.

5. References.

6. Past felony record. This information is collected pursuant to Iowa Code section 147.3.

7. Examination scores. This information is collected pursuant to Iowa Code section 152.7.

8. High school graduation or equivalency. This information is collected pursuant to Iowa Code section 152.7.

9. Certification for advanced registered nurse practice. This information is collected pursuant to Iowa Code section 152.1(2)“d.”

(2) Records pertaining to licensure by endorsement may include:

1. Transcripts from nursing education programs. This information is collected pursuant to Iowa Code section 152.7.

2. Application for licensure by endorsement. This information is collected pursuant to Iowa Code section 152.8.

3. Birth certificates (part of previous requirement; no longer required). This information is collected pursuant to Iowa Code section 147.3.

4. Past felony record. This information is collected pursuant to Iowa Code section 147.3.

5. Examination scores. This information is collected pursuant to Iowa Code section 152.7.

6. Disciplinary action taken by other boards of nursing. This information is collected pursuant to Iowa Code section 147.52.

7. High school graduation or equivalency. This information is collected pursuant to Iowa Code section 152.7.

8. Verification of licensure by another board of nursing. This information is collected pursuant to Iowa Code section 152.8.

(3) Licensure by renewal, reinstatement and reactivation.

1. Applications. This information is collected pursuant to Iowa Code sections 147.10 and 147.11.

2. Past felony record. This information is collected pursuant to Iowa Code section 147.3.

3. Continuing education records. This information is collected pursuant to Iowa Code section 272C.2.

11.3(3) Retrieval of personally identifiable information. Personally identifiable information is retrieved by individual identifier and some of this information is stored in an automated data processing system. Some is stored as hard copy or microfilmed documents. All record systems maintained by the board and which contain personally identifiable information permit the comparison of personally identifiable information in one record system with personally identifiable information in another system.

11.3(4) Board procedures for requesting information. After July 1, 1988, the board shall notify persons supplying information requested by the agency of the use that will be made of the information, which persons outside the department might routinely be provided this information, which parts of the information requested are required and which are optional, and the consequences of failing to provide the

information requested. This notification shall either appear on the form used to collect the information, or on a separate sheet accompanying the form.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—11.4(17A,22,147,152,272C) Notice to suppliers of information. When the board requests a person to supply personal information, the board shall notify the person of the use that will be made of the information, which persons outside the board might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the requested information. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

11.4(1) License and examination applicants. License and examination applicants are requested to supply a wide range of information depending on the qualifications required for licensure or for sitting for an examination, as provided by statutes, board rules and application forms. Failure to provide the requested information may result in denial of the application. Some requested information, such as a college transcript, social security number, examination score, or criminal history, is confidential under state or federal law, but most of the information contained in license or examination applications is treated as public information freely available for public examination.

11.4(2) Home address. License applicants and licensees are requested to provide their home addresses. These addresses are treated as open records. If a license applicant or licensee has a basis to shield a home address from public disclosure, such as a domestic abuse protective order, written notification should be provided to the board office. Absent a court order, the board does not have a basis under Iowa Code chapter 22 to shield the home address from public disclosure, but the board shall refrain from placing the home address on its Web site and may notify the applicant or licensee before the home address is released to the public to provide an opportunity for the applicant or licensee to seek injunction.

11.4(3) License renewal. Licensees are requested to supply a wide range of information in connection with license renewal, including continuing education information, criminal history and disciplinary actions, as provided by statutes, board rules and application forms, both on paper and electronically. Failure to provide requested information may result in denial of the application. Most information contained on renewal applications is treated as public information freely available for public examination, but some information, such as criminal history, may be confidential under state or federal law.

11.4(4) Investigations. Licensees are required to respond to board requests for information involving the investigation of disciplinary complaints against licensees. Failure to timely respond may result in disciplinary action against the licensee to whom the request is made. Information provided in response to such a request is confidential pursuant to Iowa Code section 272C.6(4), but may become public if introduced at a hearing that is open to the public, contained in a final order, or filed with a court of judicial review.

655—11.5(17A,22,147,152,272C) Rosters. Rosters of licensees shall be made available to the public in accordance with Iowa Code chapter 22 and sections 147.8 and 147.43.

11.5(1) Rosters may be accessed via the board's Web site under IBON Online Services and Purchase a Roster.

11.5(2) A fee of \$40 per data set shall be charged for a roster.

11.5(3) The executive director may authorize the release of a roster of Iowa licensees without cost in the case of any emergency whereby the interest of the public warrants immediate access to health care personnel.

11.5(4) State agencies will be provided an electronic file of the roster at no cost.

[ARC 1174C, IAB 11/13/13, effective 12/18/13]

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

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CHAPTER 12
REGISTERED NURSE CERTIFYING ORGANIZATIONS/
UTILIZATION AND COST CONTROL REVIEW

655—12.1(509,514,514B,514F) Purpose. The following chapter is promulgated for the purpose of administering the provisions of Iowa Code sections 509.3, 514.7, 514B.1 and 514F.1.

655—12.2(509,514,514B,514F) Definition. A “certified registered nurse” is a registered nurse with an active license in Iowa or who is currently licensed in another state and recognized for licensure in Iowa, pursuant to the nurse licensure compact contained in Iowa Code chapter 152E, and who possesses evidence of certification by a national certification organization or successor agency as recognized by the board in 655—12.3(509,514,514B).

655—12.3(509,514,514B) National certifying organizations. Eligibility requirements for certification are established by the individual national certifying organization. The national certifying organizations identified by the board pursuant to Iowa Code sections 509.3, 514.7, 514B.1, and 514F.1 are as follows:

- Addictions Nursing Certification Board
- American Academy of Nurse Practitioners
- American Association of Critical Care Nurses Certification Corporation
- American Association for Marriage and Family Therapy
- American Board of Medical Genetics
- American Board of Neuroscience Nursing
- American Board for Occupational Health Nurses, Inc.
- American Board of Post Anesthesia Nursing Certification, Inc.
- American Board of Urologic Allied Health Professionals, Inc.
- American College of Nurse-Midwives, ACNM Certification Council
- American Holistic Nurses’ Certification Corporation
- American Nurses’ Credentialing Center
- American Society of Plastic and Reconstructive Surgical Nurses, Inc.
- Association of Operating Room Nurses
- Association for Practitioners in Infection Control
- Association of Rehabilitation Nursing, Certification Board
- Board of Certification for Emergency Nursing
- Board of Nephrology Examiners, Nursing and Technology
- Certification Board of Perioperative Nursing
- Certifying Council for Gastroenterology Clinicians, Inc.
- Clinical Nutrition Certification Board
- Council on Certification of Nurse Anesthetists
- Council on Recertification of Nurse Anesthetists
- Dermatology Nurses Association
- Enterostomal Therapy Nursing Certification Board
- HIV/AIDS Nursing Certification Board
- International Association of Infant Massage Instructors
- International Board of Lactation Consultant Examiners
- International Nurses Society on Addictions
- Intravenous Nurses Society Certification Corporation
- Lamaze International
- National Board for Certification of School Nurses
- National Certification Board of Diabetes Educators
- National Certification Board of Pediatric Nurse Practitioners and Nurses
- National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties
- National Certifying Board for Ophthalmic Registered Nurses

National Consortium of Chemical Dependency Nurses
Oncology Nursing Certification Corporation
Orthopaedic Nurses Certification Board
Plastic Surgical Nursing Certification Board
Radiological Nursing Certification Board
Society of Gastroenterology Nurses and Associates
Society of Otorhinolaryngology and Head-Neck Nurses
Society of Urological Nurses and Associates
Society of Vascular Nursing
Wound, Ostomy and Continence Nurses Society

655—12.4(514F) Utilization and cost control review (U.C.C.R.) committee. The board shall establish a U.C.C.R. committee for the purpose of providing a mechanism for review of questions related to:

1. Appropriateness of levels of nursing care.
2. Documentation of the credentials of the nurse(s) offering the service(s).
3. Documentation of the care provided.
4. Documentation of the costs of nursing services provided by certified registered nurses as requested by users and payers of such services.

655—12.5(514F) Selection and composition of the U.C.C.R. committee.

12.5(1) The U.C.C.R. committee shall consist of five licensed registered nurses, three of whom shall be certified registered nurses. A quorum of the U.C.C.R. committee is three members. When a quorum is present, a position is carried by a majority of the committee members.

12.5(2) The chairperson of the board of nursing, upon receipt of a request for review, shall appoint committee members and designate a chairperson and a secretary.

12.5(3) Members of the U.C.C.R. committee shall:

- a. Have been actively practicing nursing in Iowa for a period of five years immediately prior to their appointment.
- b. Hold an active Iowa registered nurse license or hold a current license in another state and be recognized for licensure in Iowa pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.
- c. Be actively involved in nursing practice during the term of appointment.
- d. Not be exempt from mandatory disclosure requirements of Iowa Code section 272C.9.
- e. Not be civilly liable when functioning in their capacity of committee members in compliance with Iowa Code section 272C.8.
- f. Observe the requirements of confidentiality imposed by Iowa Code subsection 272C.6(4). For the purposes of this subsection, all information requested by or provided to the U.C.C.R. committee under this chapter shall be considered privileged and confidential complaint or investigative information. However, the final decision of the U.C.C.R. committee shall not be considered confidential.

655—12.6(514F) Scope of review.

12.6(1) Factors to determine appropriateness of nursing care deemed medically necessary shall include, but not be limited to, the following:

- a. Utilization of the nursing process in establishing a nursing diagnosis.
- b. Development of a nursing care plan based on documentation of client needs and standards of care for that particular clinical specialty.
- c. Adequate completion of recommended nursing care plan.
- d. Quality of care as measured by outcome.
- e. Proper referral to specialists/physicians when conditions indicate.

12.6(2) Cost review shall result in an opinion as to the fairness of charges for nursing care services based on criteria which shall include, but not be limited to, the following:

- a. The nurse's usual charge for the service.

- b. The customary charge for the service based on a review of peer group charges.
- c. Reasonable variance due to degree of difficulty factors which require extraordinary skill and judgment.

655—12.7(514F) Procedures for utilization and cost control review.

12.7(1) A request for review may be made to the board by a patient, a licensee or any third party payer of health care benefits.

12.7(2) The fee for a utilization and cost control review will be \$50 per individual patient review, made payable to the secretary of the U.C.C.R. committee at the time of the request. Such funds are to be used to pay expenses as deemed appropriate by the U.C.C.R. committee.

12.7(3) A request for review shall be submitted to the board by addressing the request to the Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. Eighth Street, Suite B, Des Moines, Iowa 50309-4685. All requests shall be made on the approved forms. Forms will be made available upon request from the office of the board of nursing. All references to identification and location of the licensee shall be deleted prior to submission to the U.C.C.R. committee.

12.7(4) The office of the board of nursing shall provide administrative services to the U.C.C.R. committee. The U.C.C.R. committee shall present its findings and recommendations in writing to the chairperson of the board within 90 days of the committee appointment. The executive director of the board of nursing shall notify the parties of the committee findings.

12.7(5) If the U.C.C.R. committee, by way of its review of the matter, determines that the matter constitutes possible violation of the Iowa practice of nursing Act (Iowa Code chapter 152), the chairperson of the committee shall immediately notify the board of nursing and submit a copy of the review findings. The board has authority to further investigate and pursue disciplinary action based on any information submitted pursuant to these rules.

12.7(6) Action of the U.C.C.R. committee does not constitute an action of the board.

These rules are intended to implement Iowa Code sections 509.3, 514.7, 514B.1, and 514F.1.

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CHAPTER 13
DISCIPLINARY HEARING COSTS

655—13.1(152,272C) Disciplinary hearings—fees and costs.

13.1(1) Definitions. As used in this chapter in relation to a formal disciplinary action filed by the board against a licensee:

“*Deposition*” means the testimony of a person pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

“*Expenses*” means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

“*Medical examination fees*” means actual costs incurred by the board in a physical, mental chemical abuse, or other impairment-related examination or evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

“*Transcript*” means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

“*Witness fees*” means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa, for purposes of providing testimony on the part of the state of Iowa. For the purposes of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72 as the case may be.

13.1(2) The board may charge a fee not to exceed \$75 for conducting a disciplinary hearing which results in disciplinary action taken against the licensee by the board. In addition to the fee, the board may recover from the licensee costs for the following procedures and personnel:

- a. Transcript.
- b. Witness fees and expenses.
- c. Depositions.
- d. Medical examination fees incurred relating to a person licensed under Iowa Code chapter 147.

13.1(3) Fees and costs assessed by the board pursuant to subrule 13.1(2) shall be calculated by the board’s executive director and shall be entered as part of the board’s final disciplinary order. The board’s final disciplinary order shall specify the time period in which the fees and costs shall be paid by the licensee.

13.1(4) Fees and costs collected by the board pursuant to subrule 13.1(2) shall be allocated to the expenditure category of the board in which the hearing costs were incurred. The fees and costs shall be considered repayment receipts as defined in Iowa Code section 8.2.

13.1(5) Failure of a licensee to pay the fees and costs assessed herein in the time specified in the board’s final disciplinary order shall constitute a violation of a lawful order of the board.

This rule is intended to implement Iowa Code subsection 272C.6(6).

[Filed 4/15/93, Notice 2/3/93—published 5/12/93, effective 6/16/93]

CHAPTER 14
FAIR INFORMATION PRACTICES

The board of nursing hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to fair information practices printed in the first volume of the Iowa Administrative Code.

655—14.1(17A,22) Definitions.

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “board of nursing”.

655—14.3(17A,22) Requests for access to records.

14.3(1) In lieu of the words “(insert agency head)”, insert “Executive Director”.

In lieu of the words “(insert agency name and address)”, insert “Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. Eighth Street, Suite B, Des Moines, Iowa 50309-4685”.

14.3(2) Office hours. In lieu of the words “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “Monday through Friday from 8 a.m. to 4:30 p.m., excluding legal holidays”.

14.3(7) Fees.

c. In lieu of the words “(specify time period)”, insert “one hour”.

Delete the words “(An agency wishing to deal with search fees authorized by law should do so here.)”.

655—14.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words “(designate office)”, insert “the board of nursing”.

655—14.7(17A,22) Consent to disclosure by the subject of a confidential record. Delete the words “(and, where applicable, the time period during which the record may be disclosed)” and “(Additional requirements may be necessary for special classes of records.)”.

655—14.8(17A,22) Notice to suppliers of information. Delete the words “(Each agency should revise its forms to provide this information.)”.

[Filed 4/29/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]

CHAPTER 15
WAIVER AND VARIANCE RULES

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.

655—15.2(147,ExecOrd8,78GA,ch1176) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by division boards in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

655—15.3(147,ExecOrd8,78GA,ch1176) Applicability of chapter. A division board may only grant a waiver from a rule if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. A division board may not waive requirements created or duties imposed by statute.

655—15.4(147,ExecOrd8,78GA,ch1176) Criteria for waiver or variance. In response to a petition completed pursuant to rule 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:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

655—15.5(147,ExecOrd8,78GA,ch1176) Filing of petition. A petition for a waiver must be submitted in writing to the board, as follows:

15.5(1) License application. If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

15.5(2) Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

15.5(3) Other. If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the board’s executive secretary.

655—15.6(147,ExecOrd8,78GA,ch1176) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person or entity for whom a waiver is requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in rule 15.4(147,ExecOrd8,78GA,ch1176). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver.
5. A history of any prior contacts between the board and the petitioner relating to the regulated activity or license affected by the proposed waiver, including a description of each affected license held

by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

6. Any information known to the requester regarding the board's treatment of similar cases.
7. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver.
8. The name, address, and telephone number of any person or entity who would be adversely affected by the grant of a waiver.
9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver.

655—15.7(147,ExecOrd8,78GA,ch1176) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's executive secretary, a committee of the board, or a quorum of the board.

655—15.8(147,ExecOrd8,78GA,ch1176) Notice. The board shall acknowledge a petition upon receipt. The board shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law, and provide a written statement to the board attesting that notice has been provided.

655—15.9(147,ExecOrd8,78GA,ch1176) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case, and shall otherwise apply to agency proceedings for a waiver only when the board so provides by rule or order or is required to do so by statute.

655—15.10(147,ExecOrd8,78GA,ch1176) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

15.10(1) Board discretion. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the board based on the unique, individual circumstances set out in the petition.

15.10(2) Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

15.10(3) Narrowly tailored exception. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

15.10(4) Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

15.10(5) Conditions. The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

15.10(6) Time period of waiver. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right

to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

15.10(7) *Time for ruling.* The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

15.10(8) *When deemed denied.* Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

15.10(9) *Service of order.* Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

655—15.11(147,ExecOrd8,78GA,ch1176) Public availability. All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or required to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

655—15.12(147,ExecOrd8,78GA,ch1176) Summary reports. Semiannually, each division board shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the board's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

655—15.13(147,ExecOrd8,78GA,ch1176) Cancellation of a waiver. A waiver issued by a division board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

655—15.14(147,ExecOrd8,78GA,ch1176) Violations. Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

655—15.15(147,ExecOrd8,78GA,ch1176) Defense. After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

655—15.16(147,ExecOrd8,78GA,ch1176) Judicial review. Judicial review of the board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code chapter 147, Executive Order Number 8, and 2000 Iowa Acts, chapter 1176.

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CHAPTER 16
NURSE LICENSURE COMPACT
Rescinded **ARC 3802C**, IAB 5/9/18, effective 6/13/18

CHAPTER 17
NONPAYMENT OF CHILD SUPPORT, STUDENT LOAN, OR STATE DEBT

DIVISION I
NONPAYMENT OF CHILD SUPPORT

655—17.1(252J) Definitions. The following definitions shall apply to rules 17.2(252J) and 17.3(252J) of this chapter.

“*Certificate*” means a document known as a certificate of noncompliance which is provided by the child support unit certifying that the named licensee is not in compliance with a support order or with a written agreement for payment of support entered into by the child support unit and the licensee.

“*Child support unit*” means the child support recovery unit of the Iowa department of human services.

“*Denial notice*” means a board notification denying an application for the issuance or renewal of a license as required by Iowa Code chapter 252J.

“*Revocation or suspension notice*” means a board notification suspending a license for an indefinite or specified period of time or a notification revoking a license as required by Iowa Code chapter 252J.

“*Withdrawal certificate*” means a document known as a withdrawal of a certificate of noncompliance provided by the child support unit certifying that the certificate is withdrawn and that the board may proceed with the issuance, reinstatement, or renewal of a license.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.2(252J) Denial of issuance or renewal of a license—nonpayment of child support. The board shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures set forth in Iowa Code chapter 252J. In addition to the procedures set forth in chapter 252J, this rule shall apply.

17.2(1) The notice required by Iowa Code section 252J.8 shall be served upon the licensee or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

17.2(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee or applicant.

17.2(3) The board’s executive director is authorized to prepare and serve the notice required by Iowa Code section 252J.8.

17.2(4) Licensees and applicants shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

17.2(5) All board fees for applications, license renewal, or license reinstatement must be paid by licensees or applicants, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 252J.

17.2(6) In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.2(7) The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective

date of the denial of the issuance or renewal of a license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal certificate. [ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.3(252J) Suspension or revocation of a license—nonpayment of child support. The board shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures set forth in Iowa Code chapter 252J. In addition to the procedures set forth in chapter 252J, this rule shall apply.

17.3(1) The notice required by Iowa Code section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

17.3(2) The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee.

17.3(3) The board's executive officer is authorized to prepare and serve the notice required by Iowa Code section 252J.8 and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event the license is on suspension, the executive officer shall notify the licensee of the board's intent to revoke the license.

17.3(4) Licensees shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

17.3(5) All board fees for license renewal or reinstatement must be paid by licensees, and all continuing education requirements must be satisfied before a license will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 252J.

17.3(6) In the event a licensee files a timely district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of revocation or suspension of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.3(7) The board shall notify the licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of the license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal certificate.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

DIVISION II
NONPAYMENT OF STUDENT LOAN

655—17.4(261) Definitions. The following definitions shall apply to rules 17.5(261) and 17.6(261) of this chapter.

“Certificate” means a document known as a certificate of noncompliance which is provided by the college student aid commission certifying that the named licensee is not in compliance with the terms of an agreement for payment of a student loan obligation.

“Commission” means the college student aid commission.

“Denial notice” means a board notification denying an application for the issuance or renewal of a license as required by Iowa Code chapter 261.

“Revocation or suspension notice” means a board notification suspending a license for an indefinite or specified period of time or a notification revoking a license as required by Iowa Code chapter 261.

“Withdrawal certificate” means a document known as a withdrawal of a certificate of noncompliance provided by the commission certifying that the certificate is withdrawn and that the board may proceed with the issuance, reinstatement, or renewal of a license.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.5(261) Denial of issuance or renewal of a license—nonpayment of student loan. The board shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261. In addition to the procedures set forth in chapter 261, this rule shall apply.

17.5(1) The notice required by Iowa Code section 261.126 shall be served upon the licensee or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

17.5(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the licensee or applicant.

17.5(3) The board’s executive director is authorized to prepare and serve the notice required by Iowa Code section 261.126.

17.5(4) Licensees and applicants shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

17.5(5) All board fees for applications, license renewal, or license reinstatement must be paid by licensees or applicants, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 261.

17.5(6) In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.5(7) The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board’s receipt of a withdrawal certificate.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.6(261) Suspension or revocation of a license—nonpayment of student loan. The board shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261. In addition to the procedures set forth in chapter 261, this rule shall apply.

17.6(1) The notice required by Iowa Code section 261.126 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

17.6(2) The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the licensee.

17.6(3) The board’s executive officer is authorized to prepare and serve the notice required by Iowa Code section 261.126 and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event the license is on suspension, the executive officer shall notify the licensee of the board’s intent to revoke the license.

17.6(4) Licensees shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

17.6(5) All board fees for license renewal or reinstatement must be paid by licensees, and all continuing education requirements must be satisfied before a license will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 261.

17.6(6) In the event a licensee files a timely district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of revocation or suspension of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.6(7) The board shall notify the licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of the license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal certificate.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

DIVISION III
NONPAYMENT OF STATE DEBT

655—17.7(272D) Definitions. The following definitions shall apply to rules 17.8(272D) and 17.9(272D) of this chapter.

“Centralized collection unit” means the centralized collection unit of the department of revenue.

“Certificate” means a document known as a certificate of noncompliance which is provided by the centralized collection unit of the department of revenue certifying that the named licensee has an outstanding liability placed with the unit and has not entered into an approved payment plan to pay the liability.

“Denial notice” means a board notification denying an application for the issuance or renewal of a license as required by Iowa Code chapter 272D.

“Revocation or suspension notice” means a board notification suspending a license for an indefinite or specified period of time or a notification revoking a license as required by Iowa Code chapter 272D.

“Withdrawal certificate” means a document known as a withdrawal of a certificate of noncompliance provided by the centralized collection unit certifying that the certificate is withdrawn and that the board may proceed with the issuance, reinstatement, or renewal of a license.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.8(272D) Denial of issuance or renewal of a license—nonpayment of state debt. The board shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures set forth in Iowa Code chapter 272D. In addition to the procedures set forth in chapter 272D, this rule shall apply.

17.8(1) The notice required by Iowa Code section 272D.8 shall be served upon the licensee or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

17.8(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the licensee or applicant.

17.8(3) The board's executive director is authorized to prepare and serve the notice required by Iowa Code section 272D.8.

17.8(4) Licensees and applicants shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

17.8(5) All board fees for applications, license renewal, or license reinstatement must be paid by licensees or applicants, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 272D.

17.8(6) In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to Iowa Code sections 272D.8 and 272D.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.8(7) The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal certificate. [ARC 7668B, IAB 4/8/09, effective 5/13/09]

655—17.9(272D) Suspension or revocation of a license—nonpayment of state debt. The board shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures set forth in Iowa Code chapter 272D. In addition to the procedures set forth in chapter 272D, this rule shall apply.

17.9(1) The notice required by Iowa Code section 272D.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

17.9(2) The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the licensee.

17.9(3) The board's executive officer is authorized to prepare and serve the notice required by Iowa Code section 272D.8 and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event the license is on suspension, the executive officer shall notify the licensee of the board's intent to revoke the license.

17.9(4) Licensees shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

17.9(5) All board fees for license renewal or reinstatement must be paid by licensees, and all continuing education requirements must be satisfied before a license will be renewed or reinstated after the board has suspended or revoked a license pursuant to Iowa Code chapter 272D.

17.9(6) In the event a licensee files a timely district court action following service of a board notice pursuant to Iowa Code sections 272D.8 and 272D.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of revocation or suspension of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

17.9(7) The board shall notify the licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the

suspension or revocation of the license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal certificate.

[ARC 7668B, IAB 4/8/09, effective 5/13/09]

These rules are intended to implement Iowa Code chapters 252J, 261, and 272D.

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CHAPTER 18
MILITARY SERVICE AND VETERAN RECIPROCITY

655—18.1(85GA,ch1116) Definitions.

“Military service” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“Military service applicant” means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

“Reciprocity” means the process by which a nurse licensed in another jurisdiction becomes licensed in Iowa. Reciprocity may also be referred to as “endorsement.”

“Veteran” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2). [ARC 1910C, IAB 3/18/15, effective 4/22/15]

655—18.2(85GA,ch1116) Military education, training, and service credit. A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

18.2(1) The application may be submitted with an application for licensure or examination or prior to application for licensure or to take an examination. No fee is required with submission of an application for military service credit.

18.2(2) The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

18.2(3) The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant’s Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

18.2(4) Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure requirement.

18.2(5) The board shall grant the credit requested in the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

18.2(6) The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure, or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

18.2(7) A military service applicant who is aggrieved by the board’s decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board’s decision. No fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

18.2(8) The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

[ARC 1910C, IAB 3/18/15, effective 4/22/15]

655—18.3(85GA,ch1116) Veteran reciprocity.

18.3(1) A veteran with a nursing license in another jurisdiction may apply for licensure in Iowa through reciprocity (endorsement) pursuant to 655—Chapter 3. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

18.3(2) Such an application shall contain all of the information required of all applicants for licensure who hold licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary histories, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

18.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

18.3(4) The board shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

18.3(5) If the board determines that the licensing requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a veteran has not passed the required examination(s) for licensure, the veteran may not be issued a provisional license, but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the veteran with the opportunity to satisfy the examination requirements.

b. If additional experience or education is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

d. If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

18.3(6) A veteran who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's

decision. No fees or costs shall be assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

[ARC 1910C, IAB 3/18/15, effective 4/22/15]

These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI.

[Filed ARC 1910C (Notice ARC 1737C, IAB 11/26/14), IAB 3/18/15, effective 4/22/15]

CHAPTER 19
IOWA NURSE ASSISTANCE PROGRAM

655—19.1(272C) Iowa nurse assistance program committee. Pursuant to the authority of Iowa Code section 272C.3(1)“k,” the board establishes the Iowa nurse assistance program committee (INAPC), formerly known as the licensee review committee, to implement the Iowa nurse assistance program (INAP). The purpose of the INAPC is to provide a program to support the evaluation and monitoring of licensees who are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability, while protecting the health, safety and welfare of the public. [ARC 2204C, IAB 10/28/15, effective 12/2/15]

655—19.2(272C) Definitions.

“*Approved treatment provider*” means a licensed health care provider with board-approved expertise in substance use disorder or mental or physical health conditions.

“*Board*” means the Iowa board of nursing.

“*Contract*” means the written document executed by an applicant or licensee and the INAPC after the INAPC receives a report from an approved treatment provider, which establishes the terms for participation in the INAP.

“*Impairment*” means an inability, or significant potential for inability, to practice with reasonable safety and skill as a result of a diagnosed substance use disorder or any diagnosed mental or physical health condition.

“*INAP*” or “*program*” means the Iowa nurse assistance program.

“*INAPC*” or “*committee*” means the Iowa nurse assistance program committee.

“*Initial agreement*” means the written document establishing the initial terms for participation in the INAP.

“*Participant*” means an applicant or licensee who does any of the following: self-reports an impairment to the program, is referred to the program by the board, signs an initial agreement with the committee, or signs a contract with the committee.

“*Referral by the board*” means the board has determined, with or without having taken disciplinary action, that the applicant or licensee is an appropriate candidate for participation in the program.

“*Self-report*” means an applicant or licensee provides written notification to the committee that the applicant or licensee has been, is, or may be impaired. Information related to impairment or a potential impairment which is provided on a license application or renewal form may be considered a self-report. [ARC 2204C, IAB 10/28/15, effective 12/2/15]

655—19.3(272C) Organization of the committee. The board shall appoint the members of the INAPC.

19.3(1) Membership. The membership of the INAPC includes, but is not limited to:

- a. The executive director of the board or the director’s designee from the board’s staff;
- b. One board of nursing licensee who has maintained sobriety for a period of no less than two years following successful completion of a recovery program;
- c. One licensed health care provider with expertise in substance use disorders;
- d. One licensed provider with expertise in mental health; and
- e. One public member.

19.3(2) Officers. At the last meeting of each calendar year, the INAPC shall elect a chairperson and a vice chairperson, each of whom will begin serving a one-year term on January 1.

a. The chairperson is responsible for offering guidance and direction to staff between regularly scheduled committee meetings, including guidance and direction concerning negotiation and execution of initial agreements, contracts, and program descriptions and interim restrictions on practice, on behalf of the committee. The INAPC retains authority to review all interim decisions at its discretion.

b. The vice chairperson is responsible for providing guidance and direction to staff between regularly scheduled committee meetings if the chairperson is unavailable or unable to assist in a particular matter.

19.3(3) Terms. Committee members, except the executive director or designee, shall be appointed for three-year terms and shall serve for a maximum of three terms. Each term shall expire on December 31 of the third year of the term.

[ARC 2204C, IAB 10/28/15, effective 12/2/15]

655—19.4(272C) Eligibility.

19.4(1) Self-report. An applicant or a licensee shall self-report an impairment or potential impairment directly to the program.

19.4(2) Board referral. The board may refer an applicant or licensee to the program if a complaint or investigation reveals an impairment or potential impairment and the board determines that the individual is an appropriate candidate for review by the INAPC. The board may refer a licensee to the program in a public disciplinary order or other public order.

19.4(3) Review by the INAPC. The INAPC will determine on a case-by-case basis whether an applicant or licensee who self-reports or is referred by the board is an appropriate candidate for participation in the program. Several factors may lead to the INAPC's determination that an applicant or licensee is ineligible to participate in the program, including but not limited to if the committee finds sufficient evidence that the applicant or licensee:

- a. Diverted drugs for distribution to third parties or for personal profit;
- b. Adulterated, misbranded, or otherwise tampered with drugs intended for a patient;
- c. Provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the INAPC;
- d. Participated in the program, or similar programs offered by other states, without success; or
- e. Fails to sign a contract when recommended by the INAPC.

19.4(4) Discretion. Eligibility to participate in the program is at the sole discretion of the INAPC. No person is entitled to participate in the program.

19.4(5) Authority and jurisdiction. Participation in the program does not divest the board of its authority or jurisdiction over the participant. A participant with an impairment or potential impairment may be eligible to participate in the program while being subject to investigation or discipline by the board for matters other than the alleged impairment.

[ARC 2204C, IAB 10/28/15, effective 12/2/15]

655—19.5(272C) Terms of participation. A participant shall agree to comply with the INAP terms of participation established in the initial agreement and contract. Participants will be responsible for all expenses incurred to comply with the terms imposed by the program. Terms of participation specified in the contract shall include, but not be limited to:

19.5(1) Duration. The length of time a participant may participate in the program shall be determined by the INAPC in accordance with the following:

a. Participation in the program for participants impaired as a result of a substance use disorder is set at a minimum of three years. The INAPC may offer a contract with a shorter duration to a participant who can demonstrate successful participation in another state's nurse assistance program, who can document similar experience, or who, as a board referral, has successfully completed a portion of the monitoring period established in the board order.

b. Length of participation in the program for participants with impairments resulting from mental or physical conditions will vary depending upon the recommendations provided by an approved licensed health care professional and the determination of the INAPC following review of all relevant information.

19.5(2) Requirements. The INAPC shall establish terms designed to meet the specific needs of the participant. The committee shall determine the type of recovery, rehabilitation, or maintenance program required to treat the participant's impairment. The contract shall provide a detailed description of the goals of the program, the requirements for successful participation, and the participant's obligations therein. The committee may establish terms specific to a participant's impairment including, but not limited to: treatment, aftercare, worksite monitoring, chemical screening, further evaluations, structured recovery meetings, therapy, and medication management.

19.5(3) Practice restrictions. The INAPC may impose restrictions on the license to practice as a term of the initial agreement or contract until such time as the INAPC receives a report from an approved evaluator and the INAPC determines, based on all relevant information, that the participant is capable of practicing with reasonable skill and safety. As a condition of participation in the program, a licensee is required to agree to restricted practice in accordance with the terms specified in the initial agreement or contract. In the event the licensee refuses to agree to or comply with the practice restrictions, the committee shall refer the licensee to the board for appropriate action.

19.5(4) Noncompliance. Noncompliance is the failure to adhere to the terms of the initial agreement or contract. Participants shall promptly notify the INAPC of any instances of noncompliance, including relapse. Instances of noncompliance shall initially be reviewed by the INAP program coordinator. The INAP program coordinator may refer instances of noncompliance to the INAPC for further review of continued participation in the program. The INAPC may refer instances of noncompliance to the board for possible disciplinary action.

[ARC 2204C, IAB 10/28/15, effective 12/2/15]

655—19.6(272C) Limitations. Participation in the INAP shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. A participant who violates a statute or board administrative rule which is unrelated to impairment shall be referred to the board for appropriate action.

[ARC 2204C, IAB 10/28/15, effective 12/2/15]

655—19.7(272C) Confidentiality. Information in the possession of the board or the committee shall be subject to the confidentiality requirements of Iowa Code section 272C.6. Information about participants in the program shall not be disclosed except as provided in this rule.

19.7(1) The INAPC is authorized, pursuant to Iowa Code section 272C.6(4), to communicate information about a current or former INAP participant to the applicable regulatory authorities or impaired licensee programs in the state of Iowa and in any jurisdiction of the United States or foreign nations in which the participant is currently licensed or in which the participant seeks licensure. INAP participants must report their participation to the applicable nurse assistance program or licensing authority in any state in which the participant is currently licensed or in which the participant seeks licensure.

19.7(2) The INAPC is authorized to communicate information about an INAP participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance for the duration of the contract.

19.7(3) The INAPC is authorized to communicate information about an INAP participant to the board in the event a participant does not comply with the terms of the contract as set forth in rule 655—19.5(272C). The INAPC may provide the board with a participant's INAP file in the event the participant does not comply with the terms of the contract and the INAPC refers the case to the board for the filing of formal disciplinary charges or other appropriate action. If the board initiates disciplinary action against a licensee for noncompliance with the terms of the contract, the board may include information about a licensee's participation in the INAP in the public disciplinary documents. The INAPC is also authorized to communicate information about a participant to the board in the event the participant is under investigation by the board.

19.7(4) The INAPC is authorized to communicate information about a current or former INAP participant to the board if reliable information held by the INAPC reasonably indicates a significant risk to the public exists. If the board initiates disciplinary action based upon this information, the board may include in the public disciplinary documents information about a licensee's participation if necessary to address impairment issues related to the violations which are the subject of the disciplinary action.

[ARC 2204C, IAB 10/28/15, effective 12/2/15]

655—19.8(28E) Authority for 28E agreements. The INAPC may enter into 28E agreements with other health professional licensing boards to evaluate, assist, and monitor impaired licensees from other health professions who self-report and to report to those professional licensing boards regarding the compliance

of individual licensees. In the event of noncompliance, the licensee may be referred to the appropriate licensing board for appropriate disciplinary action.

[ARC 2204C, IAB 10/28/15, effective 12/2/15]

These rules are intended to implement Iowa Code sections 272C.3(1) “k,” 272C.6(4) and 28E.4.

[Filed ARC 2204C (Notice ARC 2085C, IAB 8/5/15), IAB 10/28/15, effective 12/2/15]

CHAPTER 20
CONTESTED CASES
[Prior to 1/6/16, see 655—Chapter 4]

655—20.1(17A,272C) Scope and applicability. This chapter applies to contested case proceedings conducted by the Iowa board of nursing.
[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.2(17A,272C) Definitions. Except where otherwise specifically defined by law:

“*Board*” means a quorum of members of the Iowa board of nursing.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5), including but not limited to licensee disciplinary proceedings, adverse agency action to limit or revoke the multistate licensure privilege granted under the provisions of the nurse licensure compact, license denial proceedings, and license reinstatement proceedings.

“*Issuance*” means the date of mailing of a decision or order, or date of delivery if service is by other means, unless another date is specified in the order.

“*Party*” means the state of Iowa, as represented by the office of the attorney general, and the respondent or applicant.

“*Probable cause*” means a reasonable ground for belief in the existence of facts warranting the specified proceeding.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.3(17A,272C) Time requirements. Time shall be computed as provided in Iowa Code section 4.1(34). For good cause, the presiding officer may lengthen or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before lengthening or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.4(17A,272C) Applicability of Iowa Rules of Civil Procedure. Except as expressly provided in Iowa Code chapter 17A and these rules, the Iowa Rules of Civil Procedure do not apply to contested case proceedings. However, upon application by a party, the board may permit the use of procedures provided for in the Iowa Rules of Civil Procedure unless doing so would unreasonably complicate the proceedings or impose an undue hardship on a party.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.5(17A,272C) Combined statement of charges and settlement agreement. Upon a determination by the board that probable cause exists to take public disciplinary action, the board and the licensee may enter into a combined statement of charges and settlement agreement.

20.5(1) No licensee is entitled to be offered a combined statement of charges and settlement agreement.

20.5(2) Entering into a combined statement of charges and settlement agreement is completely voluntary.

20.5(3) The combined statement of charges and settlement agreement shall include a brief statement of the charges, the circumstances that led to the charges, and the terms of settlement.

20.5(4) A combined statement of charges and settlement agreement shall constitute the commencement and resolution of a contested case proceeding. By entering into a combined statement of charges and settlement agreement, the licensee waives the right to a contested case hearing on the matter.

20.5(5) A combined statement of charges and settlement agreement is a permanent public record open for inspection under Iowa Code chapter 22.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.6(17A,272C) Notice of hearing.

20.6(1) Delivery. Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service, as provided in the Iowa Rules of Civil Procedure; or
- b. Certified restricted mail, return receipt requested; or
- c. Signed acknowledgment accepting service; or
- d. When service cannot be accomplished using the above methods:

- (1) An affidavit shall be prepared outlining the measures taken to attempt service; and
- (2) Notice of hearing shall be published once each week for three consecutive weeks in a newspaper of general circulation, published or circulated in the county of last-known residence of the respondent. The first notice of hearing shall be published at least 30 days prior to the scheduled hearing.

20.6(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted;
- e. Identification of all parties, including the name, address and telephone number of the assistant attorney general representing the state;
- f. Reference to the procedural rules governing conduct of the contested case proceeding;
- g. Reference to the procedural rules governing settlement;
- h. Identification of the presiding officer;
- i. Notification of the time period in which a party may request, pursuant to Iowa Code section 17A.11, that the presiding officer be an administrative law judge;
- j. Notification of the time period in which the respondent may file an answer; and
- k. Notification of the respondent's right to request a closed hearing, if applicable.

20.6(3) Public record. Notices of hearing are permanent public records open for inspection under Iowa Code chapter 22.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.7(17A,272C) Statement of charges. In the event the board finds there is probable cause for taking public disciplinary action against a licensee, the board shall file a statement of charges. The statement of charges shall be incorporated within the notice of hearing. The statement of charges shall set forth the acts or omissions with which the respondent is charged including the statute(s) and rule(s) which are alleged to have been violated and shall be in sufficient detail to enable the preparation of the respondent's defense. Every statement of charges prepared by the board shall be reviewed by the office of the attorney general before it is filed. Statements of charges are permanent public records open for inspection under Iowa Code chapter 22.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.8(13,272C) Legal representation. Following the issuance of a notice of hearing, the office of the attorney general shall be responsible for the legal representation of the public interest in the contested case. The assistant attorney general assigned to prosecute a contested case before the board shall not represent the board in that case but shall represent the public interest.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.9(17A,272C) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case shall be the board. When acting as presiding officer, the board may request that an administrative law judge perform certain functions as an aid to the board, such as ruling on prehearing motions, conducting the prehearing conference, ruling on evidentiary objections at hearing, assisting in deliberations, and drafting the written decision for review by the board.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.10(17A,272C) Presiding officer in a nondisciplinary contested case.

20.10(1) Any party in a nondisciplinary contested case who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of the notice of hearing.

20.10(2) The board may deny the request only upon a finding that one or more of the following apply:

- a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- b. An administrative law judge is unavailable to hear the case within a reasonable time.
- c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- f. The request was not timely filed.
- g. The request is not consistent with a specified statute.

20.10(3) The board shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge, the parties shall be notified at least 10 days prior to hearing if an administrative law judge will not be available.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.11(17A,272C) Disqualification.

20.11(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party.
- b. Has personally investigated, prosecuted, or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties. If the licensee elects to appear before the board in the investigative process, the licensee waives this provision.
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties.
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years.
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case.
- f. Has a spouse or relative within the third degree of relationship who:
 - (1) Is a party to the case, or an officer, director or trustee of a party;
 - (2) Is a lawyer in the case;
 - (3) Is known to have an interest that could be substantially affected by the outcome of the case; or
 - (4) Is likely to be a material witness in the case.
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

20.11(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include:

- a. General direction and supervision of assigned investigators;
- b. Unsolicited receipt of information which is relayed to assigned investigators;
- c. Review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or
- d. Exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17(3) and subrules 20.11(3) and 20.28(8).

By electing to participate in an appearance before the board, the licensee waives any objection to a board member's both participating in the appearance and later participating as a decision maker in a contested case proceeding on the grounds that the board member "personally investigated" the matter under this provision.

20.11(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

20.11(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 20.11(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.11(3). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The individual against whom disqualification is asserted shall make the initial determination as to whether disqualification is required. If the individual elects not to disqualify, the board shall make the final determination as to disqualification of that individual as part of the record in the case.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.12(17A,272C) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver when the board deems the waiver to be inconsistent with the public interest.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.13(17A,272C) Telephone or electronic proceedings. The presiding officer may resolve prehearing matters by telephone conference in which all parties have an opportunity to participate. Contested case hearings will generally not be held by telephone or electronic means in the absence of consent by all parties under compelling circumstances. Nothing shall prohibit a witness from testifying by telephone or electronic means pursuant to paragraph 20.26(3) "b."

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.14(17A,272C) Consolidation—severance.

20.14(1) Consolidation. The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where: (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

20.14(2) Severance. The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.15(17A,272C) Appearance. The respondent or applicant may be represented by an attorney. The attorney must file an appearance in the contested case. If the attorney is not licensed to practice law in Iowa, the attorney must fully comply with Iowa Court Rule 31.14.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.16(17A,272C) Answer. An answer may be filed within 20 days of service of the notice of hearing and statement of charges. An answer shall specifically admit, deny, or otherwise answer all material allegations of the statement of charges to which it responds. It shall state any facts supporting any affirmative defenses and contain as many additional defenses as the respondent may claim. An answer shall state the name, address and telephone number of the person filing the answer. Any allegation in the statement of charges not denied in the answer is considered admitted. The presiding officer may

refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.17(17A,272C) Filing and service of documents.

20.17(1) Filing—when required. After the notice of hearing, all documents in a contested case proceeding shall be filed with the board.

20.17(2) Filing—how made. Filing shall be made by delivering or mailing the document to the board office located at 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685.

20.17(3) Filing—when made. A document is deemed filed at the time it is delivered to the board office, delivered to an established courier service for immediate delivery to the board office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

20.17(4) Service—when required. Except as otherwise provided by law, every document filed in a contested case proceeding shall be simultaneously served upon each of the parties of record to the proceeding, including the assistant attorney general representing the state. Except for an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

20.17(5) Service—how made. Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order, so long as there is proof of mailing.

20.17(6) Electronic service. Service may be made upon a party or attorney by electronic mail (e-mail) if the person consents in writing in that case to be served in that manner. The written consent shall specify the e-mail address for such service. The written consent may be withdrawn by written notice served on the parties or attorneys.

20.17(7) Proof of mailing/e-mailing. Proof of mailing/e-mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in the United States mail, state interoffice mail, or e-mail when permitted by 655 IAC 20.17(6).

(Date)

(Signature)

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.18(272C) Investigative file. The board's investigative file is available to the respondent or applicant upon request only after the commencement of a contested case and only prior to the resolution of the contested case. A licensee who elects to enter into a combined statement of charges and settlement agreement is not entitled to request the investigative file. In accordance with Iowa Code section 272C.6(4), information contained within an investigative file is confidential and may only be used in connection with the disciplinary proceedings before the board.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.19(17A,272C) Discovery.

20.19(1) The scope of discovery described in Iowa Rule of Civil Procedure 1.503 shall apply to contested case proceedings.

20.19(2) The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; and requests for admission. Unless lengthened or shortened by the presiding officer, the time frames for discovery in the specific Iowa Rules of Civil Procedure govern those specific procedures.

a. Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions shall apply to any depositions taken in a contested case proceeding. Any party taking a deposition in a contested case shall be responsible for any deposition costs, unless otherwise specified or allocated in an order. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

b. Iowa Rule of Civil Procedure 1.509 shall apply to any interrogatories propounded in a contested case proceeding.

c. Iowa Rule of Civil Procedure 1.512 shall apply to any requests for production of documents, electronically stored information, and things in a contested case proceeding.

d. Iowa Rule of Civil Procedure 1.510 shall apply to any requests for admission in a contested case proceeding. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission shall apply in contested case proceedings.

20.19(3) The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to contested case proceedings. However, upon application by a party, the board may order the parties to comply with these procedures unless doing so would unreasonably complicate the proceedings or impose an undue hardship.

20.19(4) Iowa Rule of Civil Procedure 1.508 shall apply to discovery of any experts identified by a party to a contested case proceeding.

20.19(5) Discovery shall be served on all parties to the contested case proceeding but shall not be filed with the board.

20.19(6) A party may file a motion to compel or other motion related to discovery in accordance with this subrule. Any motion filed with the board relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within 10 days of the filing of the motion unless the time is lengthened or shortened by the presiding officer. The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

20.19(7) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.20(17A,272C) Issuance of subpoenas in a contested case.

20.20(1) Subpoenas issued in a contested case may compel the attendance of witnesses at deposition or hearing and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing or may be issued separately. Subpoenas shall be issued by the executive director or designee upon a written request that complies with the requirements of this rule. A request for a subpoena of mental health records must confirm that the conditions described in subrule 20.20(3) have been satisfied prior to the issuance of the subpoena. The executive director or designee may refuse to issue a subpoena if the request does not comply with the requirements of this rule.

20.20(2) A request for a subpoena shall include the following information, as applicable, unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:

- a.* The name, address and telephone number of the person requesting the subpoena;
- b.* The name and address of the person to whom the subpoena shall be directed;
- c.* The date, time and location at which the person shall be commanded to attend and give testimony;
- d.* Whether the testimony is requested in connection with a deposition or hearing;
- e.* A description of the books, papers, records or other real evidence requested and the date, time and location for production or inspection and copying; and
- f.* In the case of a subpoena request for mental health records, confirmation that the conditions described in subrule 20.20(3) have been satisfied.

20.20(3) In the case of a request for a subpoena of mental health records, the request must confirm compliance with the following conditions prior to the issuance of the subpoena:

- a.* The nature of the issues in the case reasonably justifies the issuance of the requested subpoena;
- b.* Adequate safeguards have been established to prevent unauthorized disclosure;
- c.* An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d.* An attempt was made to notify the patient and to secure an authorization from the patient for the release of the records at issue.

20.20(4) Each subpoena shall contain, as applicable, the following:

- a.* The caption of the case;
- b.* The name, address and telephone number of the person who requested the subpoena;
- c.* The name and address of the person to whom the subpoena is directed;
- d.* The date, time and location at which the person is commanded to appear;
- e.* Whether the testimony is commanded in connection with a deposition or hearing;
- f.* A description of the books, papers, records or other real evidence the person is commanded to produce;
- g.* The date, time and location for production or inspection and copying;
- h.* The time within which the motion to quash or modify the subpoena must be filed;
- i.* The signature, address and telephone number of the executive director or designee;
- j.* The date of issuance;
- k.* A return of service.

20.20(5) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the executive director or designee shall mail copies of all subpoenas to the parties. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

20.20(6) Any person who is aggrieved or adversely affected by compliance with the subpoena or any party to the contested case who desires to challenge the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.

20.20(7) Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to issue a decision or the board may issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

20.20(8) A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the executive director in accordance with subrule 20.17(5) a notice of appeal within 10 days after service of the decision of the administrative law judge.

20.20(9) If the person contesting the subpoena is not a party to the contested case proceeding, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is a party to the contested case proceeding, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.21(17A,272C) Motions.

20.21(1) No technical form for motions is required. Prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

20.21(2) Any party may file a written response to a motion within 10 days after the motion is served, unless the time period is lengthened or shortened by rules of the board or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

20.21(3) The presiding officer may schedule oral argument on any motion.

20.21(4) Motions pertaining to the hearing must be filed and served at least 10 days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or the presiding officer.

20.21(5) Dispositive motions, such as motions for summary judgment or motions to dismiss, must be filed with the board and served on all parties to the contested case proceeding at least 30 days prior to the scheduled hearing date, unless otherwise ordered or permitted by the presiding officer. Any party may file a written response to a dispositive motion within 10 days after the motion is served, unless the time for response is otherwise lengthened or shortened by the presiding officer.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.22(17A,272C) Prehearing conferences.

20.22(1) Any party may request a prehearing conference. Prehearing conferences shall be conducted by the executive director, who may request that an administrative law judge conduct the prehearing conference. A written request for prehearing conference or an order for prehearing conference on the executive director's own motion shall be filed not less than 7 days prior to the hearing date, unless authorized by the person conducting the prehearing conference. A prehearing conference shall be scheduled not less than 3 business days prior to the hearing date.

20.22(2) Each party shall be prepared to discuss the following subjects at the prehearing conference:

a. Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the prehearing conference. Any such amendments must be served on all parties. Witnesses not listed on the final witness list may be excluded from testifying unless there was good cause for the failure to include their names.

b. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the executive director or administrative law judge at the prehearing conference. Other than rebuttal exhibits, exhibits that are not listed on the final exhibit list may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. The entry of a scheduling order to include deadlines for completion of discovery.

d. Stipulations of law or fact.

e. Stipulations on the admissibility of exhibits.

f. Identification of matters which the parties intend to request be officially noticed.

g. Consideration of any additional matters which will expedite the hearing.

20.22(3) Prehearing conferences shall be conducted by telephone unless otherwise ordered.

20.22(4) A party must seek intra-agency appeal to the board of prehearing rulings made by an administrative law judge in order to adequately exhaust administrative remedies. Such appeals must be filed within 10 days of the date of the issuance of the challenged ruling but no later than the time for compliance with the order or the date of hearing, whichever is first.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.23(17A,272C) Continuances. Unless otherwise provided, requests for continuance shall be filed with the board.

20.23(1) A written request for a continuance shall:

a. Be made at the earliest possible time and no less than 7 days before the hearing except in cases of unanticipated emergencies;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's attorney.

20.23(2) No request for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible. The presiding officer may allow an oral application for continuance at the contested case hearing only in the event of an unanticipated emergency.

20.23(3) The presiding officer or the executive director has the authority to grant or deny a request for a continuance in accordance with this subrule. The executive director or an administrative law judge may enter an order granting an uncontested request for a continuance. Upon consultation with the board chair,

the executive director or an administrative law judge may deny an uncontested request for a continuance or may rule on a contested request for continuance.

20.23(4) In determining whether to grant a continuance, the presiding officer or the executive director may require documentation of any grounds for continuance and may consider:

- a.* Prior continuances;
- b.* The interests of all parties;
- c.* The public interest;
- d.* The likelihood of settlement;
- e.* The existence of an emergency;
- f.* Any objection;
- g.* Any applicable time requirements;
- h.* The existence of a conflict in the schedules of counsel, parties, or witnesses;
- i.* The timeliness of the request; and
- j.* Other relevant factors.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.24(17A,272C) Settlement agreements.

20.24(1) A contested case may be resolved by settlement agreement. Settlement negotiations may be initiated by any party at any stage of a contested case. No party is required to participate in the settlement process.

20.24(2) If the respondent initiates or consents to settlement negotiations, the assistant attorney general prosecuting the case may discuss settlement with the board chair without violating the prohibition against ex parte communications in Iowa Code section 17A.17 and without disqualifying the board chair from participating in the adjudication of the contested case. The full board shall not be involved in settlement negotiations until a proposed settlement agreement executed by the respondent is submitted to the board for approval.

20.24(3) By signing the proposed settlement agreement, the respondent authorizes an assistant attorney general to have ex parte communications with the board related to the terms of the proposed settlement. If the board fails to approve the proposed settlement agreement, it shall be of no force or effect to either party and shall not be admissible at hearing. Upon rejecting a proposed settlement agreement, the board may suggest alternative terms of settlement, which the respondent is free to accept or reject.

20.24(4) A settlement agreement is a permanent public record open for inspection under Iowa Code chapter 22.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.25(17A,272C) Hearing procedures in contested cases.

20.25(1) The presiding officer shall be in control of the proceedings and shall have the authority to administer oaths and to admit or exclude testimony or evidence and shall rule on all motions and objections. The board may request that an administrative law judge assist the board by performing any of these functions.

20.25(2) When, in the opinion of the board, it is desirable to obtain specialists within an area of practice when holding disciplinary hearings, the board may appoint a panel of three specialists who are not board members to make findings of fact and to report to the board. Such findings shall not include any recommendation for or against licensee discipline.

20.25(3) An applicant or respondent has the right to participate or to be represented in all hearings related to the applicant's or respondent's case. Any applicant or respondent may be represented by an attorney at the party's own expense.

20.25(4) All objections shall be timely made and stated on the record.

20.25(5) Subject to terms prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, submit briefs, and engage in oral argument.

20.25(6) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

20.25(7) All rulings by an administrative law judge who acts either as presiding officer or as an aid to the board are subject to appeal to the board. While a party may seek immediate board review of rulings made by an administrative law judge when the administrative law judge is sitting with and acting as an aid to the board or panel of specialists during a hearing, such immediate review is not required to preserve error for judicial review.

20.25(8) Conduct of hearing. The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter and be subject to examination and cross-examination. The board members and administrative law judge have the right to question a witness. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

20.25(9) The hearing shall be open to the public unless the respondent requests that the hearing be closed, in accordance with Iowa Code section 272C.6(1). At the request of either party, or on the board's own motion, the presiding officer may issue a protective order to protect documents which are privileged or confidential by law.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.26(17A,272C) Evidence.

20.26(1) General.

a. Relevant evidence is admissible, subject to the discretion of the presiding officer. Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based on hearsay or other types of evidence which may or would be inadmissible in a jury trial.

b. The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

c. Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

d. Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

e. Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

f. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the

excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

20.26(2) Exhibits.

a. The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties. If admitted, copies of documents should be distributed to individual board members and the administrative law judge. Unless prior arrangements have been made, the party seeking admission of a document should arrive at the hearing prepared with sufficient copies of the document to distribute to opposing parties, board members, the administrative law judge, and witnesses who are expected to examine the document. The state's exhibits shall be marked numerically, and the applicant's or respondent's exhibits shall be marked alphabetically.

b. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

c. An original is not required to prove the content of a writing, recording, or photograph. Duplicates or photocopies are admissible. Any objection related to the authenticity of an exhibit shall go to the weight given to that exhibit and not preclude its admissibility.

20.26(3) Witnesses.

a. Witnesses may be sequestered during the hearing.

b. Subject to the terms prescribed by the presiding officer and the limitations in Iowa Rule of Civil Procedure 1.704, parties may present the testimony of witnesses in person, by telephone, by videoconference, by affidavit, or by written or video deposition. If a witness is providing testimony in person, by telephone, or by videoconference, use of any deposition is limited by Iowa Rule of Civil Procedure 1.704.

c. Witnesses are entitled to be represented by an attorney at their own expense. In a closed hearing, the attorney may be present only when the client testifies. The attorney may assert legal privileges personal to the client, but may not make other objections. The attorney may only ask questions to the client to prevent a misstatement from being entered into the record.

d. The parties in a contested case shall be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing, unless otherwise specified or allocated in an order. The costs for lay witnesses shall be determined in accordance with Iowa Code section 622.69. The costs for expert witnesses shall be determined in accordance with Iowa Code section 622.72. Witnesses are entitled to reimbursement for mileage and may be entitled to reimbursement for meals and lodging, as incurred.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.27(17A,272C) Default.

20.27(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

20.27(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

20.27(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 655—20.30(17A,272C). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit from a person with personal knowledge of each such fact. The affidavit(s) must be attached to the motion.

20.27(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

20.27(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have 10 days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

20.27(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.971.

20.27(7) A decision by an administrative law judge granting or denying a motion to vacate is subject to appeal to the board within 20 days.

20.27(8) If a motion to vacate is granted and no timely appeal to the board has been filed, the presiding officer shall issue a rescheduling order setting a new hearing date and the contested case shall proceed accordingly.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.28(17A,272C) Ex parte communication.

20.28(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case, except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the agency or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 20.11(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties, as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

20.28(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

20.28(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

20.28(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 655—20.17(17A,272C) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through telephone conference call which includes all parties or their representatives.

20.28(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

20.28(6) The executive director or designee may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as the executive director or designee is not disqualified from participating in the making of a proposed or final decision under subrule 20.11(1) or other law and the executive director or designee complies with subrule 20.28(1).

20.28(7) Communications with the presiding officer involving scheduling or uncontested procedural matters do not require notice or opportunity for parties to participate. A party should notify other parties prior to initiating such contact with the presiding officer when feasible.

20.28(8) A presiding officer who received a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding

officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within 10 days after notice of the communication.

20.28(9) Promptly after being assigned to serve as presiding officer, the presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment, unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

20.28(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the board. Violation of ex parte communication prohibitions by board personnel shall be reported to the board's executive director for possible sanctions including: censure, suspension, dismissal, or other disciplinary action.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.29(17A,272C) Recording. Contested case hearings shall be recorded by electronic means or by a certified shorthand reporter. A party may request that a hearing be recorded by a certified shorthand reporter instead of through electronic means by filing a request with the board at least 14 days in advance of the hearing. Parties who request that a hearing be recorded by a certified shorthand reporter rather than by electronic means shall bear the cost of the certified shorthand reporter. Upon request, the board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party. If the request for the hearing record is made as a result of a petition for judicial review, the party who filed the petition shall be considered the requesting party.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.30(17A,272C) Proposed decisions. Decisions issued by an administrative law judge in nondisciplinary cases are proposed decisions. A proposed decision issued by an administrative law judge becomes a final decision if not timely appealed or reviewed in accordance with this rule.

20.30(1) Appeal by party. Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision.

20.30(2) Review. The board may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

20.30(3) Exhaustion. A party must timely seek intra-agency appeal of a proposed decision in order to adequately exhaust administrative remedies.

20.30(4) Notice of appeal. An appeal of a proposed decision is initiated by filing a timely notice of appeal with the board. The notice of appeal must be signed by the appealing party or an attorney for that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order which is being appealed;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

20.30(5) Requests to present additional evidence. A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

20.30(6) Scheduling. The board shall issue a schedule for consideration of the appeal.

20.30(7) Briefs and arguments. Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

20.30(8) Record. The record on appeal or review shall be the entire record made before the administrative law judge.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.31(17A,272C) Final decisions.

20.31(1) A final decision of the board shall include findings of fact and conclusions of law. When the board presides over the reception of the evidence at the hearing, its decision is a final decision.

20.31(2) The board may charge a fee to the licensee not to exceed \$75 for conducting a disciplinary hearing which results in disciplinary action taken against the licensee by the board.

20.31(3) Final decisions shall be served on the respondent or applicant using one of the following methods:

a. Personal service, as provided in the Iowa Rules of Civil Procedure, or

b. Certified mail, return receipt requested, or

c. Signed acknowledgment accepting service, or

d. When service cannot be accomplished using the above methods:

(1) An affidavit shall be prepared outlining the measures taken to attempt service; and

(2) The final decision shall be published once each week for three consecutive weeks in a newspaper of general circulation, published or circulated in the county of last-known residence of the respondent.

e. If the respondent or applicant is represented by an attorney, the final decision shall be mailed to the attorney. The attorney may waive the requirement to serve the respondent or applicant through a written acknowledgment that the attorney is accepting service on behalf of the client. The state shall be served by first-class mail or state interoffice mail.

20.31(4) A final decision is a permanent public record open for inspection under Iowa Code chapter 22, in accordance with Iowa Code section 272C.6(4).

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.32(17A,272C) Applications for rehearing.

20.32(1) Who may file. Any party to a contested case proceeding may file an application for rehearing from a final order.

20.32(2) Content of application. An application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the board decision on the existing record and whether, upon showing good cause, the applicant requests an opportunity to submit additional evidence. A party may request the taking of additional evidence after the issuance of a final order only by establishing that:

a. The evidence is material; and

b. The evidence arose after the completion of the original hearing; or

c. Good cause exists for failure to present the evidence at the original hearing; and

d. The party has not waived the right to present additional evidence.

20.32(3) Time of filing. The application shall be filed with the board office within 20 days after issuance of the final decision.

20.32(4) Notice to other parties. A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board shall serve copies on all parties.

20.32(5) Disposition. Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

20.32(6) *Only remedy.* Application for rehearing is the only procedure by which a party may request that the board reconsider a final board decision.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.33(17A,272C) Stays of agency actions.

20.33(1) *When available.* Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board or pending judicial review. The petition shall state the reasons justifying a stay or other temporary remedy. The petition must be filed within 30 days of the issuance of the final order, or if a party filed a request for rehearing that was denied, the petition must be filed within 30 days after the request for rehearing was denied or deemed denied.

20.33(2) *When granted.* The board shall not grant a stay in any case in which the district court would be expressly prohibited by statute from granting a stay. In determining whether to grant a stay, the presiding officer shall consider the following factors:

- a. The extent to which the applicant is likely to prevail when the board or court finally disposes of the matter;
- b. The extent to which the applicant will suffer irreparable injury if relief is not granted;
- c. The extent to which the grant of relief to the applicant will substantially harm other parties to the proceedings;
- d. The extent to which the public interest relied on by the board is sufficient to justify the board's action in the circumstances.

20.33(3) *Exhaustion required.* A party must petition the board for a stay pursuant to this rule prior to requesting a stay from the district court in a judicial review proceeding.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.34(17A,272C) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.35(17A,272C) Emergency adjudicative proceedings.

20.35(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, the board may issue a written order in compliance with Iowa Code section 17A.18 to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the agency by emergency adjudicative order. Before issuing an emergency adjudicative order, the board shall consider factors including, but not limited to, the following:

- a. Whether there has been a sufficient factual investigation to ensure that the agency is proceeding on the basis of reliable information;
- b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and
- e. Whether the specific action contemplated by the agency is necessary to avoid the immediate danger.

20.35(2) *Issuance.*

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately served on persons who are required to comply with the order by utilizing one or more of the following procedures:

- (1) Personal service, as provided in the Iowa Rules of Civil Procedure, or
- (2) Certified restricted mail, return receipt requested, or
- (3) Signed acknowledgment accepting service.

c. To the degree practicable, the board shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

20.35(3) Notice. Unless the written emergency adjudicative order is served personally on the same day that the order issues, the board shall make reasonable immediate efforts to contact by telephone and electronic mail the persons who are required to comply with the order.

20.35(4) Proceedings. Issuance of a written emergency adjudicative order shall include notification of the date on which agency proceedings are scheduled for hearing. After issuance of an emergency adjudicative order, the licensee subject to the emergency adjudicative order may request a continuance of the hearing at any time by filing a request with the board. The state may only file a request for a continuance in compelling circumstances. Nothing in this subrule shall be construed to eliminate the opportunity to resolve the matter with a settlement agreement.

20.35(5) Public record. An emergency adjudicative order is a permanent public record open for inspection under Iowa Code chapter 22.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.36(17A,147,272C) Application for reinstatement. Any person whose license to practice nursing has been revoked or has been voluntarily surrendered may apply for reinstatement. An application for reinstatement must be made in accordance with the terms specified in the board's order of revocation or order accepting the voluntary surrender. Any person whose license to practice nursing has been suspended and the board order imposing the suspension indicates that the respondent must apply for and receive reinstatement may apply for reinstatement in accordance with the terms specified in the board's order. All applications for reinstatement must be filed in accordance with this rule.

20.36(1) If the order for revocation, suspension, or surrender did not establish terms for reinstatement, an initial application for reinstatement may not be filed until at least one year has elapsed from the date of issuance of the order. Persons who have failed to satisfy the terms imposed by the board order revoking, suspending, or surrendering a license shall not be entitled to apply for reinstatement.

20.36(2) Reinstatement proceedings shall be initiated by the respondent, who shall file with the board an application for reinstatement of the respondent's license. Such application shall be docketed in the original contested case in which the license was revoked, suspended, or surrendered. The person filing the application for reinstatement shall immediately serve a copy upon the office of the attorney general and shall serve any additional documents filed in connection with the application.

20.36(3) The application shall allege facts and circumstances which, if established, will be sufficient to enable the board to determine that the basis for the revocation, suspension, or surrender no longer exists and that it shall be in the public interest for the license to be reinstated. The application shall include written evidence supporting the respondent's assertion that the basis for the revocation, suspension, or surrender no longer exists and that it shall be in the public interest for the license to be reinstated. Such evidence may include, but is not limited to: medical and mental health records establishing successful completion of any necessary medical or mental health treatment and aftercare recommendations; documentation verifying successful completion of any court-imposed terms of probation; statements from support group sponsors verifying active participation in a support group; verified statements from current and past employers attesting to employability; and evidence establishing that prior professional competency or unethical conduct issues have been resolved. The burden of proof to establish such facts shall be on the respondent.

20.36(4) The executive director or designee shall review the application for reinstatement and determine if it conforms to the terms established in the board order that revoked, suspended, or surrendered the license and the requirements imposed by this rule. Applications failing to comply with the specified terms or with the requirements in this rule will be denied. Such denial shall be in writing, stating the grounds, and may be appealed by requesting a hearing before the board.

20.36(5) Applications not denied for failure to conform to the terms established in the board order that revoked, suspended, or surrendered the license or requirements imposed by this rule may be set for hearing before the board. The hearing shall be a contested case hearing within the meaning of Iowa Code section 17A.12, and the order to grant or deny reinstatement shall incorporate findings of fact and conclusions of law. If reinstatement is granted, terms may be imposed. Nothing shall prohibit the board from entering into a stipulated order granting reinstatement with or without terms in the absence of a hearing.

20.36(6) A nurse whose license is reinstated must complete the requirements for license reactivation in order to receive an active license.

20.36(7) An order granting or denying reinstatement is a permanent public record open for inspection under Iowa Code chapter 22.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.37(17A,22,272C) Dissemination of public records. All documents identified in this chapter as permanent public records open for inspection under Iowa Code chapter 22 are reported to NURSYS® and national databanks in accordance with applicable reporting requirements. In addition, these documents may be posted on the board's Web site, published in the board's newsletter, distributed to national or state associations, transmitted to mailing lists or news media, issued in conjunction with a press release, or otherwise disseminated.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

655—20.38(17A) Judicial review. Judicial review of a final order of the board may be sought in accordance with the terms of Iowa Code chapter 17A.

[ARC 2339C, IAB 1/6/16, effective 2/10/16]

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

[Filed ARC 2339C (Notice ARC 2109C, IAB 8/19/15), IAB 1/6/16, effective 2/10/16]