PROFESSIONAL LICENSURE DIVISION[645]

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645—4.1(17A) Definitions.

"Board" means the professional licensing board of any of the following: athletic training, barbering, behavioral science, chiropractic, cosmetology arts and sciences, dietetics, hearing aid dispensers, massage therapy, mortuary science, nursing home administrators, optometry, physical and occupational therapy, physician assistants, podiatry, psychology, respiratory care, sign language interpreters and transliterators, social work, and speech pathology and audiology.

"Board office" means the office of the administrative staff of each professional licensing board.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of each board pursuant to which licensee discipline may be imposed.

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

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

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

645—4.2(17A) Purpose of board. The purpose of each professional licensing board is to administer and enforce the provisions of Iowa Code chapters 17A, 21, 147, 272C and the practice-specific provisions in Iowa Code chapters 148A, 148B, 148C, 149, 151, 152A, 152B, 152C, 152D, 154, 154A, 154B, 154C, 154D, 154E, 155, 156, 157 and 158 applicable to each board. The mission of each professional licensing board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of each board. Responsibilities of each professional licensing board include, but are not limited to:

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

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

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

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

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

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

4.3(3) Each board shall hold at least one meeting annually.

4.3(4) A majority of the members of each board shall constitute a quorum.

4.3(5) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

4.3(6) The professional licensure division shall furnish each board with the necessary facilities and employees to perform the duties required by this chapter and shall be reimbursed for all costs incurred from funds collected from licensure-related fees.

4.3(7) Each professional licensing board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of licensees upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

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

h. Establish and register peer reviewers.

i. Refer complaints to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

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

645—4.4(17A) Official communications.

4.4(1) All official communications, including submissions and requests, may be addressed to the specific professional licensing board, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

4.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

4.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—4.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

645—4.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

4.6(1) At every regularly scheduled board meeting, time will be designated for public comment. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

4.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

4.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

4.6(4) Cameras and recording devices may be used at open meetings, provided the cameras or recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

645—4.7(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of the specific professional board. The applicant shall take the examination required by the board.

645—4.8(147) Duplicate certificate or wallet card.

4.8(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

4.8(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in 645—Chapter 5.

4.8(3) If the board receives a completed application for a duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—4.9(147) Reissued 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 645—Chapter 5.

645—4.10(17A,147,272C) License denial.

4.10(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

4.10(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

4.10(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—4.11(272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

4.11(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

4.11(2) The licensee shall provide the following information to the board for auditing purposes:

a. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. These documents must contain the course date, title, contact hours, sponsor and licensee's name.

b. As requested, the licensee must provide to the board additional information to ensure compliance with continuing education requirements within 30 days of the date of the letter requesting the additional information. Extension of time may be granted on an individual basis.

4.11(3) For auditing purposes, all licensees must retain the information identified in paragraph 4.11(2)*"a"* for two years after the biennium has ended.

4.11(4) Information identified in paragraph 4.11(2)*"a"* must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

4.11(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

4.11(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—4.12(272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—4.13(272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

1. Failure to cooperate with a board audit.
2. Failure to meet the continuing education requirement for licensure.
3. Falsification of information on the license renewal form.
4. Falsification of continuing education information.

645—4.14(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

4.14(1) The board may grant an extension of time to fulfill the continuing education requirement.

4.14(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

4.14(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—4.15(272C) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening or evaluation, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

4.15(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the examination or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time within which the licensee must complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the examination or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the examination.

4.15(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

4.15(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

4.15(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

4.15(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

4.15(6) *Admissibility.* In the event the licensee submits to examination and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

4.15(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

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

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CHAPTER 5
FEES

645—5.1(147,152D) Athletic training license fees. All fees are nonrefundable.

5.1(1) License fee for license to practice athletic training is $120.

5.1(2) Temporary license fee for license to practice athletic training is $120.

5.1(3) Biennial license renewal fee for each biennium is $120.

5.1(4) Late fee for failure to renew before expiration is $60.

5.1(5) Reactivation fee is $180.

5.1(6) Duplicate or reissued license certificate or wallet card fee is $20.

5.1(7) Verification of license fee is $20.

5.1(8) Returned check fee is $25.

5.1(9) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

645—5.2(147,158) Barbering license fees. All fees are nonrefundable.

5.2(1) License fee for an initial license to practice barbering, license by endorsement, license by reciprocity or an instructor's license is $120.

5.2(2) Biennial renewal fee for a barber license or barber instructor license is $60.

5.2(3) Temporary permit fee is $12.

5.2(4) Examination fee is $60.

5.2(5) Demonstrator permit fee is $45 for the first day and $12 for each day thereafter for which the permit is valid.

5.2(6) Barber school license fee is $600.

5.2(7) Barber school annual renewal fee is $300.

5.2(8) Barbershop license fee is $72.

5.2(9) Biennial renewal fee for a barbershop license is $72.

5.2(10) Late fee for failure to renew before expiration is $60.

5.2(11) Reactivation fee for a barber license is $120.

5.2(12) Reactivation fee for a barbershop license is $132.

5.2(13) Reactivation fee for a barber school license is $360.

5.2(14) Duplicate or reissued license certificate or wallet card fee is $20.

5.2(15) Verification of license fee is $20.

5.2(16) Returned check fee is $25.

5.2(17) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 158.

645—5.3(147,154D) Behavioral science license fees. All fees are nonrefundable.

5.3(1) License fee for license to practice marital and family therapy or mental health counseling is $120.

5.3(2) Biennial license renewal fee for each biennium is $120.

5.3(3) Late fee for failure to renew before expiration is $60.

5.3(4) Reactivation fee is $180.

5.3(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.3(6) Verification of license fee is $20.

5.3(7) Returned check fee is $25.

5.3(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154D and 272C.

645—5.4(151) Chiropractic license fees. All fees are nonrefundable.

5.4(1) License fee for license to practice chiropractic is $270.

5.4(2) Fee for issuance of annual temporary certificate is $120.

5.4(3) Biennial license renewal fee is $120.
5.4(4) Late fee for failure to renew before the expiration date is $60.
5.4(5) Reactivation fee is $180.
5.4(6) Duplicate or reissued license certificate or wallet card fee is $20.
5.4(7) Fee for verification of license is $20.
5.4(8) Returned check fee is $25.
5.4(9) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code chapters 17A, 151 and 272C.

645—5.5(147,157) Cosmetology arts and sciences license fees. All fees are nonrefundable.
5.5(1) License fee for license to practice cosmetology arts and sciences, license by endorsement, license by reciprocity, or an instructor's license is $60.
5.5(2) Biennial license renewal fee for each license for each biennium is $60.
5.5(3) Late fee for failure to renew before expiration is $60.
5.5(4) Reactivation fee for applicants licensed to practice cosmetology is $120; for salons, $144; and for schools, $330.
5.5(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.5(6) Fee for verification of license is $20.
5.5(7) Returned check fee is $25.
5.5(8) Disciplinary hearing fee is a maximum of $75.
5.5(9) Fee for license to conduct a school teaching cosmetology arts and sciences is $600.
5.5(10) Fee for renewal of a school license is $270 annually.
5.5(11) Salon license fee is $84.
5.5(12) Biennial license renewal fee for each salon license for each biennium is $84.
5.5(13) Demonstrator and not-for-profit temporary permit fee is $42 for the first day and $12 for each day thereafter that the permit is valid.
5.5(14) An initial fee or a reactivation fee for certification to administer microdermabrasion or utilize a certified laser product or an intense pulsed light (IPL) device is $25 for each type of procedure or certified laser product or IPL device.
5.5(15) An initial fee or a reactivation fee for certification of cosmetologists to administer chemical peels is $25.
This rule is intended to implement Iowa Code section 147.80 and chapter 157.

645—5.6(147,152A) Dietetics license fees. All fees are nonrefundable.
5.6(1) License fee for license to practice dietetics, license by endorsement, or license by reciprocity is $120.
5.6(2) Biennial license renewal fee for each biennium is $120.
5.6(3) Late fee for failure to renew before expiration is $60.
5.6(4) Reactivation fee is $180.
5.6(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.6(6) Verification of license fee is $20.
5.6(7) Returned check fee is $25.
5.6(8) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152A and 272C.

645—5.7(147,154A) Hearing aid dispensers license fees. All fees are nonrefundable.
5.7(1) Application fee for a license to practice by examination, endorsement, or reciprocity is $156.
5.7(2) Examination fee (check or money order made payable to the International Hearing Society) is $95.
5.7(3) Renewal of license fee is $60.
5.7(4) Temporary permit fee is $42.

5.7(5) Late fee is $60.
5.7(6) Reactivation fee is $120.
5.7(7) Duplicate or reissued license certificate or wallet card fee is $20.
5.7(8) Verification of license fee is $20.
5.7(9) Returned check fee is $25.
5.7(10) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code chapter 154A.

645—5.8(147) Massage therapy license fees. All fees are nonrefundable.
5.8(1) License fee for license to practice massage therapy is $120.
5.8(2) Biennial license renewal fee for each biennium is $60.
5.8(3) Temporary license fee for up to one year is $120.
5.8(4) Late fee for failure to renew before expiration is $60.
5.8(5) Reactivation fee is $120.
5.8(6) Duplicate or reissued license certificate or wallet card fee is $20.
5.8(7) Verification of license fee is $20.
5.8(8) Returned check fee is $25.
5.8(9) Disciplinary hearing fee is a maximum of $75.
5.8(10) Initial application fee for approval of massage therapy education curriculum is $120.
This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

645—5.9(147,156) Mortuary science license fees. All fees are nonrefundable.
5.9(1) License fee for license to practice funeral directing is $120.
5.9(2) Biennial funeral director's license renewal fee for each biennium is $120.
5.9(3) Late fee for failure to renew before expiration is $60.
5.9(4) Reactivation fee for a funeral director is $180 and for a funeral establishment or cremation establishment is $150.
5.9(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.9(6) Verification of license fee is $20.
5.9(7) Returned check fee is $25.
5.9(8) Disciplinary hearing fee is a maximum of $75.
5.9(9) Funeral establishment or cremation establishment fee is $90.
5.9(10) Three-year renewal fee of funeral establishment or cremation establishment is $90.
This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 156 and 272C.

645—5.10(147,155) Nursing home administrators license fees. All fees are nonrefundable.
5.10(1) License fee for license to practice nursing home administration is $120.
5.10(2) Biennial license renewal fee for each license for each biennium is $60.
5.10(3) Late fee for failure to renew before expiration is $60.
5.10(4) Reactivation fee is $120.
5.10(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.10(6) Verification of license fee is $20.
5.10(7) Returned check fee is $25.
5.10(8) Disciplinary hearing fee is a maximum of $75.
5.10(9) Provisional license fee is $120.
This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 155.

645—5.11(147,148B) Occupational therapy license fees. All fees are nonrefundable.
5.11(1) License fee for an OT or OTA license to practice occupational therapy is $120.
5.11(2) Biennial license renewal fee to practice occupational therapy is $60.
5.11(3) Biennial license renewal fee for an occupational therapy assistant is $60.
5.11(4) Late fee for failure to renew before expiration is $60.

5.11(5) Reactivation fee is $120.
5.11(6) Duplicate or reissued license certificate or wallet card fee is $20.
5.11(7) Verification of license fee is $20.
5.11(8) Returned check fee is $25.
5.11(9) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148B and 272C.

645—5.12(147,154) Optometry license fees. All fees are nonrefundable.
5.12(1) License fee for license to practice optometry, license by endorsement, or license by reciprocity is $300.
5.12(2) Biennial license renewal fee for each biennium is $144.
5.12(3) Late fee for failure to renew before expiration date is $60.
5.12(4) Reactivation fee is $204.
5.12(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.12(6) Verification of license fee is $20.
5.12(7) Returned check fee is $25.
5.12(8) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

645—5.13(147,148A) Physical therapy license fees. All fees are nonrefundable.
5.13(1) License fee for license to practice physical therapy or as a physical therapist assistant is $120.
5.13(2) Biennial license renewal fee for a physical therapist is $60.
5.13(3) Biennial license renewal fee for a physical therapist assistant is $60.
5.13(4) Late fee for failure to renew before expiration is $60.
5.13(5) Reactivation fee is $120.
5.13(6) Duplicate or reissued license certificate or wallet card fee is $20.
5.13(7) Verification of license fee is $20.
5.13(8) Returned check fee is $25.
5.13(9) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148A and 272C.

645—5.14(148C) Physician assistants license fees. All fees are nonrefundable.
5.14(1) Application fee for a license is $120.
5.14(2) Fee for a temporary license is $120.
5.14(3) Renewal of license fee is $120.
5.14(4) Late fee for failure to renew before expiration is $60.
5.14(5) Reactivation fee is $180.
5.14(6) Duplicate or reissued license certificate or wallet card fee is $20.
5.14(7) Fee for verification of license is $20.
5.14(8) Returned check fee is $25.
5.14(9) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148C and 272C.

645—5.15(147,149) Podiatry license fees. All fees are nonrefundable.
5.15(1) License fee for license to practice podiatry, license by endorsement, license by reciprocity or temporary license is $120.
5.15(2) Biennial license renewal fee is $168 for each biennium.
5.15(3) Late fee for failure to renew before expiration is $60.
5.15(4) Reactivation fee is $228.
5.15(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.15(6) Verification of license fee is $20.

5.15(7) Returned check fee is $25.
5.15(8) Disciplinary hearing fee is a maximum of $75.
5.15(9) Temporary license renewal fee is $84 per year.
This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 149 and 272C.

645—5.16(147,154B) Psychology license fees. All fees are nonrefundable.
5.16(1) License fee for license to practice psychology is $120.
5.16(2) Biennial license renewal fee is $170.
5.16(3) Late fee for failure to renew before expiration is $60.
5.16(4) Reactivation fee is $230.
5.16(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.16(6) Verification of license fee is $20.
5.16(7) Returned check fee is $25.
5.16(8) Disciplinary hearing fee is a maximum of $75.
5.16(9) Processing fee for exemption to licensure is $60.
5.16(10) Certification fee for a health service provider is $60.
5.16(11) Biennial renewal fee for certification as a certified health service provider in psychology is $60.
This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154B and 272C.

645—5.17(147,152B) Respiratory care license fees. All fees are nonrefundable.
5.17(1) Initial or endorsement license fee to practice respiratory care is $120.
5.17(2) Biennial license renewal fee for each biennium is $60.
5.17(3) Late fee for failure to renew before expiration is $60.
5.17(4) Reactivation fee is $120.
5.17(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.17(6) Verification of license fee is $20.
5.17(7) Returned check fee is $25.
5.17(8) Disciplinary hearing fee is a maximum of $75.
This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152B and 272C.

645—5.18(147,154E) Sign language interpreters and transliterators license fees. All fees are nonrefundable.
5.18(1) License fee for license to practice interpreting or transliterating is $120.
5.18(2) License fee for temporary license to practice interpreting or transliterating is $120.
5.18(3) Biennial license renewal fee for each biennium is $120.
5.18(4) Late fee for failure to renew before expiration is $60.
5.18(5) Duplicate or reissued license certificate or wallet card fee is $20.
5.18(6) Verification of license fee is $20.
5.18(7) Returned check fee is $25.
5.18(8) Disciplinary hearing fee is a maximum of $75.
5.18(9) Reactivation fee is $180.
This rule is intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

645—5.19(147,154C) Social work license fees. All fees are nonrefundable.
5.19(1) License fee for license to practice social work is $120.
5.19(2) Biennial license renewal fee for a license at the bachelor's level is $72; at the master's level, $120; and independent level, $144.
5.19(3) Late fee for failure to renew before expiration is $60.

5.19(4) Reactivation fee for the bachelor's level is $132; for the master's level, $180; and independent level, $204.

5.19(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.19(6) Verification of license fee is $20.

5.19(7) Returned check fee is $25.

5.19(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154C and 272C.

645—5.20(147) Speech pathology and audiology license fees. All fees are nonrefundable.

5.20(1) License fee for license to practice speech pathology or audiology, temporary clinical license, license by endorsement, or license by reciprocity is $120.

5.20(2) Biennial license renewal fee for each biennium is $96.

5.20(3) Late fee for failure to renew before expiration is $60.

5.20(4) Reactivation fee is $156.

5.20(5) Duplicate or reissued license certificate or wallet card fee is $20.

5.20(6) Verification of license fee is $20.

5.20(7) Returned check fee is $25.

5.20(8) Disciplinary hearing fee is a maximum of $75.

5.20(9) Temporary clinical license renewal fee is $60.

5.20(10) Temporary permit fee is $30.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

[Filed 3/19/08, Notice 11/21/07—published 4/9/08, effective 5/14/08]

CHAPTER 6
PETITIONS FOR RULE MAKING

The division of professional licensure hereby adopts the petitions for rule making segment of the Uniform Rules on Agency Procedure which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

645—6.1(17A) Petition for rule making. In lieu of the words "(Designate office)", insert the name of the specific board in professional licensure. A request for access to a record should be addressed to the Professional Licensure Division, Lucas State Office Building, Des Moines, Iowa 50319-0075.

In lieu of the words "(AGENCY NAME)", the heading of the petition should read:

BEFORE THE BOARD OF EXAMINERS FOR THE LICENSING AND REGULATION OF
(INSERT SPECIFIC BOARD NAME FOR A BOARD LISTED IN THE PROFESSIONAL
LICENSURE DIVISION)

645—6.2(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the (name of the specific board), Professional Licensure Division, Lucas State Office Building, Des Moines, Iowa 50319-0075.

These rules are intended to implement Iowa Code section 17A.7 as amended by 1998 Iowa Acts, chapter 1202.

[Filed 5/14/99, Notice 3/24/99—published 6/2/99, effective 7/7/99]

CHAPTER 7
AGENCY PROCEDURE FOR RULE MAKING

645—7.1(17A) Adoption by reference. The professional licensure division hereby adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

1. In lieu of the words "(commission, board, council, director)", insert "board".
2. In lieu of the words "(specify time period)", insert "one year".
3. In lieu of the words "(identify office and address)", insert "Administrator, Professional Licensure Division, Public Health Department, Lucas State Office Building, Des Moines, Iowa 50319".
4. In lieu of the words "(designate office and telephone number)", insert "the administrator at (515)424-6385".
5. In lieu of the words "(designate office)", insert "Professional Licensure Division, Public Health Department, Lucas State Office Building, Des Moines, Iowa 50319".
6. In lieu of the words "(specify the office and address)", insert "Professional Licensure Division, Public Health Department, Lucas State Office Building, Des Moines, Iowa 50319".
7. In lieu of the words "(agency head)", insert "administrator".

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

[Filed 5/14/99, Notice 3/24/99—published 6/2/99, effective 7/7/99]

CHAPTER 8
DECLARATORY ORDERS

The division of professional licensure hereby adopts the declaratory orders segment of the Uniform Rules on Agency Procedure which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

645—8.1(17A) Petition for declaratory order. In lieu of the words "(Designate office)", insert "(name of specific licensing board in the professional licensure division), Professional Licensure, Department of Public Health, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075".

In lieu of the words "(AGENCY NAME)", the heading on the petition should read:

BEFORE THE (insert the name of the specific board in the professional licensure division)

645—8.2(17A) Notice of petition. In lieu of the words "____ days (15 or less)", insert "15 days".

645—8.3(17A) Intervention.

8.3(1) In lieu of the words "____ days", insert "15 days".

645—8.5(17A) Inquiries. In lieu of the words "(designate official by full title and address)", insert "(name of the specific board in the professional licensure division), Professional Licensure, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075".

These rules are intended to implement Iowa Code section 17A.9 as amended by 1998 Iowa Acts, chapter 1202.

[Filed 5/14/99, Notice 3/24/99—published 6/2/99, effective 7/7/99]

CHAPTER 9
COMPLAINTS AND INVESTIGATIONS

645—9.1(272C) Complaints.

9.1(1) A complaint shall be made in writing and shall be mailed or delivered to the Board of _____ Examiners, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The complaint shall include the name and address of the complainant, the name of the licensee, and a concise statement of the allegations against the licensee. A complaint may also be initiated upon the board's own motion pursuant to evidence received by the board. Timely filing of complaints is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

9.1(2) A person shall not be civilly liable as a result of filing a complaint with the board, or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with the duties of the board. However, such immunity from civil liability shall not apply if such act is done with malice.

645—9.2(272C) Report of malpractice claims or actions or disciplinary actions. Each licensee shall submit a copy of any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state or jurisdiction to the board within 30 days of the date of occurrence.

645—9.3(272C) Report of acts or omissions. Each licensee having first-hand knowledge of acts or omissions of the board's statute or administrative rules shall report to the board those acts or omissions when committed by another person licensed to practice by the board. The report shall include the name and address of the licensee and the date, time, and place of the incident.

645—9.4(272C) Investigation of complaints or reports. The chairperson of the board may assign an investigation of a complaint or report to a member of the board or may request an investigator from the department of inspections and appeals to investigate the complaint or report. The investigating board member or the investigator may request information from any peer review committee which may be established to assist the board. The investigating board member or investigator may consult an assistant attorney general concerning the investigation or evidence produced from the investigation. A board member who has personally investigated a complaint is disqualified from participating in any contested case proceeding resulting from the investigation.

645—9.5(17A,272C) Issuance of investigatory subpoenas.

9.5(1) The board administrator or designee may, upon the written request of a board investigator or on the administrator's own initiative, subpoena books, papers, records, and other real evidence which is 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.

9.5(2) A written request for a subpoena or the administrator'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 9.5(1) have been satisfied.

9.5(3) Each subpoena shall contain:

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 board administrator or designee;

f. The date of issuance;

g. A return of service.

9.5(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.

9.5(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.

9.5(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 board administrator, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

9.5(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 the investigation has been concluded with no formal action, or (2) there is a final decision in the contested case.

645—9.6(272C) Peer review committees.

9.6(1) A complaint may be assigned to a peer review committee for review, investigation, or report to the board.

9.6(2) The board shall determine which peer review committee will review a case and what complaints or other matters shall be referred to a peer review committee for investigation, review, or report to the board.

9.6(3) Members of the peer review committees shall not be liable for acts, omissions, or decisions made in connection with service on the peer review committee. However, such immunity from civil liability shall not apply if such act is done with malice.

9.6(4) The peer review committees shall observe the requirements of confidentiality imposed by Iowa Code section 272C.6.

645—9.7(17A) Appearance. The board may request that a licensee appear before a committee of the board to discuss a pending investigation. By electing to participate in the committee appearance, the licensee waives any objection to a board member both participating in the appearance and later participating as a decision maker in a contested case proceeding. By electing to participate in the committee appearance, the licensee further waives any objection to the board administrator assisting the board in the contested case proceeding.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapter 272C.

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CHAPTER 10
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The professional licensure division of the public health department hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first Volume of the Iowa Administrative Code.

645—10.1(17A,22) Definitions. As used in this chapter:

"Board" means a particular professional licensing board.

645—10.3(17A,22) Requests for access to records.

10.3(1) *Location of record.* In lieu of the words "(insert agency head)", insert "board administrator" or the particular agency office where the record is kept. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the Professional Licensure Division, Lucas State Office Building, Des Moines, Iowa 50319-0075.

10.3(2) *Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. excluding Saturdays, Sundays and legal holidays.

10.3(7) *Fees.*

c. *Search and supervisory fee.* An hourly fee may be charged for actual agency expenses in searching for and supervising the examination and copying of requested records when the time required is in excess of one hour. The custodian shall prominently post in agency offices the hourly fees to be charged for search and supervision of records. That hourly fee shall not be in excess of the hourly wage of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

645—10.5(17A,22) Request for treatment of a record as a confidential record and its withholding from examination.

10.5(7) This rule does not allow a person to request confidential record status for records of licensee disciplinary proceedings which are required by law to be public records.

645—10.6(17A,22) Procedures by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)" insert "the board administrator".

645—10.9(17A,22) Disclosures without the consent of the subject.

10.9(1) Open records are routinely disclosed without the consent of the subject.

10.9(2) To the extent allowed by law, disclosure of confidential records occurs without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without consent of the subject:

a. For a routine use as defined in rule 10.10(17A,22) or in the notice for a particular record system.

b. To a recipient who has provided the board with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. Investigative information in the possession of a licensing board or its employees or agents which relates to licensee discipline may be disclosed to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the District of Columbia, or territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of a licensing board or its employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency.

d. To the legislative services agency under Iowa Code section 2A.3.

e. Disclosures in the course of employee disciplinary proceedings.

f. In response to a court order or subpoena.

645—10.10(17A,22) Routine use.

10.10(1) Defined. *"Routine use"* means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

10.10(2) To the extent allowed by law, the following uses are considered routine uses of all board records:

a. Disclosure to those officers, employees, and agents of the board who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals and the attorney general's office for the matters in which it is performing services or functions on behalf of the board.

d. Transfers of information within the board office and among board members, to other state boards and departments, or to local units of government as appropriate to carry out the board's statutory authority.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the board is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

g. Disclosure to the public and news media of pleadings, motions, orders, final decisions and informal settlements filed in licensee disciplinary proceedings.

h. Transmittal to the district court of the record in a disciplinary hearing, pursuant to Iowa Code section 17A.19(6), regardless of whether the hearing was open or closed.

645—10.11(17A,22) Consensual disclosure of confidential records.

10.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to board disclosure of confidential records as provided in rule 10.7(17A,22).

10.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in matter that involves the board may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

645—10.12(17A,22) Release to subject.

10.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 10.6(17A,22). However, the board need not release the following records to the subject:

a. All information in licensee complaint and investigation files maintained by the board for purposes of licensee discipline is required to be withheld from the subject prior to the filing of formal charges and the notice of hearing in a licensee disciplinary proceeding.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5))

d. As otherwise authorized by law.

10.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the board may take reasonable steps to protect confidential information relating to another subject.

645—10.13(17A,22) Availability of records.

10.13(1) *General.* Board records are open for public inspection and copying unless otherwise provided by rule or law.

10.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. All information in complaint and investigation files maintained by the board, or peer review committee acting under the authorization of the board, for purposes of licensee discipline is confidential in accordance with Iowa Code section 272C.6(4), except that the information may be released to the licensee once a licensee disciplinary proceeding has been initiated by the filing of formal charges and a notice of hearing.

b. The record of a disciplinary hearing which is closed to the public pursuant to Iowa Code section 272C.6(1) is confidential under Iowa Code section 21.5(4). However, in the event a record is transmitted to the district court pursuant to Iowa Code section 17A.19(6) for purposes of judicial review, the record shall not be considered confidential unless the district court so orders.

c. Criminal history or prior misconduct of an applicant for licensure, pursuant to Iowa Code section 147.21(1).

d. Information relating to the contents of an examination for licensure, pursuant to Iowa Code section 147.21(2).

e. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination pursuant to Iowa Code section 147.2(3).

f. Minutes and tape recordings of portions of board meetings held in closed sessions, pursuant to Iowa Code section 21.5(4).

g. Records which are exempt from disclosure under Iowa Code section 22.7.

h. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"d."*

i. Those portions of board staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by board staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the board. (All under Iowa Code sections 17A.2 and 17A.3)

j. Information in nonlicensee and investigation files maintained by the board which are otherwise exempt from disclosure under Iowa Code section 22.7 or other provisions of the law.

k. Records made confidential under any other provision of law.

10.13(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited discretionary disclosure as provided in rule 10.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 10.4(3).

645—10.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the board by personal identifier in record systems as defined in rule 10.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information, and the means of storage of that information. The board does not use a data processing system to match, collate, or permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the board are:

10.14(1) *Records of board disciplinary hearings.* These records contain information about licensees who are the subject of a board disciplinary proceeding or other action. This information is stored on paper, and electronically in the event the hearing is tape recorded.

10.14(2) *Complaint reports.* These records contain information about licensees and the people they serve. This information is collected pursuant to Iowa Code sections 272C.3 and 272C.4. This information is stored on paper only.

10.14(3) *Investigative reports.* These records contain information about the subjects of board investigations and the activities of board investigators. The records may include a variety of attachments such as interviews, audits, medical records, exhibits, police reports, and investigators' comments, conclusions and recommendations. This information is collected pursuant to Iowa Code sections 272C.3, 272C.4, and 272C.5. This information is stored on paper and electronically.

10.14(4) *Declaratory rulings.*

10.14(5) *Licensure records.* These records contain information about the licensee including any or all of the following: transcripts, collected pursuant to Iowa Code section 147.19; application for licensure by examination, collected pursuant to Iowa Code sections 147.29 through 147.43; birth certificates, collected pursuant to Iowa Code section 147.3; references, collected pursuant to Iowa Code section 147.3; past felony record, collected pursuant to Iowa Code section 147.3; high school graduation or equivalency records, collected pursuant to Iowa Code section 147.29; examination scores, collected pursuant to Iowa Code section 147.34; continuing education records, collected pursuant to Iowa Code section 272C.2. In the case of licensure by endorsement the board collects verification of licensure by another board pursuant to Iowa Code section 147.47. This information is stored on paper or microfilm only.

10.14(6) *Information on nonlicensee complaint and nonlicensee investigation files maintained by the board.* This information is collected pursuant to Iowa Code chapter 147. This information is stored on paper only.

645—10.15(22) Other groups of records routinely available for public inspection. This rule describes groups of records maintained by the board other than record systems as defined in rule 10.2(17A,22). These records are not maintained or retrieved by personal identifiers. These records are routinely available to the public. However, the board's files of these records listed in subrules 10.14(1) to 10.14(6) may contain information about individuals. The only information stored electronically is names, addresses, current status of licenses, licensee number and statistical information pertaining to individuals. All other information is stored on paper. These records include:

1. Records of board rule-making procedures. Rule-making records may contain information about individuals making written or oral comments or proposed rules.

2. Agendas, minutes and materials presented to the board are available from the office of the board except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4). These records may contain information about individuals who participate in board meetings.

3. Publications. News releases, annual reports, project reports, board newsletters, etc.are available from the office of the board. Brochures describing various board programs are available at local offices of the board.

Board news releases, project reports, and newsletters may contain information about individuals, including board members or staff.

4. Statistical reports. Statistical reports do not contain personally identifiable information.

5. Board decisions, final orders or agreements, advisory opinions and other statements of law or policy issued by the board in the performance of its functions. These records are open pursuant to Iowa Code section 272C.6(4) except for information that is confidential pursuant to subrule 10.13(2)*"c."*

6. Financial reports pertaining to the board's budget including its revenues and expenses. This information is stored electronically and on paper.

7. Blank forms utilized by the board and its staff in the performance of its function. This information is stored on paper only.

8. A record inventory of all categories of information and records maintained by or on behalf of the board. This inventory is stored on paper only.

9. All other records that are not exempted from disclosure by law.

645—10.16(17A,22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

3. Govern the maintenance or disclosure of, notification of, or access to, records in the possession of the agency which are governed by the rules of another agency.

4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

These rules are intended to implement Iowa Code section 22.11.

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CHAPTER 11
CONTESTED CASES

645—11.1(17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the board of _____ examiners.

645—11.2(17A) Definitions. Except where otherwise specifically defined by law:

"Contested case" means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14.

"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 or the respondent.

"Presiding officer" means the board of _____ examiners.

645—11.3(17A) Time requirements.

11.3(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

11.3(2) For good cause, the presiding officer may extend 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 extending 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.

645—11.4(17A) Probable cause. In the event the board finds there is probable cause for taking disciplinary action against a licensee following investigation, the board shall order a contested case hearing be commenced by the filing of a statement of charges and notice of hearing.

645—11.5(17A) Legal review. Every statement of charges and notice of hearing prepared by the board shall be reviewed by the office of the attorney general prior to filing.

645—11.6(17A) Statement of charges and notice of hearing.

11.6(1) *Delivery.* Delivery of the statement of charges and 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. Restricted certified mail, return receipt requested; or

c. Publication, as provided in the Iowa Rules of Civil Procedure.

11.6(2) *Contents.* The statement of charges and 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. This statement shall contain sufficient detail to give the respondent fair notice of the allegations so that the respondent may adequately respond to the charges, and to give the public notice of the matters at issue;

e. Identification of all parties including the name, address and telephone number of the assistant attorney general designated as prosecutor for the state and the parties' counsel, if known;

f. Reference to the procedural rules governing conduct of the contested case proceeding;

g. Reference to the procedural rules governing informal settlement;

h. Identification of the board as the presiding officer; and

i. Notification of the time period in which a party may request, when applicable, and pursuant to 1998 Iowa Acts, chapter 1202, section 15(1), and rules 11.8(17A,272C) and 11.9(17A,272C), that the presiding officer be an administrative law judge.

645—11.7(17A,272C) Legal representation. Following the filing of the statement of charges and notice of hearing, the office of the attorney general shall be responsible for the legal representation of the public interest in all proceedings before the board.

645—11.8(17A,272C) Presiding officer in a disciplinary contested case. The presiding officer in a disciplinary contested case shall be the board. However, the board may request that an administrative law judge assist the board with initial rulings on prehearing matters. Decisions of the administrative law judge serving in this capacity are subject to the interlocutory appeal provisions of rule 11.24(17A). In addition, an administrative law judge may assist and advise the board at the contested case hearing.

645—11.9(17A) Presiding officer in a nondisciplinary contested case.

11.9(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 a notice of hearing which identifies or describes the presiding officer as the board.

11.9(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 with the qualifications identified in 11.9(4) 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.

11.9(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 with the qualifications identified in 11.9(4), the parties shall be notified at least ten days prior to hearing if a qualified administrative law judge will not be available.

11.9(4) An administrative law judge assigned to act as presiding officer in a nondisciplinary contested case shall have a J.D. degree unless waived by the agency.

11.9(5) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer in a nondisciplinary contested case are subject to appeal to the board. A party must seek appeal to the board in order to exhaust adequate administrative remedies. Such appeals must be filed within ten 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.

11.9(6) Unless otherwise provided by law, when reviewing a proposed decision of an administrative law judge in a nondisciplinary contested case upon appeal, the board shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

645—11.10(17A) Disqualification.

11.10(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;

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 that: (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; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

11.10(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 general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or 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 1998 Iowa Acts, chapter 1202, section 19(3), and subrules 11.10(3) and 11.22(9).

11.10(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.

11.10(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 11.10(1), the party shall file a motion supported by an affidavit pursuant to 1998 Iowa Acts, chapter 1202, section 19(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board shall determine the matter as part of the record in the case.

645—11.11(17A) Consolidation—severance.

11.11(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where the matters at issue involve common parties or common questions of fact or law; consolidation would expedite and simplify consideration of the issues involved; and consolidation would not adversely affect the rights of any of the parties to those proceedings.

11.11(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

645—11.12(17A) Answer.

11.12(1) An answer shall be filed within 20 days of service of the statement of charges and notice of hearing.

11.12(2) An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the statement of charges. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the respondent may claim.

11.12(3) An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

11.12(4) 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.

11.12(5) Amendments to the statement of charges and to an answer may be allowed with the consent of the parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

645—11.13(17A) Service and filing.

11.13(1) *Service—when required.* Every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the assistant attorney general designated as prosecutor for the state, simultaneously with their filing. Except for the original notice of hearing and 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.

11.13(2) *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.

11.13(3) *Filing—when required.* After the notice of hearing, all documents in a contested case proceeding shall be filed with the board. All documents that are required to be served upon a party shall be filed simultaneously with the board.

11.13(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Board of _____ Examiners, Board Administrator, Lucas State Office Building, Des Moines, Iowa 50319, or delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

11.13(5) *Proof of mailing.* Proof of mailing includes a legible United States Postal Service postmark on the envelope, a certificate of service, or a notarized affidavit.

645—11.14(17A) Discovery.

11.14(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

11.14(2) Any motion 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 ten days of the filing of the motion unless the time is shortened. The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

645—11.15(17A,272C) Issuance of subpoenas in a contested case.

11.15(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 board administrator or designee upon written request. A request for a subpoena of mental health records must confirm the conditions described in 645—subrule 9.5(1) prior to the issuance of the subpoena.

11.15(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;

f. The date, time and location for production, or inspection and copying; and

g. In the case of a subpoena request for mental health records, confirmation that the conditions described in 645—subrule 9.5(1) have been satisfied.

11.15(3) Each subpoena shall contain, as applicable:

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 a motion to quash or modify the subpoena must be filed;

i. The signature, address and telephone number of the board administrator or designee;

j. The date of issuance;

k. A return of service.

11.15(4) Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the board administrator or designee shall mail copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

11.15(5) 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.

11.15(6) 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.

11.15(7) 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 board administrator, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

11.15(8) 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 there is a final decision in the contested case.

645—11.16(17A) Motions.

11.16(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

11.16(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

11.16(3) The presiding officer may schedule oral argument on any motion.

11.16(4) Motions pertaining to the hearing must be filed and served at least ten 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 agency or an order of the presiding officer.

645—11.17(17A) Prehearing conferences.

11.17(1) Any party may request a prehearing conference. Prehearing conferences shall be conducted by the board administrator, who may request the assistance of an administrative law judge. A written request for prehearing conference or an order for prehearing conference on the board administrator's own motion shall be filed prior to the contested case hearing, but no later than 20 days prior to the hearing date. Written notice of the prehearing conference shall be given by the board administrator to all parties. For good cause the board administrator may permit variances from this rule.

11.17(2) The parties at a prehearing conference shall be prepared to discuss the following subjects, and the board administrator or administrative law judge may issue appropriate orders concerning:

a. The possibility of settlement.

b. The entry of a scheduling order to include deadlines for completion of discovery.

c. Stipulations of law or fact.

d. Stipulations on the admissibility of exhibits.

e. Submission of expert and other witness lists. Witness lists may be amended subsequent to the prehearing conference within the time limits established by the board administrator 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.

f. Submission of exhibit lists. Exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the board administrator or administrative law judge at the prehearing conference. Exhibits other than rebuttal 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.

g. Stipulations for waiver of any provision of law.

h. Identification of matters which the parties intend to request be officially noticed.

i. Consideration of any additional matters which will expedite the hearing.

11.17(3) Prehearing conferences may be conducted by telephone unless otherwise ordered.

645—11.18(17A) Continuances.

11.18(1) Applications for continuances shall be filed with the board. In the event the application for continuance is not contested, the board administrator shall issue the appropriate order. In the event the application for continuance is contested, the matter shall be heard by the board or may be delegated by the board to an administrative law judge.

11.18(2) A written application for a continuance shall:

a. Be made at the earliest possible time and no less than five working days before the hearing. Within five working days of the date set for hearing, no continuances shall be granted except for extraordinary, extenuating, or emergency circumstances;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

11.18(3) In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

c. The public interest;

d. The likelihood of informal 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.

11.18(4) The presiding officer may require documentation of any grounds for continuance.

645—11.19(17A,272C) Hearing procedures.

11.19(1) The presiding officer shall have the authority to administer oaths, to admit or exclude testimony or other evidence, and to rule on all motions and objections. The presiding officer may request that an administrative law judge perform any of these functions and may be assisted and advised by an administrative law judge.

11.19(2) All objections shall be timely made and stated on the record.

11.19(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at their own expense.

11.19(4) Subject to terms and conditions 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, and submit briefs and engage in oral argument.

11.19(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

11.19(6) Witnesses may be sequestered during the hearing.

11.19(7) The presiding officer shall have authority to grant immunity from disciplinary action to a witness as provided by Iowa Code section 272C.6(3).

11.19(8) 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. The 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 presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

11.19(9) The board members and the administrative law judge have the right to question a witness. Examination of witnesses is subject to properly raised objections.

11.19(10) The hearing shall be open to the public unless the licensee requests that the hearing be closed.

645—11.20(17A) Evidence.

11.20(1) 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.

11.20(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

11.20(3) 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.

11.20(4) 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. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

11.20(5) 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.

11.20(6) 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.

645—11.21(17A) Default.

11.21(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.

11.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has failed to appear after proper service.

11.21(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. 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 of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

11.21(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.

11.21(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 ten 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.

11.21(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 236.

11.21(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 11.24(17A).

11.21(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

11.21(9) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 11.26(17A).

645—11.22(17A) Ex parte communication.

11.22(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. Nothing in this provision is intended to preclude board members from communicating with other board members or members of the board staff, other than those with a personal interest in, or those engaged in personally investigating, 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.

11.22(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 before the board.

11.22(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

11.22(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 11.6(17A) and may be supplemented by telephone, facsimile, electronic

mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

11.22(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.

11.22(6) The board administrator or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a final decision under any provision of law and they comply with this rule.

11.22(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines.

11.22(8) A presiding officer who receives 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 ten days after notice of the communication.

11.22(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a 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.

11.22(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, suspension or revocation of the privilege to practice before the agency. Violation of ex parte communication prohibitions by board personnel shall be reported to the board and its board administrator for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

645—11.23(17A) Recording costs. 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.

645—11.24(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the board administrator or an administrative law judge. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

645—11.25(17A) Applications for rehearing.

11.25(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order. The filing of an application for rehearing is not necessary to exhaust administrative remedies for purposes of judicial review.

11.25(2) *Content of application.* The 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 agency decision on the existing record and whether the applicant requests an opportunity to submit additional evidence.

11.25(3) *Additional evidence.* A party may request the taking of additional evidence only by establishing that (a) the facts or other evidence arose after the original proceeding, or (b) the party offering such evidence could not reasonably have provided such evidence at the original proceedings, or (c) the party offering the additional evidence was misled by any party as to the necessity for offering such evidence at the original proceeding. A written request to present additional evidence must be filed with the application for rehearing or, by a nonappealing party, within 14 days of service of the notice of appeal.

11.25(4) *Time of filing.* The application shall be filed with the board within 20 days after issuance of the final decision.

11.25(5) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.

11.25(6) *Disposition.* Any application for a rehearing shall be deemed denied unless the agency grants the application within 20 days after its filing.

645—11.26(17A) Stays of agency actions.

11.26(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.

11.26(2) *When granted.* In determining whether to grant a stay, the board shall consider the factors listed in 1998 Iowa Acts, chapter 1202, section 23.

645—11.27(17A) 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.

645—11.28(17A) Emergency adjudicative proceedings.

11.28(1) Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, 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 board by emergency adjudicative order.

11.28(2) 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 board 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 board is necessary to avoid the immediate danger.

11.28(3) Issuance of order.

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. The order is a public record.

b. The written emergency adjudicative order shall be immediately delivered to the person who is required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the agency;

(3) Certified mail to the last address on file with the agency; or

(4) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

d. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board shall make reasonable immediate efforts to contact by telephone the person who is required to comply with the order.

e. After the issuance of an emergency adjudicative order, the board shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

f. Issuance of a written emergency adjudicative order shall include notification of the date on which board proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing unless the person who is required to comply with the order is the party requesting the continuance.

645—11.29(17A) Appeal. Any appeal to district court from a decision in a contested case shall be taken within 30 days from the date of issuance of the decision by the board pursuant to Iowa Code section 17A.19 as amended by 1998 Iowa Acts, chapter 1202.

645—11.30(272C) Publication of decisions. Final decisions of the board in a contested case shall be transmitted to the appropriate association, the news media, and the employer.

645—11.31(272C) Reinstatement.

11.31(1) Any person whose license to practice has been revoked or suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension, unless the order of revocation provides that the license is permanently revoked.

11.31(2) If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

11.31(3) All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for reinstatement of the license. Such application shall be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the application for reinstatement shall be subject to the same rules of procedure as other cases before the board.

11.31(4) An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

11.31(5) An order denying or granting reinstatement shall be based upon a decision which incorporates findings of facts and conclusions of law. The order shall be published as provided for in this chapter.

645—11.32(17A,272C) License denial.

11.32(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically delineate the facts to be contested at hearing.

11.32(2) All hearings held pursuant to this rule shall be held pursuant to the process outlined in this chapter.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

[Filed 5/14/99, Notice 3/24/99—published 6/2/99, effective 7/7/99]

CHAPTER 12
INFORMAL SETTLEMENT

645—12.1(17A,272C) Informal settlement.

12.1(1) *Informal settlement—parties.* A contested case may be resolved by informal settlement. Negotiation of an informal settlement may be initiated by the state of Iowa represented by an assistant attorney general, the respondent, or the board. The board shall designate a board member with authority to negotiate on behalf of the board. The full board shall not be involved in negotiations until the presentation of a final, written, signed informal settlement to the full board for approval.

12.1(2) *Informal settlement—waiver of notice and opportunity to be heard.* Consent to negotiation by a respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code chapter 17A during informal settlement negotiation, and the assistant attorney general is thereafter authorized to discuss informal settlement with the board's designee until that consent is expressly withdrawn.

12.1(3) *Informal settlement—board approval.* All informal settlements are subject to approval of a majority of the board. No informal settlement shall be presented to the board for approval except in final, written form executed by the respondent. If the board fails to approve the informal settlement, it shall be of no force or effect to either party.

12.1(4) *Informal settlement—disqualification of designee.* A board member who is designated to act in negotiation of settlement is not disqualified from participating in the contested case should the case proceed to hearing.

12.1(5) *Voluntary surrender.* The board may accept the voluntary surrender of a license if accompanied by a written statement of intention. A voluntary surrender, when accepted in connection with a disciplinary proceeding, has the same force and effect as an order of revocation.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapter 272C.

[Filed 5/14/99, Notice 3/24/99—published 6/2/99, effective 7/7/99]

CHAPTER 13
DISCIPLINE

645—13.1(272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—13.2(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to assuring the citizens of this state a high standard of professional care.
2. The facts of the particular violation.
3. Any extenuating facts or other countervailing considerations.
4. The number of prior violations or complaints.
5. The seriousness of prior violations or complaints.
6. Whether remedial action has been taken.
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—13.3(272C) Conduct of persons attending meetings.

13.3(1) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

13.3(2) Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding may request the person to discontinue use of the camera or device. If the person persists in use of the device or camera, that person shall be ordered excluded from the meeting by order of the board member at the meeting.

These rules are intended to implement Iowa Code sections 21.7, 272C.4, 272C.5, and 272C.6.

[Filed 5/14/99, Notice 3/24/99—published 6/2/99, effective 7/7/99]

CHAPTER 14
CHILD SUPPORT NONCOMPLIANCE

645—14.1(252J) Adoption by reference. The division of professional licensure hereby adopts 641—Chapter 192, "Child Support Noncompliance," as 645—Chapter 14, with the following amendment:

"Board" means a particular professional licensing board in the division of professional licensure.

These rules are intended to implement Iowa Code chapter 252J.

[Filed 5/14/99, Notice 3/24/99—published 6/2/99, effective 7/7/99]

CHAPTER 15
NONCOMPLIANCE OF LOAN REPAYMENT

645—15.1(261) Adoption by reference. The division of professional licensure hereby adopts 641—Chapter 195, "Noncompliance of Loan Repayment," to appear as 645—Chapter 15.

These rules are intended to implement Iowa Code chapter 261.

[Filed 5/14/99, Notice 3/24/99—published 6/2/99, effective 7/7/99]

CHAPTER 16
IMPAIRED PRACTITIONER REVIEW COMMITTEE

Pursuant to the authority of Iowa Code section 272C.3(1)*"k,"* the department of public health establishes the impaired practitioner review committee.

645—16.1(272C) Definitions.

"Board" means a health professional licensing board established pursuant to Iowa Code chapter 147, 154A, 154E, or 155.

"Contract" means the written document executed by a practitioner and the impaired practitioner review committee which establishes the terms for participation in the impaired practitioner program.

"Impairment" means an inability to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any neuropsychological or physical disorder or disability. For the purposes of the program, "impairment" does not include gambling addiction, sexual addiction, sexual compulsivity, paraphilia or other sexual disorders.

"IPRC" or *"committee"* means the impaired practitioner review committee.

"Practitioner" or *"licensee"* means a person licensed under Iowa Code chapter 147, 154A, 154E, or 155.

"Self-report" means written or oral notification provided by the licensee to the board or impaired practitioner review committee that the licensee has been, is, or may be impaired prior to the board's receiving a complaint or report from a third party alleging the same. Information relative to impairment or a potential impairment which is provided on a license application or a renewal form may be considered a self-report.

645—16.2(272C) Purpose. The impaired practitioner review committee evaluates, assists, and monitors the recovery or rehabilitation of practitioners in the impaired practitioner program and makes reports to the board in the event of noncompliance. The impaired practitioner program is both an advocate for licensee health and a means to protect the health and safety of the public.

645—16.3(272C) Composition of the committee. The committee is composed of, but not limited to, members with the following qualifications:

16.3(1) A licensed practitioner who has expertise in the area of substance abuse and addiction treatment.

16.3(2) A licensed practitioner who has expertise in the diagnosis and treatment of psychological disorders and disabilities.

16.3(3) A specialty board-certified psychiatrist who holds a current, active Iowa license as defined in 653—9.1(147,148,150,150A).

16.3(4) A licensee who has remained free of addiction for a period of no less than two years since successfully completing a board-approved recovery program; board-ordered probation for drug or alcohol dependency, addiction or abuse; or an impaired practitioner review committee contract.

16.3(5) A physician, a physician assistant or an advanced registered nurse practitioner (ARNP) whose specialty area is family practice or who has expertise in neurological disorders.

a. If the member is a physician, the physician shall be a person licensed to practice medicine and surgery, osteopathic medicine and surgery or osteopathy as defined in 653—1.1(17A,147).

b. If the member is a physician assistant, the physician assistant shall be a person licensed as a physician assistant as defined in 645—326.1(148C).

c. If the member is an ARNP, the ARNP shall be licensed as a registered nurse as defined in Iowa Code chapter 152 or 152E and registered to practice as an ARNP in Iowa as defined in 655—7.2(152).

16.3(6) An at-large public member.

16.3(7) The board administrator assigned to the impaired practitioner review committee for professional licensure.

645—16.4(272C) Organization of the committee.

16.4(1) The division shall appoint the committee members designated in subrules 16.3(1) to 16.3(6).

16.4(2) Upon request of the committee, the board chairperson or other licensed designee of the board under which the licensee is regulated may join the committee to provide consultation when a licensee of that board is being reviewed.

16.4(3) The IPRC shall elect a chairperson and vice chairperson from committee members specified in subrules 16.3(1) to 16.3(5) at the first meeting of each calendar year. The officers shall serve one-year terms, which will commence following the election.

16.4(4) Committee members, except the board administrator, shall be appointed for a three-year term, and may serve for a maximum of three terms. Each term shall expire on December 31 of the third year of the term. Initial terms of committee members shall be for a period of not less than one year nor more than three years as designated by the division to provide continuity to the committee.

645—16.5(272) Eligibility. To be eligible for participation in the impaired practitioner program, a licensee must meet all the following criteria:

16.5(1) The licensee must self-report an impairment or suspected impairment directly to the IPRC or be referred to the committee by the board.

16.5(2) The licensee must undergo an evaluation at an impaired practitioner committee-approved provider if requested to do so by the committee.

16.5(3) The licensee must not have engaged in the unlawful diversion or distribution of controlled or illegal substances to a third party or for personal financial gain.

16.5(4) At the time of the self-report or referral, the licensee must not already be under any Iowa board order related to an impairment.

16.5(5) The licensee shall not have caused harm or injury to a client.

16.5(6) The licensee shall provide truthful information and fully cooperate with the board or committee.

16.5(7) The licensee must consent to the conditions proposed by the committee in the contract.

645—16.6(272C) Meetings.

16.6(1) The committee shall meet as necessary in order to review licensee compliance, develop contracts for new referrals, and determine eligibility for continued monitoring.

16.6(2) The committee may hold a closed session if the committee votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds of the total committee or a unanimous vote of those present. The committee will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The impaired practitioner review committee shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

645—16.7(272C) Terms of participation. A licensee shall agree to comply with the terms for participation in the impaired practitioner program established in a contract. The impaired practitioner review committee shall file a confidential report on board-referred cases with the board upon the licensee's successful completion of the program.

645—16.8(272C) Noncompliance. A licensee's failure to comply with the provisions of the contract may require the committee to make referral of the matter to the licensee's board for possible disciplinary action. The impaired practitioner review committee may provide to the board the licensee's impaired practitioner program file in the event the participant does not comply with the terms of the contract.

645—16.9(272C) Practice restrictions. As a term of the contract, the committee may impose restrictions on the licensee's practice until such time as the committee receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. 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 contract. In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee shall refer the licensee to the board for appropriate action.

645—16.10(272C) Limitations. The committee shall establish the terms and monitor a licensee's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired practitioner program. Participation in the program under the auspices of the committee shall not relieve the licensee's board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant shall be referred to the board for appropriate action.

645—16.11(272C) Confidentiality. The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information in the possession of the board or the committee about licensees in the program shall not be disclosed to the public. Participation in the impaired practitioner program under the auspices of the committee is not a matter of public record. Information about applicants or licensees in the program shall not be disclosed except as provided in this rule.

16.11(1) The impaired practitioner review committee may communicate information about a licensee in the program to licensing authorities and impaired practitioner programs of any jurisdiction of the United States or foreign nations in which the participant is currently licensed to practice or in which the participant may seek licensure.

16.11(2) The impaired practitioner review committee may communicate information about a licensee in the program to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance.

16.11(3) The impaired practitioner review committee may communicate information about a licensee in the program to the licensee's board in the event the participant does not comply with the terms of the contract as specified in rule 16.8(272C) or 16.9(272C).

16.11(4) The impaired practitioner review committee shall maintain a participant's complete IPRC file for the ten-year period after a participant's contract has expired or is terminated. After that period, only the contract shall be retained.

These rules are intended to implement Iowa Code chapter 272C.

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CHAPTER 17
MATERIALS FOR BOARD REVIEW

645—17.1(147) Materials for board review. Materials received at least two weeks before a regularly scheduled meeting shall be placed on the agenda for board review. Materials from emergency or unusual circumstances may be added to the agenda with the chairperson's approval. All other materials received after this deadline will be reviewed at the next regularly scheduled meeting of the board.

This rule is intended to implement Iowa Code chapter 147.

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CHAPTER 18
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

645—18.1(17A,147,272C) Definitions. For purposes of this chapter:

"Board" means a particular professional licensing board in the division of professional licensure.

"Waiver or variance" means action by the 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."

645—18.2(17A,147,272C) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board 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.

645—18.3(17A,147,272C) Applicability of chapter. The 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. The board may not waive requirements created or duties imposed by statute.

645—18.4(17A,147,272C) Criteria for waiver or variance. In response to a petition completed pursuant to rule 645—18.6(17A,147,272C), the 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 a 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.

645—18.5(17A,147,272C) Filing of petition. A petition for a waiver must be submitted in writing to the board, as follows:

18.5(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 and submitted to the board administrator.

18.5(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, and submitted to the board administrator.

18.5(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 administrator.

645—18.6(17A,147,272C) 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 which a waiver is being 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 645—18.4(17A,147,272C). 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 that would be adversely affected by the grant of a petition.

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.

645—18.7(17A,147,272C) 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 administrator, a committee of the board, or a quorum of the board.

645—18.8(17A,147,272C) Notice. The board shall acknowledge a petition upon its receipt in the board administrator's office. The board shall ensure that notice of the pending 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.

645—18.9(17A,147,272C) 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.

645—18.10(17A,147,272C) 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.

18.10(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.

18.10(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.

18.10(3) *Narrowly tailored.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

18.10(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.

18.10(5) *Conditions.* The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

18.10(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.

18.10(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.

18.10(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.

18.10(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.

645—18.11(17A,147,272C) 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.

645—18.12(17A,147,272C) Summary reports. Semiannually, each 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.

645—18.13(17A,147,272C) Cancellation of a waiver. A waiver issued by a 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.

645—18.14(17A,147,272C) 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.

645—18.15(17A,147,272C) 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.

645—18.16(17A,147,272C) Judicial review. Judicial review of a board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A. Any appeal to district court

shall be taken within 30 days from the date of issuance of the decision by the board pursuant to Iowa Code section 17A.19.

These rules are intended to implement Iowa Code section 17A.9A.

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CHAPTER 19
Reserved

BARBERS

CHAPTER 20 ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF BARBERING
CHAPTER 21 LICENSURE OF BARBERS
CHAPTER 22 SANITATION FOR BARBERSHOPS AND BARBER SCHOOLS
CHAPTER 23 BARBER SCHOOLS
CHAPTER 24 CONTINUING EDUCATION FOR BARBERS
CHAPTER 25 DISCIPLINE FOR BARBERS, BARBER INSTRUCTORS, BARBERSHOPS AND BARBER SCHOOLS
CHAPTER 26 FEES

CHAPTER 20
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF BARBERING

645—20.1(17A) Definitions.

"Board" means the board of barbering.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice barbering.

"Licensee" means a person licensed to practice as a barber in the state of Iowa.

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

645—20.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 158 and 272C with regard to the practice of barbers. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

20.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

20.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

20.2(3) Imposing discipline on licensees as provided by statute or rule.

645—20.3(17A,147,272C) Organization of board and proceedings.

20.3(1) The board is composed of five members appointed by the governor and confirmed by the senate.

20.3(2) The members of the board shall include three members who are licensed to practice barbering, and two members who are not licensed to practice barbering and who shall represent the general public.

20.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

20.3(4) The board shall hold at least one meeting annually.

20.3(5) A majority of the members of the board shall constitute a quorum.

20.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

20.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

20.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of barbering upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licensees who are restricted by a board order.

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

645—20.4(17A) Official communications.

20.4(1) All official communications, including submissions and requests, may be addressed to the Board of Barbering, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

20.4(2) Notice of change of address. Each licensee and licensed entity shall notify the board of a change of the licensee's current mailing address within 30 days after the occurrence.

a. If a barbershop changes location, the barbershop shall be required to apply for a new license, as required in 645—subrule 21.2(3), paragraph *"b."*

b. If a barber school changes location, the barber school shall be required to apply for a new license, as required in 645—subrule 23.2(6).

20.4(3) Notice of change of name.

a. *Barbers and barber instructors.* Each licensee shall notify the board in writing of a change of name within 30 days after the occurrence. A reissued certificate fee referenced in paragraph *"b"* will not apply unless the licensee wishes to obtain a certificate with the new name.

b. *Barbershops and barber schools.* An owner shall notify the board in writing of a change of name within 30 days after the occurrence and, in addition, shall return the current certificate and pay the reissued certificate fee as specified in 645—subrule 26.1(13).

645—20.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

645—20.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

20.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

20.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgement and an opportunity to speak will be at the discretion of the chairperson.

20.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

20.6(4) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 158 and 272C.

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CHAPTER 21
LICENSURE OF BARBERS

[Prior to 7/29/87, Health Department[470] Ch 152]
[Prior to 2/20/02, see 645—Chapter 20]

645—21.1(158) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of barbering.

"Examination" means the examination administered by the board, which includes written and practical components.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a barber in the state of Iowa.

"License expiration date" means June 30 of even-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice as a barber to an applicant who is or has been licensed in another state.

"Reactivate" or *"reactivation"* means the process as outlined in rule 21.16(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice barbering to an applicant who is currently licensed in another state and which state has a mutual agreement to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—21.2(158) Requirements for licensure.

21.2(1) The following criteria shall apply to licensure:

a. The applicant shall complete a board-approved application form. Application forms may be obtained from the board Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Barbering, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Barbering. The fees are nonrefundable.

d. The applicant shall present proof of completion of a tenth-grade education or the equivalent. In the event the applicant is a refugee or immigrant from a country where high school records no longer exist, the applicant shall be considered to have met this requirement when the applicant submits an affidavit attesting to the fact that the applicant has met the tenth-grade requirement.

e. The applicant shall provide an official copy of the transcript sent directly from the school to the board showing proof of completion of training at a board-approved barber school.

f. The applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a barber, sent directly from the state(s) to the Iowa board of barbering office.

g. An application for barber examination must be postmarked at least 14 days prior to the examination.

h. The candidate shall take and pass the written and practical examinations required by the board.

i. Licensees who were issued their licenses within six months prior to renewal shall not be required to renew their licenses until the renewal month two years later.

j. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting the file to be maintained.

21.2(2) Requirements for an instructor's license.

a. An applicant for an instructor's license shall:

(1) Complete all requirements stated in subrule 21.2(1), paragraphs *"a"* through *"c"*;

(2) Present proof of graduation from an accredited high school or the equivalent thereof;

(3) Be licensed in the state of Iowa as a barber for not less than two years;

(4) Rescinded IAB 11/26/03, effective 12/31/03.

(5) Pass the instructor's examinations administered by the board or its designee.

b. Instructors who were issued their licenses within six months prior to renewal shall not be required to renew their licenses until the renewal month two years later.

c. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting the file to be maintained.

d. An applicant who met the requirements for an instructor's license except for the examinations may apply for a temporary permit to be an instructor. The temporary permit shall be valid for a maximum of six months from the issue date of the permit and shall not be renewable.

21.2(3) Requirements for a barbershop license. A barbershop shall not operate unless the owner of the barbershop possesses a current barbershop license issued by the board. The following criteria shall apply to licensure:

a. The owner of the barbershop shall complete all requirements in subrule 21.2(1), paragraphs *"a"* through *"c."*

b. A barbershop license shall be issued for a specific location. A change in location or site of a barbershop shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by 645—subrule 26.1(9). A change of address without change of actual location shall not be construed as a new site.

c. A barbershop license is not transferable. A change in ownership of a barbershop shall result in the cancellation of the existing license and necessitate application for a new license and payment of the fee required by 645—subrule 26.1(9).

d. A change in the name of a barbershop shall be reported to the board within 30 days of the name change.

e. Upon discontinuance of a barbershop, the barbershop license shall be submitted to the board office within 30 days.

f. A barbershop that was issued a license within six months prior to renewal shall not be required to renew the license until the renewal month two years later.

g. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting the file to be maintained.

645—21.3(158) Examination requirements for barbers and barber instructors.

21.3(1) The following criteria shall apply to the written and practical examination.

a. In order for an applicant to be eligible to take the examination, the supporting data and documentation required by the board shall be postmarked at least 14 days prior to the examination.

b. Applicants will be notified of the date and time of the written and practical examination given by the board of barbering.

c. Applicants for barber licenses are required to receive a passing score on the examination. The score is contingent on receiving a combined score of 70 percent, which is a weighted score based on the following:

(1) For barbers, the practical component equals 75 percent and the written component equals 25 percent of the weighted score.

(2) For barber instructors, the practical component equals 30 percent and the written component equals 70 percent of the weighted score.

d. The board will notify the applicant in writing of the result of the examination.

21.3(2) Persons who do not appear on the appointed date assigned to them to take the examination must notify the board of barbering in writing or by telephone to schedule a new appointment date. Examination fees cannot be refunded, but the applicant will not be required to pay the next examination fee if the applicant can show proof that the applicant's inability to take the examination was not the applicant's fault. Proof of inability to take the examination shall be submitted to the board office with a written request to reschedule the examination. An applicant shall be required to pay the reexamination fee if the applicant does not appear for a subsequent examination.

21.3(3) Persons who do not attain the passing score may reapply to take the examination. Examination fees cannot be refunded, and the applicant shall be required to pay the reexamination fee.

645—21.4(158) Educational qualifications.

21.4(1) The applicant for a barber license must:

a. Present proof of a tenth-grade education or the equivalent. In the event the applicant is a refugee or an immigrant from a country where high school records no longer exist, the applicant shall be considered to have met this requirement when the applicant submits an affidavit attesting to the fact that the applicant has met the tenth-grade requirement; and

b. Present an official copy of the transcript sent directly from the school to the board showing proof of completion of training at a board-approved barber school.

21.4(2) The applicant for a barber instructor license must present proof of meeting the following requirements:

a. Graduation from an accredited high school or the equivalent thereof; and

b. Completion of training at a board-approved barber school.

c. Rescinded IAB 11/26/03, effective 12/31/03.

21.4(3) Foreign-trained barbers shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or World Education Services (WES) at (212)966-6311, electronically at www.wes.org or by writing to WES, P.O. Box 745, Old Chelsea Station, New York, NY 10113-0745. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a barber school in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—21.5(158) Licensure by endorsement. An applicant who has been a licensed barber under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

21.5(1) Submits to the board a completed application;

21.5(2) Pays the licensure fee;

21.5(3) Obtains verification(s) from the District of Columbia, any state, territory, province or foreign country where the applicant is licensed. Verification(s) of a current barber license in another state requires:

a. A valid license for at least 12 months in the 24-month period preceding the submission of the application; and

b. The verification(s) must be mailed directly to the board from the District of Columbia, any state, territory, province or foreign country in which licensure was held; and

21.5(4) Takes and passes the written and practical examination administered by the board.

21.5(5) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

645—21.6(158) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of barber applicants.

645—21.7(158) Temporary permits to practice barbering. An applicant must meet the following requirements:

1. The applicant is applying for initial licensure and is not licensed in another state.
2. The applicant has met the requirements for licensure except for the examination. The temporary permit is valid from the date the application is completed for a maximum of six months and shall not be renewable.

645—21.8(158) Demonstrator's permit. The board may issue a demonstrator's permit to a licensed barber for the purpose of demonstrating barbering to the public. The following criteria apply to the demonstrator's permit:

1. A demonstrator's permit shall be valid for a barbershop, person or an event. The location, purpose and duration shall be stated on the permit.
2. A demonstrator's permit shall be valid for no more than 10 days.
3. A completed application shall be submitted on a form provided by the board at least 30 days in advance of the intended use dates.
4. An application fee shall be submitted as set forth in these rules.
5. No more than four permits shall be issued to any applicant during a calendar year.

645—21.9(158) License renewal.

21.9(1) The biennial license renewal period for a license to practice barbering shall begin on July 1 of each even-numbered year and end on June 30 of each even-numbered year. All licensees shall renew on a biennial basis. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

21.9(2) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—24.2(158). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

c. Persons licensed to practice as barbers shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

d. Individuals who were issued a license within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

21.9(3) 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 645—subrule 26.1(11). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

21.9(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

21.9(5) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a barber in Iowa until the license is reactivated. A licensee who practices as a barber in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—21.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

645—21.11(272C) Lapsed licenses. Rescinded IAB 8/17/05, effective 9/21/05.

645—21.12(158) Barbershop license renewal.

21.12(1) The biennial license renewal period for a barbershop license shall begin on July 1 of each even-numbered year and end on June 30 of the next even-numbered year.

21.12(2) The renewal application shall be mailed to the barbershop at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the barbershop of the obligation to pay the biennial renewal fee on or before the renewal date.

21.12(3) The completed application and renewal fee shall be submitted to the board office before the license expiration date.

21.12(4) The barbershop shall be in full compliance with this chapter and 645—Chapter 22 to be eligible for license renewal.

21.12(5) When all requirements for license renewal are met, a license wallet card will be sent by regular mail.

21.12(6) A barbershop that is issued an initial license within six months prior to the renewal date will not be required to renew the license until the next renewal two years later.

21.12(7) Barbershop license late renewal. If the renewal fee and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration shall be charged.

21.12(8) Inactive barbershop license. If the renewal fee is received more than 30 days after the license expiration date, the barbershop license is inactive. To reinstate the barbershop license, the reinstatement fee, the renewal fee for each year the license is inactive, and the late fee shall be submitted to the board.

a. After the reinstatement of an inactive license, the barbershop shall renew at the next scheduled renewal date.

b. A barbershop that has not renewed its license within the required time frame will have an inactive license and shall not provide services until the license is reinstated.

645—21.13(147) Duplicate certificate or wallet card.

21.13(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or duplicate certificate shall only be issued under such circumstances.

21.13(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application and receipt of the fee as specified in rule 645—26.1(147,158).

21.13(3) If the board is notified by the holder of the barber license that the wallet card or certificate has not been received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or certificate.

645—21.14(147) Reissued certificate or wallet card. The board shall reissue a certificate or current wallet card to a licensee or a licensed barbershop upon:

1. Receipt of a written request from the holder of the barber license;
2. Return of the current certificate or wallet card or both the certificate and wallet card; and
3. Payment of the fee(s) as specified in rule 645—26.1(147,158).

645—21.15(272C) License denial.

21.15(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing, by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

21.15(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

21.15(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—21.16(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

21.16(1) Submit a reactivation application on a form provided by the board.

21.16(2) Pay the reactivation fee that is due as specified in 645—subrule 26.1(12).

21.16(3) Provide verification of current competence to practice as a barber by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of eight hours of continuing education within two years of application for reactivation. An individual whose license was on inactive status prior to September 21, 2005, may reactivate the license between September 21, 2005, and June 30, 2007, by furnishing evidence of current full-time practice in another state of the United States or District of Columbia and completion of substantially equivalent continuing education.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of eight hours of continuing education within two years of application for reactivation; and

(3) Verification of passing the state examination administered by the board within one year immediately prior to reactivation if the applicant does not have a current license and has not been in active practice in the United States during the past five years. An individual whose Iowa license was on inactive status for more than five years prior to September 21, 2005, may reactivate the license between September 21, 2005, and June 30, 2007, without passing the state examination administered by the board.

645—21.17(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 21.16(17A,147,272C) prior to practicing as a barber in this state.

These rules are intended to implement Iowa Code chapters 272C and 158.

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◊ Two or more ARCs

1 See Public Health Department[641], IAB

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CHAPTER 22
SANITATION FOR BARBERSHOPS AND BARBER SCHOOLS

[Prior to 7/29/87, Health Department[470] Ch 153]
[Prior to 2/20/02, see 645—Chapter 21]

645—22.1(158) Definitions.

"Disinfectant" means an agent intended to destroy or irreversibly inactivate specific viruses, bacteria, or pathogenic fungi, but not necessarily their spores, on inanimate surfaces.

"Disinfection" means the procedure that kills pathogenic microorganisms, but not necessarily their spores.

"FDA" means the federal Food and Drug Administration.

"Germicide" means an agent that destroys germs.

"Sanitization" means the procedure that reduces the level of microbial contamination so that the item or surface is considered safe.

"Sterilization" means the procedure that kills all microorganisms, including their spores.

"Universal precautions" means practices consistently used to prevent exposure to blood-borne pathogens and the transmission of disease.

645—22.2(158) Posting of sanitation rules and inspection report. A copy of the most current sanitation rules and the most recent inspection report shall be posted in a conspicuous place in the barbershop or barber school for the information and guidance of all persons employed or studying therein and the general public.

645—22.3(147) Display of licenses.

22.3(1) The license of the barbershop or barber school along with the current wallet card shall be posted and visible to the public.

22.3(2) The original license certificate, duplicate certificate, reissued certificate or temporary permit shall be visibly displayed for each licensee and temporary permit holder employed by the barbershop or barber school.

22.3(3) Each licensee shall:

a. Display the current wallet card with the certificate, or

b. Have the current wallet card in the licensee's possession.

EXCEPTION: A licensee who was issued an initial license between January 1, 2002, and July 15, 2004, will not be required to meet this requirement until the first renewal of the license.

645—22.4(158) Responsibilities of barbershop owner and supervisor.

22.4(1) Each barbershop owner shall hire individuals who hold a current and valid Iowa license or temporary work permit to practice barbering or cosmetology to provide barbering or cosmetology services.

22.4(2) Each supervisor shall be responsible for ensuring that all employees observe all applicable rules.

645—22.5(158) Building standards. Barbershops and schools shall provide:

1. A separate area to be used as a reception area;
2. A supply of hot and cold running water and toilet facilities;
3. A supply of safe drinking water;
4. Hand washing facilities;
5. Adequate lighting;
6. A floor surface in the service area that is nonabsorbent and easily cleanable;
7. A minimum of one washbasin or lavatory for every two barber chairs in use. The washbasins or lavatories shall be readily accessible to the operator of each barber chair; and
8. Work surfaces that are easily cleaned.

645—22.6(158) Barbershops in residential buildings.

22.6(1) A barbershop located in a residential building shall comply with all requirements in rule 645—22.5(158).

22.6(2) A separate entrance shall be maintained for barbershops in residential buildings. An exception is that an entrance may allow passage through a nonliving area of the residence, i.e., hall, garage or stairway. Any door leading directly from the licensed barbershop to any portion of the living area of the residence shall be closed at all times during business hours.

645—22.7(158) Barbershops adjacent to other businesses. A barbershop operated adjacent to any other business shall be separated by at least a partial partition. When the barbershop is operated immediately adjacent to a business where food is handled, the establishment shall be entirely separated and any doors between the barbershop and the business shall be rendered unusable except in an emergency.

645—22.8(158) Smoking.

22.8(1) No smoking by any licensee or student is allowed while the licensee or student is actively engaged in serving the public.

22.8(2) An entire barbershop may be designated by the barbershop owner or manager as a nonsmoking area.

22.8(3) The client service area and other areas of the barbershop or barber school where chemicals are stored shall be designated as nonsmoking areas.

22.8(4) A person shall not smoke or carry lighted smoking material in a nonsmoking area.

22.8(5) Signs must be posted indicating smoking and nonsmoking areas.

645—22.9(158) Personal cleanliness.

22.9(1) All licensees or students that engage in serving the public shall be neat and clean in person and attire.

22.9(2) All licensees performing services shall thoroughly wash their hands with soap and water or any equally effective cleansing agent immediately before serving each client.

645—22.10(158) Universal precautions. All licensees shall practice universal precautions consistently by observing the following:

1. Placing used razor blades and other sharp instruments to be disposed in a puncture-resistant container. The containers shall be located as close to the use area as is practical;
2. Wearing disposable gloves to prevent exposure to blood, body fluids containing visible blood or body fluids to which universal precautions apply;
3. Immediately and thoroughly washing hands and other skin surfaces that are contaminated with blood and other body fluids to which universal precautions apply;
4. Refraining from all direct client care and from handling client-care equipment if the licensee has weeping dermatitis or draining lesions;
5. Sterilizing or properly disposing of all instruments or implements that penetrate or puncture the skin; and
6. Disinfecting all instruments or implements that do not penetrate or puncture the skin.

645—22.11(158) Minimum equipment and supplies. Barbershops and barber schools shall provide:

1. At least one covered waste receptacle for the disposal of all waste, including hair;
2. Closed receptacles to hold all soiled towels and capes;
3. Clean, closed cabinets or drawers to hold all clean towels;
4. Disinfectant solution kept in the storage area and at each workstation; and
5. A mechanical paper container and clean shaving paper or clean towel for each barber chair headrest.

645—22.12(158) Disinfecting nonelectrical instruments and equipment.

22.12(1) Before use upon a client in a barbershop or barber school, all nonelectrical instruments shall be disinfected by an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity and used according to the manufacturer's instructions.

22.12(2) All instruments that have been used on a client or soiled in any manner shall be placed in a proper receptacle.

22.12(3) All disinfected instruments shall be stored in a clean, covered place.

645—22.13(158) Disinfecting electrical instruments. Electrical instruments, excluding curling irons, shall be disinfected prior to each use with an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity and used according to the manufacturer's instructions.

645—22.14(158) Instruments and supplies that cannot be disinfected. All instruments and supplies that come into direct contact with a client and cannot be disinfected, for example, cotton pads, sponges, emery boards, and neck strips, shall be disposed of in a closed waste receptacle immediately after use.

645—22.15(158) Semisolids, dusters, and styptics.

22.15(1) Creams and other semisolid substances used for clients must be kept in closed, labeled containers. All creams and other semisolid substances shall be removed from containers with a clean, sanitized applicator. Applicators made of a washable, nonabsorbent material shall be sanitized before being used again. Applicators made of wood shall be discarded after one use.

22.15(2) The use of a styptic pencil is strictly prohibited; its presence in the workplace shall be prima facie evidence of its use. Any material used to stop the flow of blood shall be used in liquid or powder form.

22.15(3) Nail buffers are for individual use and may not be used for more than one client. Presence of these articles in the workplace shall be prima facie evidence of use.

22.15(4) All fluids, semifluids and powders must be dispensed with an applicator or from a shaker, dispenser pump, or spray-type container.

22.15(5) Neck dusters, brushes, and common shaving mugs and soap shall not be used in any barbershop or barber school.

645—22.16(158) Disposal of materials.

22.16(1) Any disposable material that will release blood or other potentially infectious materials in a liquid or semiliquid state if compressed shall be placed in a red hazardous waste bag and disposed of in accordance with the regulation for removal of hazardous waste.

22.16(2) Any disposable sharp objects that come in contact with blood or other body fluids shall be disposed of in a red, sealable, rigid container (punctureproof) that is clearly labeled for disposal of hazardous waste sharps.

22.16(3) Hazardous waste containers and bags shall be available for use at all times when services are being performed. The absence of containers shall be prima facie evidence of noncompliance.

22.16(4) Emery boards, sponges, applicators and orangewood sticks shall be discarded after use or given to the client.

645—22.17(158) Prohibited hazardous substances and use of products. No barbershop or barber school shall have on the premises products containing substances which have been banned or otherwise deemed hazardous or deleterious by the FDA for use in cosmetic products. Prohibited products include, but are not limited to, any product containing liquid methyl methacrylate monomer and methylene chloride. No product shall be used in a manner that is not approved by the FDA. The presence of the product in a barbershop or barber school is prima facie evidence of that product's use in the barbershop or barber school.

645—22.18(158) Proper protection of neck. A shampoo apron, haircloth, or similar article shall not be placed directly against the neck of the client but shall be kept from direct contact with the client by means

of a paper neckband or clean towel. A neckband of paper shall not be used more than once. Towels or cloth neckbands shall not be used more than once without proper laundering.

645—22.19(158) Proper laundering and storage. All cloth towels and similar items shall be laundered in a washing machine with laundry detergent used according to manufacturer's directions. A closed cabinet shall be provided for clean towels and linen, and a hamper or receptacle must be provided for all soiled towels, robes and linens.

645—22.20(158) Pets. Dogs (except dogs providing assistance to persons with physical disabilities), cats, birds, or other animals shall not be permitted in a barbershop or barber school. This rule does not apply to fish in an aquarium provided the aquarium is maintained in a sanitary condition.

645—22.21(158) Records. Client records and appointment records for chemical services shall be maintained for a period of no less than three years following the last date of entry. Proper safeguards shall be provided to ensure the safety of these records from destructive elements.

These rules are intended to implement Iowa Code chapter 158.

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CHAPTER 23
BARBER SCHOOLS
[Prior to 2/20/02, see 645—Chapter 20]

645—23.1(158) Definitions.

"Clinic area" means the area of the school where the paying customers will receive services.

"Inactive license" means a school license that has not been renewed as required or the license of a school that has failed to meet stated obligations for renewal within a stated time.

"School" means a school of barbering.

"School license" means a license to instruct students in barbering.

645—23.2(158) Licensing for barber schools. The board shall grant approval for the issuance of an original barber school license to be issued by the department when the following conditions have been met:

23.2(1) An application shall be submitted to the Board of Barbering, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The following information shall be submitted with the application:

a. The exact location of the proposed barber school;

b. A copy of the essential parts of the lease or other documents to provide proof that the owner of the school has occupancy rights for a minimum of one year;

c. A sworn affidavit that proves the existence of sufficient finances to acquire the facilities and equipment required by the board and to operate the proposed barber school for a minimum of one year; and

d. A complete plan of the physical facilities and an explanation detailing how the facilities will be utilized relative to the number of students and to the classroom and clinic space.

23.2(2) The applicant for a barber school license may be interviewed by the board before the original license will be issued.

23.2(3) No barber school shall be approved by the board of barbering unless it complies with the course of study requirements in rule 645—23.8(158).

23.2(4) The barber school shall be inspected prior to the issuance of the school license and shall meet the requirements of this chapter and 645—Chapter 22.

23.2(5) The barber school shall not accept students until the school is licensed.

23.2(6) The original license shall be granted for the location(s) identified in the school's application.

a. A change of location shall require submission of an application for a new school license and payment of the license fee.

b. A change of address without change of actual location shall not be construed as a new site.

23.2(7) A barber school license is not transferable. A change in ownership of a school shall require the issuance of a new license. Change in ownership shall be defined as any change of controlling interest in any corporation or any change of name of sole proprietorship or partnership. The board may request legal proof of ownership transfer.

23.2(8) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records will be maintained after two years only if the applicant submits a written request to the board.

23.2(9) A barber school that is issued an initial license within six months prior to the renewal date shall not be required to renew the license until the renewal month one year later.

645—23.3(158) School license renewal.

23.3(1) The annual license renewal period for a barber school license shall begin on July 1 and end on June 30 one year later.

23.3(2) A renewal of license application shall be mailed to the school at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the school of the obligation to pay the annual renewal fee on or before the renewal date.

a. The barber school renewal application and renewal fee shall be submitted to the board office before the license expiration date.

b. Barber schools shall be in full compliance with this chapter and 645—Chapter 22 to be eligible for renewal. When all requirements for license renewal are met, the barber school shall be sent a license renewal card by regular mail.

23.3(3) Late renewal. If the renewal fee and renewal application are received within 30 days after the license expiration date, the late fee for failure to renew before expiration shall be charged.

645—23.4(272C) Inactive school license.

23.4(1) If the renewal fee is received more than 30 days after the license expiration date, the school license is inactive. To reinstate the school license, the reinstatement fee, the renewal fee for each year the license is inactive, and the late fee shall be submitted to the board.

23.4(2) After the reinstatement of an inactive license, the barber school shall renew at the next scheduled renewal date.

23.4(3) A barber school that has not renewed the school license within the required time frame will have an inactive license and shall not provide schooling or services until the license is reinstated.

645—23.5(147) Duplicate certificate or wallet card.

23.5(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or duplicate certificate shall only be issued under such circumstances.

23.5(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application and receipt of the fee as specified in rule 645—26.1(147,158).

23.5(3) If the board is notified by the owner of the barber school that the certificate or wallet card has not been received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate certificate or duplicate wallet card.

645—23.6(158) Physical requirements for barber schools. Each licensed barber school shall provide:

1. A clinic area where paying customers will receive services. The clinic area shall be confined to the premises occupied by the school.
2. A school that is large enough and equipped to provide room(s) separate from the clinic area for lectures and demonstration purposes.
3. A library for students that contains textbooks, videos, current trade publications and business management materials. The contents of the library shall be current within the previous ten years and shall cover the topics necessary for the student to master the skill of barbering.
4. An administrative office.
5. If a school has a laundry room, it must be separated from the clinic area by a full wall or partition.
6. Closed cabinets or a separate room for storing extra supplies.

645—23.7(158) Minimum equipment requirements. Each barber school shall have, at a minimum, the following equipment:

1. The clinic area shall hold a minimum of ten workstations equipped for practice on the general public. Each workstation shall include one chair and backbar. The backbar will provide a cabinet for immediate linen supply and individual sterilizers for each workstation. There shall be no more than two students enrolled for each workstation.
2. Sinks shall be located in the clinic area and readily accessible for students to use.
3. Each classroom shall include a large chalkboard or equivalent.
4. One classroom shall include charts showing illustrations of the skin, circulation of the blood, muscles and bones of the face, scalp, and neck.
5. One set of textbooks shall be available for each student and instructor.
6. One large bulletin board shall be conspicuously located for posting rules, notices, and similar bulletins.

7. One set of files shall be maintained for all required records.

8. Electric equipment shall include the following: one high-frequency electrode, one twin vibrator, one hood dryer, one infrared lamp and one ultraviolet lamp.

9. One automatic lather mixer shall be available for every ten chairs.

10. Bottles and containers shall be distinctly and correctly labeled to show intended use of the contents.

11. Covered waste containers shall be located in the clinic area.

645—23.8(158) Course of study requirements. Each Iowa barber school licensed by the board of barbering shall conduct a course of study of at least 2,100 hours to be equally divided over a period of not less than ten months. The course of study shall include the following:

23.8(1) Supervised practical instruction totaling 1,675 hours shall include:

Scalp care and shampooing
Honing and stropping
Shaving
Facials, massage and packs
Science of hair structure
Haircutting
Hair tonics
Hair relaxing
Hair coloring and hair body processing
Hair styling
Fitting of hairpieces
Manicuring
Artificial nails (all aspects)

23.8(2) Demonstrations and lectures totaling 380 hours shall include:

Law, ethics, economics, equipment, shop management and history of barbering
Sanitation, sterilization, personal hygiene and first aid
Bacteriology
Anatomy
Skin, scalp, and hair and their common disorders
Electricity, as applied to barbering
Chemistry and pharmacology
Scalp care
Honing and stropping
Shaving
Facials, massage and packs
Hair relaxing
Science of hair structure
Haircutting
Hair tonics
Instruments, soaps, shampoos, creams, lotions and tonics
Nails

23.8(3) Special lectures totaling 45 hours must include lectures by a qualified person in the following areas: tax consulting, advertising, insurance, business management, salesmanship and barbering.

645—23.9(158) Instructors.

23.9(1) All instructors in a barber school shall be licensed by the department.

23.9(2) The number of instructors for each barber school shall be based upon total enrollment, with a minimum of 2 instructors employed on a full-time basis for up to 30 students and 1 additional instructor for each additional 15 students or fraction thereof. An applicant who is waiting to take the

instructor examination and who is working on a temporary permit may be counted as an instructor for the instructor-to-student ratio.

23.9(3) An instructor shall:

a. Be responsible for and in direct charge of all theory and practical classrooms and clinics at all times;

b. Familiarize students with the different standard supplies and equipment used in barbershops;

c. Work on clients only when instructing or otherwise assisting students in the school;

d. Carefully grade and return to students all examinations and other written papers;

e. Be attired in distinct and identifiable attire.

645—23.10(158) Students.

23.10(1) Before a student is obligated to pay the school, the barber school shall inform the student of the disclosure requirements found in Iowa Code section 714.25.

23.10(2) No one connected with a barber school shall guarantee occupational positions to students or guarantee financial aid in equipping a shop.

23.10(3) Students shall:

a. Be attired in clean and neat uniforms at all times during school hours.

b. Not be compensated by the school for services performed on clients.

c. Not be required to perform janitorial services for the school, but may be required to keep their own areas clean and sanitary during school hours. If a student chooses to provide janitorial services, the hours shall not count toward the total course hours.

d. Receive no credit for decorating for marketing and merchandising that relates to the promotion of barber school services or for recruiting students.

e. Receive no credit for participating in demonstrations of barbering for the sole purpose of recruiting students.

f. Be provided regularly scheduled breaks and a minimum of 30 minutes for lunch.

645—23.11(158) Attendance requirements.

23.11(1) A barber school shall have a written, published attendance policy.

23.11(2) The barber school shall establish regular school hours. No student shall be required to attend more than nine hours on any given school day.

23.11(3) Each student shall receive a minimum of eight hours of classroom instruction per week. Classroom instruction shall include lectures, individual instruction and written examinations.

23.11(4) Student attendance policies shall be applied uniformly and fairly.

23.11(5) Accurate and appropriate credit shall be given for all hours earned.

23.11(6) Students shall earn all hours credited to their total course hours and shall not have hours deducted as a penalty.

645—23.12(158) Graduate of a barber school.

23.12(1) To be considered a graduate, a student shall:

a. Complete the required course and meet the minimum attendance standard.

b. Complete the practical and theoretical curriculum requirements set forth by the school.

c. Pass a final examination upon completion of the course of study.

23.12(2) Students shall be issued a transcript when they have completed all requirements for graduation.

645—23.13(147) Records requirements. Each school shall keep a daily class record of each student, showing the hours devoted to the respective subjects, time devoted by a student to each subject, the total number of hours in attendance, and days present and absent. These records shall be subject to inspection by the board of barbering or a representative of the board and shall be retained for two years after the graduation date.

645—23.14(158) Public notice. A sign shall be clearly displayed in the entrance of the school that indicates in prominent lettering that students perform all services under the supervision of instructors.

645—23.15(158) Apprenticeship. Apprenticeship hours earned in another state may be applied toward the required 2,100 hours of course of study prescribed by Iowa Code section 158.8 at a ratio of 1 hour of credit for each 4 hours of registered apprenticeship completed in the state in which the applicant is licensed or registered as an apprentice.

These rules are intended to implement Iowa Code chapter 158 and section 714.25.

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CHAPTER 24
CONTINUING EDUCATION FOR BARBERS
[Prior to 2/20/02, see 645—Chapter 23]

645—24.1(158) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of barbering.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a barber in the state of Iowa.

645—24.2(158) Continuing education requirements.

24.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year. Each biennium, each person who is licensed to practice as a barber in this state shall be required to complete a minimum of eight hours of continuing education approved by the board.

24.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of eight hours of continuing education per biennium for each subsequent license renewal.

24.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

24.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

24.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—24.3(158,272C) Standards.

24.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

24.3(2) *Specific criteria.*

a. Continuing education may be obtained by attending programs that meet the criteria in 24.3(1) approved or offered by the following:

(1) National, state or local barber associations.

(2) Barber schools and institutes.

(3) Universities, colleges or community colleges.

b. Continuing education credit offered for cosmetology continuing education credit will be accepted for barber continuing education credit.

645—24.4(158,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

24.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

24.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. These documents must contain the course date, course title, contact hours, sponsor, and licensee's name.

b. Additional information as requested by the board to ensure compliance with continuing education requirements within 30 days of the date of the letter from the board requesting additional information. An extension of time may be granted on an individual basis.

24.4(3) For auditing purposes, all licensees must retain the information identified in subrule 24.4(2) for two years after the biennium has ended.

24.4(4) Information identified in subrule 24.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

24.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

24.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement.

645—24.5(158,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—24.6(158,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education

requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

24.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

24.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

24.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—24.7(158,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

24.7(1) Failure to cooperate with a board audit.

24.7(2) Failure to meet the continuing education requirement for licensure.

24.7(3) Falsification of information on the license renewal form.

24.7(4) Falsification of continuing education information.

645—24.8(158,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

645—24.9(158,272C) Continuing education exemption for disability or illness. Rescinded IAB 8/17/05, effective 9/21/05.

645—24.10(158,272C) Reinstatement of inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

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◊ Two or more ARCs

CHAPTER 25
DISCIPLINE FOR BARBERS, BARBER INSTRUCTORS, BARBERSHOPS AND BARBER SCHOOLS

[Prior to 2/20/02, see 645—Chapter 20]

645—25.1(158) Definitions.

"Board" means the board of barbering.

"Discipline" means any sanction the board may impose upon licensees, barbershops or barber schools.

"Licensure" means the granting of a license to practice as a barber or barber instructor or to operate a barbershop or barber school in Iowa.

645—25.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—25.3(152A,272C) when the board determines that any of the following acts or offenses have been committed:

25.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to:

a. An intentional perversion of the truth in making application for a license to practice in this state;

b. False representation of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state;

c. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

25.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice;

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other barbers in the state of Iowa acting in the same or similar circumstances;

c. A failure to exercise the degree of care which is ordinarily exercised by a barber acting in the same or similar circumstances; and

d. Failure to conform to the minimal standard of acceptable and prevailing practice of licensed barbers in this state.

25.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession, or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

25.2(4) Practice outside the scope of the profession.

25.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, acts which constitute making false, deceptive, misleading or fraudulent representations in the practice of the profession.

25.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

25.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

25.2(8) Falsification of client records.

25.2(9) Acceptance of any fee by fraud or misrepresentation.

25.2(10) Negligence in the practice of the profession. Negligence in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the licensee's ability to safely and skillfully practice the profession.

25.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

25.2(12) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of barbering.

25.2(13) Revocation, suspension, or other disciplinary action taken by the professional licensing authority of this state or another state, territory, or country; or failure to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

25.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice in another state, district, territory or country.

25.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

25.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

25.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

25.2(18) Failure to respond within 30 days to a communication of the board which was sent by registered or certified mail.

25.2(19) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

25.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

25.2(21) Failure to pay costs assessed in any disciplinary action.

25.2(22) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

25.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

25.2(24) Knowingly aiding, assisting, or advising a person to unlawfully practice as a barber.

25.2(25) Failure to report a change of name or address within 30 days after it occurs.

25.2(26) Representing oneself as a licensed barber or barber instructor when the person's license has been suspended or revoked, or when the person's license is on inactive status.

25.2(27) Representing a barbershop or barber school as being licensed when the license has been suspended or revoked, or when the license is inactive.

25.2(28) Permitting another person to use one's barber license for any purpose.

25.2(29) Permitting an unlicensed employee or person under the licensee's or the entity's control to perform activities that require a license.

25.2(30) Permitting a licensed person under the licensee's or the entity's control to practice outside the scope of the person's license.

25.2(31) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a client or coworker.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

25.2(32) Failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

25.2(33) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—25.3(158,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—25.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—25.5(158) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

25.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

25.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

25.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

25.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

25.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

25.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

25.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 158 and 272C.

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CHAPTER 26
FEES
[Prior to 2/20/02, see 645—Chapter 20]

645—26.1(147,158) License fees. All fees are nonrefundable.

26.1(1) Licensure fee for an initial license to practice barbering, licensure by endorsement, licensure by reciprocity or an instructor's license is $120.

26.1(2) Biennial renewal fee for a barber license or barber instructor license is $60.

26.1(3) Temporary permit fee is $12.

26.1(4) Examination fee is $60.

26.1(5) Demonstrator permit fee is $45 for the first day and $12 for each day thereafter for which the permit is valid.

26.1(6) Barber school license fee is $600.

26.1(7) Barber school annual renewal fee is $300.

26.1(8) Barbershop license fee is $72.

26.1(9) Biennial renewal fee for a barbershop license is $72.

26.1(10) Late fee for failure to renew before expiration is $60.

26.1(11) Reactivation fee for a barber license is $120.

26.1(12) Reactivation fee for a barbershop license is $132.

26.1(13) Reactivation fee for a barber school license is $360.

26.1(14) Duplicate or reissued license certificate or wallet card fee is $20.

26.1(15) Verification of license fee is $20.

26.1(16) Returned check fee is $25.

26.1(17) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 158.

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CHAPTER 27
IMPAIRED PRACTITIONER REVIEW COMMITTEE

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 29
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/16/99, effective 7/21/99

BEHAVIORAL SCIENTISTS

CHAPTER 30 ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF BEHAVIORAL SCIENCE EXAMINERS
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CHAPTER 30
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF BEHAVIORAL SCIENCE EXAMINERS

645—30.1(17A,154D) Definitions.

"Board" means the board of behavioral science examiners.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice marital and family therapy or mental health counseling.

"Licensee" means a person licensed to practice as a marital and family therapist or mental health counselor in Iowa.

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

"Peer review" means evaluation of professional services rendered by a professional practitioner.

"Peer reviewer(s)" means one or more persons acting in a peer review capacity who have been appointed by the board for such purpose.

645—30.2(17A,154D) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 154D and 272C with regard to the practice of marital and family therapy and mental health counseling. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

30.2(1) Licensing of qualified applicants by examination, renewal, endorsement, and reciprocity.

30.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

30.2(3) Imposing discipline on licensees as provided by statute or rule.

645—30.3(17A,147,272C) Organization of board and proceedings.

30.3(1) The board is composed of nine members appointed by the governor and confirmed by the senate.

30.3(2) The members of the board shall include:

a. Three members licensed to practice marital and family therapy, one of whom shall be employed in graduate teaching, training, or research in marital and family therapy and two of whom shall be practicing marital and family therapists;

b. Three members licensed to practice mental health counseling, one of whom shall be employed in graduate teaching, training, or research in mental health counseling and two of whom shall be practicing mental health counselors; and

c. Three members who are not licensed to practice marital and family therapy or mental health counseling and who shall represent the general public.

30.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

30.3(4) The board shall hold at least one annual meeting.

30.3(5) A majority of the members of the board shall constitute a quorum.

30.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

30.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

30.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of marital and family therapy and mental health counseling upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

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

h. Establish and register peer reviewers.

i. Refer a complaint to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

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

645—30.4(17A) Official communications.

30.4(1) All official communication, including submissions and requests, may be addressed to the Board of Behavioral Science Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

30.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

30.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—30.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—30.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

30.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period any person may speak for up to two minutes. Requests to speak for

two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

30.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

30.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

30.6(4) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 154D and 272C.

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CHAPTER 31
LICENSURE OF MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

[Prior to 1/30/02, see 645—Chapter 30]

645—31.1(154D) Definitions. For purposes of these rules, the following definitions shall apply:

"ACA" means the American Counseling Association.

"Active license" means a license that is current and has not expired.

"AMFTRB" means the Association of Marital and Family Therapy Regulatory Boards.

"Board" means the board of behavioral science examiners.

"Course" means three graduate semester credit hours.

"CRCC" means the Commission on Rehabilitation Counselor Certification.

"Department" means the department of public health.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a marital and family therapist or mental health counselor in the state of Iowa.

"License expiration date" means September 30 of even-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is or has been licensed in another state.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of marital and family therapists and mental health counselors who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"NBCC" means the National Board for Certified Counselors.

"Reactivate" or *"reactivation"* means the process as outlined in rule 31.16(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice mental health counseling or marital and family therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of behavioral science examiners to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—31.2(154D) Requirements for licensure. The following criteria shall apply to licensure:

31.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Behavioral Science Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

31.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

31.2(3) Each application shall be accompanied by the appropriate fees payable to the Board of Behavioral Science Examiners. The fees are nonrefundable.

31.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of behavioral science examiners have been received by the board.

31.2(5) The candidate shall have the examination score sent directly from the testing service to the board.

31.2(6) The completed application form shall be filed with the board of behavioral science examiners with all required supervision forms and fees at least 90 days before the date of the examination.

31.2(7) A licensee who was issued an initial license within six months prior to the renewal shall not be required to renew the license until the renewal date two years later.

31.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

31.2(9) Notification of eligibility for examination shall be sent to the licensee by the board.

645—31.3(154D) Examination requirements. The following criteria shall apply to the written examination(s):

31.3(1) In order to qualify for licensing, the applicant:

a. For a marital and family therapist license shall take and pass the Association of Marital and Family Therapy Regulatory Board (AMFTRB) Examination in Marital and Family Therapy.

b. For a mental health counselor license shall take and pass the National Counselor Examination of the NBCC, or the National Clinical Mental Health Counselor Examination of the NBCC, or the Certified Rehabilitation Counselor Examination of the CRCC.

31.3(2) Examination information will be provided when the applicant has been approved to take the examination.

31.3(3) The board will notify the applicant in writing of examination results.

31.3(4) Persons determined by the board not to have performed satisfactorily may apply for reexamination.

31.3(5) The passing score on the written examination shall be the passing point criterion established by the appropriate national testing authority at the time the test was administered.

645—31.4(154D) Educational qualifications for marital and family therapists. The applicant must present proof of meeting the following educational requirements for licensure as a marital and family therapist:

31.4(1) Applicants must present with the application an official transcript verifying completion of a master's degree of 45 semester hours (or 60 quarter hours) or a doctoral degree in marital and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) from a college or university accredited by an agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation; or

31.4(2) Applicants must present with the application an official transcript verifying completion of a master's degree of 45 semester hours (or 60 quarter hours) or a doctoral degree in a mental health, behavioral science, or a counseling-related field from a college or university accredited by an agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation, which is content-equivalent to a graduate degree in marital and family therapy. In order to qualify as a "content-equivalent" degree, a graduate transcript must document:

a. At least three courses in each of the three areas listed below:

(1) Theoretical foundations of marital and family therapy systems. Any course which deals primarily in areas such as family life cycle; theories of family development; marriage or the family; sociology of the family; families under stress; the contemporary family; family in a social context; the cross-cultural family; youth/adult/aging and the family; family subsystems; individual, interpersonal relationships (marital, parental, sibling).

(2) Assessment and treatment in family and marital therapy. Any course which deals primarily in areas such as family therapy methodology; family assessment; treatment and intervention methods; overview of major clinical theories of marital and family therapy, such as communications, contextual, experiential, object relations, strategic, structural, systemic, transgenerational.

(3) Human development. Any course which deals primarily in areas such as human development; personality theory; human sexuality. One course must be psychopathology.

b. At least one course in each of the two areas listed below:

(1) Ethics and professional studies. Any course which deals primarily in areas such as professional socialization and the role of the professional organization; legal responsibilities and liabilities; independent practice and interprofessional cooperation; ethics; and family law.

(2) Research. Any course which deals primarily in areas such as research design, methods, statistics; research in marital and family studies and therapy.

If the applicant has taught a graduate-level course as outlined above at a college or university accredited by an agency recognized by the United States Department of Education or the Council on Professional Accreditation, that course will be credited toward the course requirements.

c. A practicum/internship of at least 300 clock hours is required for all applicants. The internship hours may be used to count toward the supervision requirement.

31.4(3) All courses must be at least three graduate semester credit hours. One semester hour shall equal 15 clock hours of course time. A course may not be used more than once to fulfill more than one content area.

645—31.5(154D) Clinical experience requirements for marital and family therapists.

31.5(1) The supervised clinical experience shall:

a. Be a minimum of two years of full-time supervised clinical work experience in marital and family therapy;

b. Be completed following the practicum and all graduate coursework, with the exception of the thesis;

c. Include successful completion of at least 200 hours of supervision concurrent with 1,000 hours of marital and family therapy conducted in face-to-face contact with couples, families, and individuals;

d. Have only supervised clinical contact credited for this requirement; and

e. Include at least 100 of the 200 hours of supervision as individual supervision.

31.5(2) To meet the requirements of the supervised clinical experience:

a. The supervisee must:

(1) Meet with the supervisor for a minimum of one hour per week, face to face and individually;

(2) Have training that is appropriate to the functions to be performed;

(3) Offer documentation in the name of the supervising marital and family therapist;

(4) Begin the experience after all academic requirements are met for the master's degree or higher;

(5) Compute part-time employment on a prorated basis for the supervised professional experience;

(6) Have the background, training, and experience that is appropriate to the functions performed;

(7) Have supervision that is clearly distinguishable from personal psychotherapy and is contracted in order to serve professional/vocational goals;

(8) Have individual supervision that shall be face to face with no more than one supervisor to two supervisees;

(9) Have group supervision that may be completed with up to six supervisees and a supervisor; and

(10) Not participate in the following activities which are deemed unacceptable for clinical supervision:

1. Peer supervision, i.e., supervision by a person of equivalent, but not superior, qualifications, status, and experience.

2. Supervision, by current or former family members, or any other person, in which the nature of the personal relationship prevents, or makes difficult, the establishment of a professional relationship.

3. Administrative supervision, e.g., clinical practice performed under administrative rather than clinical supervision of an institutional director or executive.

4. A primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar.

5. Consultation, staff development, or orientation to a field or program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

b. The supervisor shall:

(1) Be an Iowa licensed marriage and family therapist; or

(2) Be a supervisor or supervisor-in-training approved by the American Association for Marriage and Family Therapy Commission on Supervision; or

(3) Be an alternate supervisor who possesses qualifications equivalent to a licensed marital and family therapist or satisfies the criteria for clinical membership of the American Association of Marriage and Family Therapy (AAMFT);

(4) Meet a minimum of one hour per week, face to face and individually with the supervisee;

(5) Provide training that is appropriate to the functions to be performed;

(6) Ensure that therapeutic work is completed under the professional supervision of a supervisor; and

(7) Not supervise any marital and family therapy or permit the supervisee to engage in any therapy which the supervisor cannot perform competently.

31.5(3) An applicant who has obtained American Association for Marriage and Family Therapy clinical membership and has provided a transcript sent directly from the school to the board is considered to have met the educational and clinical experience requirements of rules 31.4(154D) and 31.5(154D).

645—31.6(154D) Educational qualifications for mental health counselors. The applicant must present proof of meeting the following educational requirements for a mental health counselor:

31.6(1) Applicants must present with the application an official transcript verifying completion of a master's degree of 45 semester hours (or 60 quarter hours) or a doctoral degree in counseling with emphasis in mental health counseling from a mental health counseling program accredited by the Council on Accreditation of Counseling and Related Educational Programs from a college or university accredited by an agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation; or

31.6(2) Applicants must present with the application an official transcript verifying completion of a master's degree or a doctoral degree from a college or university accredited by an agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation which is content-equivalent to a master's degree in counseling with emphasis in mental health counseling. The degree will be considered as "content-equivalent" if it includes 45 semester hours (or 60 quarter hours) and successful completion of graduate-level coursework in each of the following areas:

a. Counseling theories;

b. Supervised counseling practicum;

c. Human growth and development. Studies that provide an understanding of the nature and needs of individuals at all developmental levels. Studies in this area include, but are not limited to, the following:

(1) Theories of human development across the life span;

(2) Major theories of personality development;

(3) Human behavior, including an understanding of developmental crises, disability, psychopathology, and cultural factors as they affect both normal and abnormal behavior;

d. Social and cultural foundations. Studies that provide an understanding of issues and trends in a multicultural and diverse society. Studies in this area include, but are not limited to, the following:

(1) Multicultural and pluralistic trends, including characteristics and concerns of diverse groups;

(2) Attitudes and behavior based on factors such as age, race, religious preference, physical disability, sexual orientation, ethnicity and culture, gender, socioeconomic status, and intellectual ability; and

(3) Individual and group interventions with diverse populations;

e. Helping relationships. Studies that provide an understanding of counseling and consultation processes. Studies in this area include, but are not limited to, the following:

(1) Helping skills, and counseling and consultation theories, including coverage of relevant research and factors considered in applications;

(2) Counselor or consultant characteristics and behaviors that influence helping processes, including gender and ethnicity differences, verbal and nonverbal behaviors and personal characteristics, orientations, and skills; and

(3) Client or consultee characteristics and behaviors that influence helping processes, including gender and ethnicity differences, verbal and nonverbal behaviors and personal characteristics, traits, capabilities, life circumstances, and developmental levels;

f. Groups. Studies that provide an understanding of group development, dynamics, counseling theories, and group counseling methods and skills. Studies in this area include, but are not limited to, the following:

(1) Principles of group dynamics, including group process components, developmental stage theories, and group members' roles and behaviors;

(2) Group leadership styles and approaches, including characteristics of various types of group leaders and leadership styles;

(3) Theories of group counseling, including commonalities, distinguishing characteristics, and pertinent research and literature; and

(4) Group counseling methods, including group counselor orientations and behaviors, ethical considerations, appropriate selection criteria and methods, and methods of evaluation of effectiveness;

g. Career and lifestyle development. Studies that provide an understanding of career development and the interrelationships among work, family, and other life factors. Studies in this area include, but are not limited to, the following:

(1) Career development theories and decision-making models;

(2) Career, avocational, educational and labor market sources, print media, computer-assisted career guidance, and computer-based career information;

(3) Career development program planning;

(4) Interrelationships among work, family, and other life factors such as multicultural and gender issues, as related to career development;

(5) Career and educational placement, follow-up and evaluation; and

(6) Assessment instruments relevant to career planning and decision making;

h. Diagnosis and assessment treatment procedures studies that provide an understanding of individual and group approaches to assessment and evaluation. Studies in this area include, but are not limited to, the following:

(1) Theoretical and historical bases for assessment techniques and methods of interpretation of appraisal data and information;

(2) Types of educational and psychological appraisal as appropriate to the helping process;

(3) Validity, including evidence for establishing content, construct, and empirical validity;

(4) Reliability, including methods of establishing stability and internal and equivalence reliability;

(5) Major appraisal methods, including environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer-managed and computer-assisted methods;

(6) Psychometric statistics, including types of test scores, measures of central tendency, indices of variability, standard errors and correlations; and

(7) Gender, ethnicity, language, disability, and cultural factors related to the assessment and evaluation of individuals and groups;

i. Research and program evaluation studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research. Studies in this area include, but are not limited to, the following:

(1) Basic types of research methods, including qualitative, quantitative-descriptive, and quantitative-descriptive-experimental designs;

(2) Basic statistics, including both univariate and bivariate hypothesis testing;

(3) Uses of computers for data management and analyses; and

(4) Ethical and legal considerations in research;

j. Professional orientation studies that provide an understanding of all aspects of professional functioning, including history, roles, organizational structures, ethics, standards, and credentialing. Studies in this area include, but are not limited to, the following:

(1) History of the helping professions, including significant factors and events;

(2) Professional roles and functions, including similarities with and differences from other types of professionals;

(3) Professional organizations (i.e., ACA, its divisions, and its branches), including membership benefits, activities, services to members, and current emphases;

(4) Ethical standards of the ACA and their evolution, legal issues, and applications to various professional activities (e.g., appraisal and group work);

(5) Professional preparation standards, their evolution, and current applications; and

(6) Professional credentialing, including certification, licensure, and accreditation practices and standards, and the effects of public policy on these issues;

k. Supervised counseling internship that provides an opportunity for the trainee to perform under supervision a variety of activities that a regularly employed staff member in a setting would be expected to perform. A regularly employed staff member is defined as a person occupying the professional role to which the trainee is aspiring. The internship follows a supervised practicum experience. A three-semester-hour internship includes the following:

(1) A minimum of 120 hours of direct service with clientele appropriate to the program of study;

(2) A minimum of one hour per week of individual supervision, throughout the internship, usually performed by the on-site supervisor;

(3) A minimum of one and one-half hours per week of group supervision, throughout the internship, usually performed by a program faculty member supervisor;

l. Psychopathology studies that provide an understanding of the description, classification and diagnosis of behavior disorders and dysfunction. Studies in this area include, but are not limited to, the following:

(1) Study of cognitive, behavioral, physiological and interpersonal mechanisms for adapting to change and to stressors;

(2) Role of genetic, physiological, cognitive, environmental and interpersonal factors, and their interactions, on development of the form, severity, course and persistence of the various types of disorders and dysfunction;

(3) Research methods and findings pertinent to the description, classification, diagnosis, origin, and course of disorders and dysfunction;

(4) Theoretical perspectives relevant to the origin, development, and course and outcome for the forms of behavior disorders and dysfunction; and

(5) Methods of intervention or prevention used to minimize and modify maladaptive behaviors, disruptive and distressful cognition, or compromised interpersonal functioning associated with various forms of maladaptation.

If the applicant has taught a graduate-level course as outlined above at a college or university accredited by an agency recognized by the United States Department of Education or the Council on Professional Accreditation, that course may be credited toward the course requirement.

31.6(3) All courses must be at least three graduate semester credit hours. One semester hour shall equal 15 clock hours of course time. A course may not be used more than once to fulfill more than one content area.

31.6(4) Foreign-trained marital and family therapists or mental health counselors shall:

a. Provide an equivalency evaluation of their educational credentials by the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at

info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a mental health counselor program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—31.7(154D) Clinical experience requirements for mental health counselors.

31.7(1) The supervised clinical experience shall:

a. Be a minimum of two years of full-time supervised professional work experience in mental health counseling;

b. Be completed following completion of the practicum and all graduate coursework, with exception of the thesis;

c. Include successful completion of at least 200 hours of supervision concurrent with 1,000 hours of mental health counseling conducted in face-to-face contact with individuals, couples or families;

d. Have only supervised clinical contact credited for this requirement; and

e. Include at least 100 of the 200 hours of supervision as individual supervision.

31.7(2) To meet the requirements of the supervised clinical experience:

a. The supervisee must:

(1) Meet with the supervisor a minimum of one hour per week, face to face and individually;

(2) Have training that is appropriate to the functions to be performed;

(3) Offer documentation in the name of the supervising mental health counselor;

(4) Begin the experience after all academic requirements are met for the master's degree or higher;

(5) Compute part-time employment on a prorated basis for the supervised professional experience;

(6) Have the background, training, and experience that are appropriate to the functions performed;

(7) Have supervision that is clearly distinguishable from personal counseling and is contracted in order to serve professional/vocational goals;

(8) Have individual supervision that shall be face to face with no more than one supervisor to two supervisees;

(9) Have group supervision that may be completed with up to six supervisees and a supervisor; and

(10) Not participate in the following activities which are deemed unacceptable for clinical supervision:

1. Peer supervision, i.e., supervision by a person of equivalent, but not superior, qualifications, status, and experience.

2. Supervision, by current or former family members, or any other person, in which the nature of the personal relationship prevents, or makes difficult, the establishment of a professional relationship.

3. Administrative supervision, e.g., clinical practice performed under administrative rather than clinical supervision of an institutional director or executive.

4. A primarily didactic process wherein techniques or procedures are taught in a group setting, classroom, workshop, or seminar.

5. Consultation, staff development, or orientation to a field or program, or role-playing of family interrelationships as a substitute for current clinical practice in an appropriate clinical situation.

b. The supervisor:

(1) May be a licensed mental health counselor in Iowa; or

(2) Shall be approved by the National Board for Certified Counselors (NBCC) as a supervisor; or

(3) May be an alternate supervisor who possesses qualifications equivalent to a licensed mental health counselor, including mental health professionals licensed pursuant to Iowa Code chapter 147;

(4) Shall meet a minimum of one hour per week, face to face and individually with the supervisee;

(5) Shall provide training that is appropriate to the functions to be performed;

(6) Shall ensure that therapeutic work is done under the professional supervision of a supervisor; and

(7) Shall not supervise any mental health counselor or permit the supervisee to engage in any therapy which the supervisor cannot perform competently.

31.7(3) Rescinded IAB 7/6/05, effective 8/10/05.

31.7(4) An applicant who has obtained Certified Clinical Mental Health Counselor status with the National Board for Certified Counselors (NBCC) and submits a transcript sent directly from the school to the board is considered to have met the educational and clinical experience requirements of rules 31.6(154D) and 31.7(154D).

645—31.8(154D) Licensure by endorsement. An applicant who has been a licensed marriage and family therapist or mental health counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides official copies of the academic transcripts sent directly from the school to the board;
5. Supplies satisfactory evidence of the candidate's qualifications in writing on the prescribed forms by the candidate's supervisors. If verification of clinical experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision; and
6. Provides verification(s) of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
   - Licensee's name;
   - Date of initial licensure;
   - Current licensure status; and
   - Any disciplinary action taken against the license.
7. In lieu of the requirements listed in paragraphs "3" through "5" of this rule, a mental health counselor applicant may provide to the board evidence that the applicant has demonstrated appropriate qualifications at either tier 1 or tier 2 of the National Credentials Registry of the American Association of State Counseling Boards. The mental health counselor applicant shall have the National Credentials Registry of the American Association of State Counseling Boards send directly to the board official verification that the applicant has met the qualifications.

645—31.9(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of marital and family therapists or mental health counselors.

645—31.10(147) License renewal.

31.10(1) The biennial license renewal period for a license to practice marital and family therapy or mental health counseling shall begin on October 1 of an even-numbered year and end on September 30 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

31.10(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

31.10(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—32.2(272C) and the mandatory reporting requirements of subrule 31.10(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

c. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

31.10(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 32.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

31.10(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

31.10(6) A person licensed to practice as a marital and family therapist or mental health counselor shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

31.10(7) 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 645—subrule 34.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

31.10(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice mental health counseling or marital and family therapy in Iowa until the license is reactivated. A licensee who practices mental health counseling or marital and family therapy in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—31.11(272C) Exemptions for inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—31.12(147) Licensee record keeping.

31.12(1) A licensee shall maintain sufficient, timely, and accurate documentation in client records.

31.12(2) For purposes of this rule, "client" means the individual, couple, family, or group to whom a licensee provides direct clinical services.

31.12(3) A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

31.12(4) Clinical services. A licensee who provides clinical services in any employment setting, including private practice, shall:

a. Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all client records for a minimum of seven years after the date of the client's discharge or death, or, in the case of a minor, for three years after the client reaches the age of majority under state law or seven years after the date of the client's discharge or death, whichever is longer.

b. Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of treatment.

c. Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request for access and the licensee's rationale for withholding some or all of a record shall be documented in the client's records.

d. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

31.12(5) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

31.12(6) Correction of records.

a. *Hard-copy records.* Original notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the licensee.

b. *Electronic records.* If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

31.12(7) Confidentiality and transfer of records. Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

31.12(8) Retirement, death or discontinuance of practice.

a. If a licensee is retiring or discontinuing practice and is the owner of a practice, the licensee shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

b. Upon a licensee's death:

(1) The licensee's employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The licensee's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

31.12(9) Nothing stated in this rule shall prohibit a licensee from conveying or transferring the licensee's client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

645—31.13(147) Duplicate certificate or wallet card.

31.13(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall only be issued under such circumstances.

31.13(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—34.1(147,154D).

31.13(3) If the board receives a completed application for a duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—31.14(147) Reissued 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 645—34.1(147,154D).

645—31.15(17A,147,272C) License denial.

31.15(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

31.15(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

31.15(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—31.16(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

31.16(1) Submit a reactivation application on a form provided by the board.

31.16(2) Pay the reactivation fee that is due as specified in 645—Chapter 34.

31.16(3) Provide verification of current competence to practice mental health counseling or marital and family therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—31.17(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 31.16(17A,147,272C) prior to practicing mental health counseling or marital and family therapy in this state.

645—31.18(154D) Marital and family therapy and mental health counselor services subject to regulation. Marital and family therapy and mental health counselor services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the marital and family therapy and mental health counselor, shall constitute the practice of marital and family therapy and mental health counseling and shall be subject to regulation in Iowa.

These rules are intended to implement Iowa Code chapters 17A, 147, 154D and 272C.

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◊ Two or more ARCs

CHAPTER 32
CONTINUING EDUCATION FOR MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

645—32.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means the license is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of behavioral science examiners.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"License" means license to practice.

"Licensee" means any person licensed to practice marital and family therapy or mental health counseling in the state of Iowa.

645—32.2(272C) Continuing education requirements.

32.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on October 1 of the even-numbered year and ending on September 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

32.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

32.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

32.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

32.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—32.3(154D,272C) Standards.

32.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters.

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

32.3(2) *Specific criteria.* Continuing education hours of credit may be obtained by completing the following:

a. Attendance at workshops, conferences, symposiums and academic courses. Official transcripts indicating successful completion of academic courses which apply to the field of mental health counseling or marital and family therapy, as appropriate, will be necessary in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

b. Rescinded IAB 7/6/05, effective 8/10/05.

c. A maximum of 20 hours of continuing education credit may be granted for any of the following activities not to exceed a combined total of 20 hours:

(1) Presenting professional programs which meet the criteria in 645—32.3(272C). Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit. Presentation at a professional program does not include teaching class at an institution of higher learning at which the applicant is regularly and primarily employed. Presentations to lay public are excluded.

(2) Scholarly research or other activities, the results of which are published in a recognized professional publication such as a refereed journal, monograph or conference proceedings. The scholarly research must be integrally related to the practice of the professions.

(3) Publication in a refereed journal. The article in a refereed journal for which the licensee is seeking continuing education credit must be integrally related to the practice of the professions.

(4) Distance learning conferences or courses will be allowed if the following criteria are met:

1. The program is offered through electronic transmission such as the Iowa Communications Network (ICN).

2. The program allows for interaction between the presenter and the participants.

3. The program issues the participants an official transcript, certificate of attendance or verification of successful completion of the course which applies to the field of mental health counseling or marital and family therapy.

(5) Home study courses will be allowed if the following criteria are met:

1. The program is recognized by the National Board for Certified Counselors (NBCC), Commission on Rehabilitation Counselor Certification (CRCC), American Association of Marriage and Family Therapy (AAMFT) or meets all of the criteria in 645—32.3(272C).

2. An official transcript, verification or certificate of completion is presented after successful completion of the course.

(6) Viewing multimedia presentations will be allowed if the following criteria are met:

1. There is a sponsoring group or agency.

2. There is a facilitator or program official present.

3. The program official may not be the only attendee.

4. The program meets all of the criteria in 645—32.3(272C).

(7) Computer-assisted instructional courses or programs pertaining to the practice of mental health counseling or marital and family therapy will be allowed if the following criteria are met:

1. The courses and programs are approved by the National Board for Certified Counselors (NBCC), Commission on Rehabilitation Counselor Certification (CRCC), American Association of Marriage and Family Therapy (AAMFT) or their affiliates or meet all of the criteria in 645—32.3(272C).

2. An official transcript, certificate of completion, or verification that includes the following information is presented after successful completion of the course:

- Date course/program was completed.
- Title of the course/program.
- Number of course/program continuing education hours.
- Official signature or verification of the course/program sponsor.

(8) Teaching in an approved college, university, or graduate school. The licensee may receive credit on a one-time basis for the first offering of the course.

(9) Authoring papers, publications, and books. The licensee shall receive five hours of credit per page with a maximum of 20 hours of credit.

32.3(3) *Required specific criteria.* Three hours of the 40 continuing education hours shall be in ethics.

645—32.4(154D,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

32.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

32.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

32.4(3) For auditing purposes, all licensees must retain the information identified in subrule 32.4(2) for two years after the biennium has ended.

32.4(4) Information identified in subrule 32.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

32.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

32.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—32.5(154D,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—32.6(154D,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

32.6(1) Failure to cooperate with a board audit.

32.6(2) Failure to meet the continuing education requirement for licensure.

32.6(3) Falsification of information on the license renewal form.

32.6(4) Falsification of continuing education information.

645—32.7(272C) Continuing education waiver for active practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—32.8(272C) Continuing education exemption for inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—32.9(154D,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

32.9(1) The board may grant an extension of time to fulfill the continuing education requirement.

32.9(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

32.9(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—32.10(272C) Reinstatement of inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—32.11(272C) Hearings. Rescinded IAB 7/6/05, effective 8/10/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154D.

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CHAPTER 33
DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS

[Prior to 1/30/02, see 645—Chapter 31]

645—33.1(154D) Definitions.

"Board" means the board of behavioral science examiners.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a marital and family therapist or mental health counselor in Iowa.

645—33.2(154D,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—33.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

33.2(1) Failure to comply with the national association's code of ethics.

a. *Marital and family therapists.* Failure to comply with the current American Association for Marriage and Family Therapy (AAMFT) Code of Ethics, which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the AAMFT's Web site.

b. *Mental health counselors.* Failure to comply with the current Code of Ethics of the American Mental Health Counselors Association (AMHCA), which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the AMHCA Web site.

33.2(2) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

33.2(3) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed marital and family therapist or mental health counselor in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

33.2(4) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

33.2(5) Practice outside the scope of the profession.

33.2(6) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

33.2(7) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

33.2(8) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

33.2(9) Falsification of client records.

33.2(10) Acceptance of any fee by fraud or misrepresentation.

33.2(11) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

33.2(12) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

33.2(13) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

33.2(14) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

33.2(15) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

33.2(16) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

33.2(17) Failure to notify the board within 30 days after the occurrence of any judgment or settlement of a malpractice claim or action.

33.2(18) Engaging in any conduct that subverts or attempts to subvert a board investigation.

33.2(19) Failure to comply with a subpoena issued by the board, or to otherwise fail to cooperate with an investigation of the board.

33.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

33.2(21) Failure to pay costs assessed in any disciplinary action.

33.2(22) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

33.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

33.2(24) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a marital and family therapist or a mental health counselor.

33.2(25) Failure to report a change of name or address within 30 days after it occurs.

33.2(26) Representing oneself as a licensed marital and family therapist or mental health counselor when one's license has been suspended or revoked, or when one's license is on inactive status.

33.2(27) Permitting another person to use the licensee's license for any purpose.

33.2(28) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

33.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

33.2(30) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

33.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—33.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—33.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—33.5(154D) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

33.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

33.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

33.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

33.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

33.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

33.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

33.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 17A, 147, 154D and 272C.

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CHAPTER 34
FEES

645—34.1(147,154D) License fees. All fees are nonrefundable.

34.1(1) Licensure fee for license to practice marital and family therapy or mental health counseling is $120.

34.1(2) Biennial license renewal fee for each biennium is $120.

34.1(3) Late fee for failure to renew before expiration is $60.

34.1(4) Reactivation fee is $180.

34.1(5) Duplicate or reissued license certificate or wallet card fee is $20.

34.1(6) Verification of license fee is $20.

34.1(7) Returned check fee is $25.

34.1(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154D and 272C.

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CHAPTER 37
DECLARATORY RULINGS

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 38
AGENCY PROCEDURE FOR RULE MAKING

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 39
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/16/99, effective 7/21/99

CHIROPRACTIC

CHAPTER 40
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF CHIROPRACTIC

[Prior to 7/29/87, Health Department[470] Ch 141]

Rescinded IAB 8/13/08, effective 9/17/08

CHAPTER 41 LICENSURE OF CHIROPRACTIC PHYSICIANS
CHAPTER 42 COLLEGES FOR CHIROPRACTIC PHYSICIANS
CHAPTER 43 PRACTICE OF CHIROPRACTIC PHYSICIANS
CHAPTER 44 CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS
CHAPTER 45 DISCIPLINE FOR CHIROPRACTIC PHYSICIANS

CHAPTER 41
LICENSURE OF CHIROPRACTIC PHYSICIANS

[Prior to 7/24/02, see 645—40.10(151) to 645—40.13(151), 645—40.15(151) and 645—40.16(151)]

645—41.1(151) Definitions. The following definitions shall be applicable to the rules of the Iowa board of chiropractic:

"Active license" means a license that is current and has not expired.

"Board" means the Iowa board of chiropractic.

"Council on Chiropractic Education" or *"CCE"* means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws. A copy of the standards may be requested from the Council on Chiropractic Education. CCE's address and Web site may be obtained from the board's Web site at http://www.idph.state.ia.us/licensure.

"Department" means the Iowa department of public health.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"License" means license to practice chiropractic in Iowa.

"Licensee" means any person licensed to practice as a chiropractic physician in Iowa.

"License expiration date" means June 30 of even-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice chiropractic to an applicant who is or has been licensed in another state and meets the criteria for licensure in this state.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of chiropractic physicians who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"NBCE" means the National Board of Chiropractic Examiners. The mailing address and Web site address may be obtained from the board's Web site at http://www.idph.state.ia.us/licensure.

"Reactivate" or *"reactivation"* means the process as outlined in rule 41.14(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice chiropractic to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of chiropractic to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"SPEC" means Special Purposes Examination for Chiropractic, which is an examination provided by the NBCE that is designed specifically for utilization by state or foreign licensing agencies.

645—41.2(151) Requirements for licensure.

41.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application form. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the Board of Chiropractic, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. An applicant shall submit the appropriate fee to the Iowa Board of Chiropractic. The fee is nonrefundable.

d. No applicant shall be considered for licensure until official copies of academic transcripts are received by the board directly from a chiropractic school accredited by the CCE and approved by the board. The transcript must display the date of graduation and the degree conferred.

e. An applicant shall submit an official certificate of completion of 120 hours of physiotherapy from a board-approved chiropractic college. The physiotherapy course must include a practicum component.

f. An applicant shall pass all parts of the NBCE examination as outlined in 645—41.3(151).

g. An applicant shall submit one passport-size photograph of the applicant taken within the previous six months.

h. An applicant shall submit a copy of the chiropractic diploma (no larger than 8½″ × 11″) from a chiropractic school accredited by the CCE and approved by the board.

41.2(2) Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

41.2(3) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

41.2(4) Persons licensed to practice chiropractic shall keep their license publicly displayed in the primary place of practice.

41.2(5) Licensees are required to notify the board of chiropractic of changes in residence or place of practice within 30 days after the change of address occurs.

645—41.3(151) Examination requirements.

41.3(1) Applicants shall submit the application for the NBCE examination and the fee directly to the NBCE.

41.3(2) The following criteria shall apply for the NBCE:

a. Prior to July 1, 1973, applicants shall provide proof of being issued a basic science certificate.

b. After July 1, 1973, applicants shall provide proof of successful completion of the required examination from the National Board of Chiropractic Examiners. The required examination shall meet the following criteria:

(1) Examinations completed after July 1, 1973, shall be defined as the successful completion of Parts I and II of the NBCE examination.

(2) Examinations completed after August 1, 1976, shall be defined as the successful completion of Parts I, II and Physiotherapy of the NBCE examination.

(3) Examinations completed after January 1, 1987, shall be defined as the successful completion of Parts I, II, III and Physiotherapy of the NBCE examination.

(4) Examinations completed after January 1, 1996, shall be defined as satisfactory completion of Parts I, II, III, IV and Physiotherapy of the NBCE examination.

645—41.4(151) Educational qualifications.

41.4(1) An applicant for licensure to practice as a chiropractic physician shall present an official transcript verifying graduation from a board-approved college of chiropractic.

41.4(2) Foreign-trained chiropractic physicians shall:

a. Provide an equivalency evaluation of their educational credentials by the International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310)258-9451,Web site www.ierf.org or E-mail at info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a chiropractic program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—41.5(151) Temporary certificate.

41.5(1) The board may issue a temporary certificate to practice chiropractic if the issuance is in the public interest. A temporary certificate may be issued at the discretion of the board to an applicant who demonstrates a need for the temporary certificate and meets the professional qualifications for licensure.

41.5(2) Demonstrated need. An applicant must establish that a need exists for the issuance of a temporary license and that the need serves the public interest. An applicant may only meet the demonstrated need requirement by proving that the need meets one of the following conditions:

a. The applicant will provide chiropractic services in connection with a special activity, event or program conducted in this state;

b. The applicant will provide chiropractic services in connection with a state emergency as proclaimed by the governor; or

c. The applicant previously held an unrestricted license to practice chiropractic in this state and will provide gratuitous chiropractic services as a voluntary public service.

41.5(3) Professional qualifications. The applicant shall:

a. Submit the board-approved application form. Applications may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the Board of Chiropractic, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. Provide verification of current active licensure in the United States sent directly to the board office from the state in which the applicant is licensed.

c. Submit proof of two years of full-time chiropractic practice within the immediately preceding two years.

d. Provide a copy of a chiropractic diploma (no larger than 8½″ × 11″) from a chiropractic school accredited by the CCE and approved by the board and submit an official certificate of completion of 120 hours of physiotherapy from a board-approved chiropractic college. The physiotherapy course must include a practicum component.

e. Submit the temporary certificate fee.

f. Submit information explaining the demonstrated need, the scope of practice requested by the applicant, and why a temporary certificate should be granted.

41.5(4) If the application is approved by the board, a temporary certificate shall be issued authorizing the applicant to practice chiropractic for one year to fulfill the demonstrated need for temporary licensure, as stated on the application and described in subrule 41.5(2).

41.5(5) An applicant or temporary certificate holder who has been denied a temporary certificate may appeal the denial pursuant to rule 41.11(17A,151,272C). A temporary certificate holder is subject to discipline for any grounds for which licensee discipline may be imposed.

41.5(6) A temporary license holder who meets all licensure conditions as specified in rule 645—41.2(151) may obtain a permanent license in lieu of the temporary certificate. To obtain a permanent license, the applicant shall submit any additional documentation required for permanent licensure that was not submitted as a part of the temporary certificate application. The applicant may receive fee credit toward the permanent licensure fee equivalent to the fee paid for the temporary permit if the application for the permanent license and all required documentation are received by the board prior to the expiration of the temporary permit.

645—41.6(151) Licensure by endorsement.

41.6(1) An applicant who has been licensed to practice chiropractic under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office.

41.6(2) The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

a. Submits to the board a completed application;

b. Pays the licensure fee;

c. Provides a notarized copy of the diploma (no larger than 8½″ × 11″) along with an official copy of the transcript from a board-approved chiropractic school sent directly from the school to the board office;

d. Shows evidence of successful completion of the examination of the National Board of Chiropractic Examiners as outlined in 645—41.3(151);

e. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

(1) Licensee's name;

(2) Date of initial licensure;

(3) Current licensure status; and

(4) Any disciplinary action taken against the license; and

f. Holds or has held a current license and provides evidence of one of the following requirements:

(1) Completion of 60 hours of board-approved continuing education during the immediately preceding two-year period as long as the applicant had an active practice within the last five years; or

(2) Practice as a licensed chiropractic physician for a minimum of one year during the immediately preceding two-year period; or

(3) The equivalent of one year as a full-time faculty member teaching chiropractic in an accredited chiropractic college for at least one of the immediately preceding two years; or

(4) Graduation from a board-approved chiropractic college within the immediately preceding two years from the date the application is received in the board office.

g. If the applicant does not meet the requirements of paragraph 41.6(2)*"f,"* the applicant shall submit the following:

(1) Evidence of satisfactory completion of 60 hours of board-approved continuing education during the immediately preceding two-year period; and

(2) Evidence of successful completion of the SPEC examination within one year prior to receipt of the application in the board office.

645—41.7(151) Licensure by reciprocal agreement. Rescinded IAB 8/13/08, effective 9/17/08.

645—41.8(151) License renewal.

41.8(1) The biennial license renewal period for a license to practice as a chiropractic physician shall begin on July 1 of an even-numbered year and end on June 30 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

41.8(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

41.8(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—44.2(272C) and the mandatory reporting requirements of subrule 41.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application, continuing education report form and renewal fee before the license expiration date.

41.8(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels, or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years of condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 44.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

41.8(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

41.8(6) A person licensed to practice as a chiropractic physician shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

41.8(7) 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 645—subrule 46.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

41.8(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a chiropractor in Iowa until the license is reactivated. A licensee who practices as a chiropractor in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—41.9(272C) Exemptions for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—41.10(272C) Lapsed licenses. Rescinded IAB 8/3/05, effective 9/7/05.

645—41.11(147) Duplicate certificate or wallet card. Rescinded IAB 8/13/08, effective 9/17/08.

645—41.12(147) Reissued certificate or wallet card. Rescinded IAB 8/13/08, effective 9/17/08.

645—41.13(17A,151,272C) License denial. Rescinded IAB 8/13/08, effective 9/17/08.

645—41.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

41.14(1) Submit a reactivation application on a form provided by the board.

41.14(2) Pay the reactivation fee that is due as specified in 645—Chapter 46.

41.14(3) Provide verification of current competence to practice as a chiropractic physician by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 60 hours of continuing education that comply with standards defined in 645—44.3(151,272C) within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 60 hours of continuing education that comply with standards defined in 645—44.3(151,272C) within two years of application for reactivation; and

(3) Verification of passing the Special Purpose Examination for Chiropractic (SPEC) if the applicant does not have a current license and has not been in active practice in the United States during the past five years.

645—41.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 41.14(17A,147,272C) prior to practicing as a chiropractic physician in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 151 and 272C.

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◊ Two or more ARCs

CHAPTER 42
COLLEGES FOR CHIROPRACTIC PHYSICIANS

[Prior to 7/24/02, see 645—40.9(151)]

645—42.1(151) Definitions. For the purposes of these rules, the following definitions shall apply:

"Chiropractic intern" means a chiropractic student of an approved college of chiropractic in the student's last academic quarter, semester, or trimester of study, who is eligible for graduation from the college of chiropractic and is eligible to complete a preceptorship program, as authorized by these rules.

"Chiropractic preceptor" means a chiropractic physician licensed and practicing in Iowa pursuant to Iowa Code chapter 151, who accepts a chiropractic intern or resident into the practice for the purpose of providing the chiropractic student with a clinical experience of the practice of chiropractic, and who meets the requirements of these rules.

"Chiropractic resident" means a graduate chiropractic physician who has received a doctor of chiropractic degree from a college of chiropractic approved by the board, and who is not licensed in any state, but who is practicing under a chiropractic preceptorship authorized under these rules.

"Chiropractic student" means a student of an approved college of chiropractic.

"Council on Chiropractic Education" or *"CCE"* means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws. A copy of the standards may be requested from the Council on Chiropractic Education (CCE). CCE's address and Web site may be obtained from the board's Web site.

"Preceptorship practice" means the chiropractic practice of a single chiropractic physician or group of chiropractic physicians in a particular business or clinic, into which a licensed practicing chiropractic physician has accepted a chiropractic intern or chiropractic resident for the limited purpose of providing the intern or resident with a clinical experience in the practice of chiropractic.

"60-minute hour" means at least 50 minutes of resident attendance with no more than 10 minutes for note taking and breaks.

645—42.2(151) Board-approved chiropractic colleges.

42.2(1) Approval of a chiropractic college may be granted if the program submits proof to the board of chiropractic that the chiropractic program meets the following requirements:

a. The chiropractic college is fully accredited by the Commission on Accreditation of the Council on Chiropractic Education (CACCE), as recognized by the U.S. Department of Education.

b. The core curriculum meets the requirements of the CACCE standards and, in addition:

(1) Covers a period of four academic years totaling not less than 4,000 60-minute hours in actual resident attendance;

(2) Comprises a supervised course of study, including clinical practical instruction, in all of the subjects specified in Iowa Code section 151.1(3); and

(3) Includes a minimum of 120 hours of physiotherapy coursework with a clinical practical component on the procedures covered in the course.

c. The chiropractic college publishes in a regularly issued catalog the requirements for graduation and degrees that are required by the Iowa board of chiropractic.

d. Transcripts include entries for all completed coursework.

42.2(2) Through July 1, 2005, conditional approval may be given to a college if:

a. The college is not fully accredited by the CACCE but meets all other requirements for approval in rule 645—42.2(151), except for the physiotherapy component in subparagraph 42.2(1)*"b"*(3); and

b. The physiotherapy coursework appears as a transfer credit on a transcript from an approved chiropractic college; and

c. The physiotherapy coursework includes a clinical practical application which meets the same standards as the coursework offered for the board-approved chiropractic college's own students.

645—42.3(151) Practice by chiropractic interns and chiropractic residents. A student enrolled in a board-approved chiropractic preceptorship program in the state of Iowa may treat patients without obtaining an Iowa license, provided the requirements of these rules are met.

645—42.4(151) Approved chiropractic preceptorship program. The board shall approve a chiropractic college's preceptorship program if the program meets the following requirements:

42.4(1) The preceptorship program meets current CCE standards for consumer protection.

42.4(2) The preceptorship program is an established component of the curriculum offered by a board-approved chiropractic college.

42.4(3) Chiropractic interns who participate in the preceptorship program have met all requirements for graduation from the chiropractic college except for completion of the preceptorship period.

42.4(4) Chiropractic residents who participate in the postgraduate preceptorship program have graduated from a chiropractic college approved by the board.

42.4(5) All chiropractic physicians who serve as preceptors shall be approved under rule 645—42.5(151).

42.4(6) The chiropractic college retains ultimate responsibility for student learning and evaluations during the preceptorship.

42.4(7) The chiropractic preceptor shall supervise no more than one chiropractic intern or one chiropractic resident for the duration of a given preceptorship period.

42.4(8) If a preceptor agreement must be canceled for any reason, it is the responsibility of the chiropractic college to assign the intern or resident to another preceptor and notify the Iowa board of chiropractic of the preceptorship cancellation. The notice shall include reasons for cancellation of the preceptorship.

645—42.5(151) Approved chiropractic physician preceptors.

42.5(1) The board shall approve a chiropractic physician to be a chiropractic physician preceptor if the chiropractic physician meets the following criteria:

a. The chiropractic physician holds a current Iowa chiropractic license and has continuously held licensure in the United States for the previous five years prior to preceptorship;

b. The chiropractic physician is currently fully credentialed by the sponsoring chiropractic college and approved by the board; and

c. The chiropractic physician has not had any formal disciplinary action or been a party to a malpractice settlement or judgment within the past three years.

The preceptor shall supervise no more than one chiropractic intern or one chiropractic resident for the duration of the preceptorship period.

42.5(2) The role of the chiropractic physician preceptor shall include:

a. Responsibility for supervising the practice of the chiropractic intern or chiropractic resident who is accepted into a preceptorship practice.

b. Identifying the chiropractic intern or chiropractic resident to the patients of the preceptorship practice to ensure that no patient will misconstrue the status of the intern or resident. The intern or resident shall wear a badge identifying that person as an intern or resident at all times in the presence of preceptorship patients.

c. Exercising direct, on-premises supervision of the chiropractic intern or chiropractic resident at all times that the intern or resident is engaged in any facet of patient care in the chiropractic physician preceptor's clinic.

d. Directing the chiropractic intern or chiropractic resident only in treatment care that is within the educational background and experience of the preceptor.

e. Notifying the preceptorship program within 30 days of either of the following actions:

(1) If the preceptor has any formal disciplinary action taken by any licensing entity; or

(2) If the preceptor is a party to any malpractice settlement or judgment.

645—42.6(151) Termination of preceptorship. A preceptorship shall terminate upon the occurrence of one of the following events:

42.6(1) Interns. The intern graduates from a board-approved college of chiropractic.

42.6(2) Residents. Twelve months have passed since the resident graduated from a board-approved college of chiropractic.

42.6(3) Formal disciplinary action is taken against the preceptor or the preceptor is a party to a final malpractice judgment or settlement agreement.

These rules are intended to implement Iowa Code chapter 151.

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CHAPTER 43
PRACTICE OF CHIROPRACTIC PHYSICIANS

[Prior to 7/24/02, see 645—40.1(151) and 645—40.17(151) to 645—40.24(147,272C)]

645—43.1(151) Definitions. The following definitions shall be applicable to the rules of the Iowa board of chiropractic.

"Active chiropractic physiotherapy" means therapeutic treatment performed by the patient with the assistance and guidance of the chiropractic assistant including, but not limited to, exercises and functional activities that promote strength, endurance, flexibility, and coordination.

"Acupuncture," pursuant to Iowa Code section 148E.1, means a form of health care developed from traditional and modern oriental medical concepts that employs oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

"Adjustment/manipulation of neuromusculoskeletal structures" means the use by a doctor of chiropractic of a skillful treatment based upon differential diagnosis of neuromusculoskeletal structures and procedures related thereto by the use of passive movements with the chiropractic physician's hands or instruments in a manipulation of a joint by thrust so the patient's volitional resistance cannot prevent the motion. The manipulation is directed toward the goal of restoring joints to their proper physiological relationship of motion and related function. Movement of the joint is by force beyond its active limit of motion, but within physiologic integrity. Adjustment or manipulation commences where mobilization ends and specifically begins when the elastic barrier of resistance is encountered by the doctor of chiropractic and ends at the limit of anatomical integrity. Adjustment or manipulation as described in this definition is directed to the goal of the restoration of joints to their proper physiological relationship of motion and related function, release of adhesions or stimulation of joint receptors. Adjustment or manipulation as described in this definition is by hand or instrument. The primary emphasis of this adjustment or manipulation is upon specific joint element adjustment or manipulation and treatment of the articulation and adjacent tissues of the neuromusculoskeletal structures of the body and nervous system, using one or more of the following:

1. Impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature that patient volitional resistance is overcome, commencing where the motion encounters the elastic barrier of resistance and ending at the limit of anatomical integrity.
2. Instrument adjusting, utilizing instruments specifically designed to deliver sudden, high velocity, short amplitude thrust.
3. Light force adjusting, utilizing sustained joint traction or applied directional pressure, or both, which may be combined with passive motion to restore joint mobility.
4. Long distance lever adjusting, utilizing forces delivered at some distance from the dysfunctional site and aimed at transmission through connected structures to accomplish joint mobility.

"Anatomic barrier" means the limit of motion imposed by anatomic structure, the limit of passive motion.

"Chiropractic assistant" means a person who has satisfactorily completed a chiropractic assistant training program to perform selected chiropractic health care services under the supervision of a chiropractic physician.

"Chiropractic insurance consultant" means an Iowa-licensed chiropractic physician registered with the board who serves as a liaison and advisor to an insurance company.

"Chiropractic manipulation" means care of an articular dysfunction or neuromusculoskeletal disorder by manual or mechanical adjustment of any skeletal articulation and contiguous articulations.

"Differential diagnosis" means to examine the body systems and structures of a human subject to determine the source, nature, kind or extent of a disease, vertebral subluxation, neuromusculoskeletal disorder or other physical condition, and to make a determination of the source, nature, kind, or extent of a disease or other physical condition.

"Elastic barrier" means the range between the physiologic and anatomic barrier of motion in which passive ligamentous stretching occurs before tissue disruption.

"Extremity manipulation" means a corrective thrust or maneuver by a doctor of chiropractic by hand or instrument based upon differential diagnosis of neuromusculoskeletal structures applied to a joint of the appendicular skeleton.

"Malpractice" means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a chiropractic physician in the practice of the profession.

"Mobilization" means movement applied singularly or repetitively within or at the physiological range of joint motion, without imparting a thrust or impulse, with the goal of restoring joint mobility.

"Passive chiropractic physiotherapy" means therapeutic treatment administered by the chiropractic assistant and received by the patient including, but not limited to, mechanical, electrical, thermal, or manual methods.

"Physiologic barrier" means the limit of active motion, which can be altered to increase range of active motion by warm-up activity.

"Practice of acupuncture," pursuant to Iowa Code section 148E.1, means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medicine concepts.

"Supervising chiropractic physician" means the Iowa-licensed chiropractor responsible for supervision of services provided to a patient by a chiropractic assistant.

"Supervision" means the physical presence and direction of the supervising chiropractic physician at the location where services are rendered.

645—43.2(147,272C) Principles of chiropractic ethics. The following principles of chiropractic ethics are hereby adopted by the board relative to the practice of chiropractic in this state.

43.2(1) These principles are intended to aid chiropractic physicians individually and collectively in maintaining a high level of ethical conduct. These are standards by which a chiropractic physician may determine the propriety of the chiropractic physician's conduct in the chiropractic physician's relationship with patients, with colleagues, with members of allied professions, and with the public.

43.2(2) The principal objective of the chiropractic profession is to render service to humanity with full respect for the dignity of the person. Chiropractic physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

43.2(3) Chiropractic physicians should strive continually to improve chiropractic knowledge and skill, and should make available to their patients and colleagues the benefits of their professional attainments.

43.2(4) A chiropractic physician should practice a method of healing founded on a scientific basis, and should not voluntarily associate professionally with anyone who violates this principle.

43.2(5) The chiropractic profession should safeguard the public and itself against chiropractic physicians deficient in moral character or professional competence. Chiropractic physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

43.2(6) A chiropractic physician may choose whom to serve. In an emergency, however, services should be rendered to the best of the chiropractic physician's ability. Having undertaken the case of a patient, the chiropractic physician may not neglect the patient; and, unless the patient has been discharged, the chiropractic physician may discontinue services only after giving adequate notice.

43.2(7) A chiropractic physician should not dispose of services under terms or conditions which tend to interfere with or impair the free and complete exercise of professional judgment and skill or tend to cause a deterioration of the quality of chiropractic care.

43.2(8) A chiropractic physician should seek consultation upon request, in doubtful or difficult cases, or whenever it appears that the quality of chiropractic service may be enhanced thereby.

43.2(9) A chiropractic physician may not reveal the confidences entrusted in the course of chiropractic attendance, or the deficiencies observed in the character of patients, unless required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

43.2(10) The honored ideals of the chiropractic profession imply that the responsibilities of the chiropractic physician extend not only to the individual, but also to society where these responsibilities deserve interest and participation in activities which have the purpose of improving both the health and well-being of the individual and the community.

645—43.3(514F) Utilization and cost control review.

43.3(1) The board shall establish utilization and cost control review (UCCR) committee(s). A UCCR committee shall be established by approval of the board upon a showing that the committee meets the requirements of this rule. The name of each committee and a list of committee members shall be on file with the board and available to the public. As a condition of board approval, each committee shall agree to submit to the board an annual report which meets the requirements of this rule.

43.3(2) Each member of a UCCR committee shall:

a. Hold a current license in Iowa.

b. Have practiced chiropractic in the state of Iowa for a minimum of five years prior to appointment.

c. Be actively involved in a chiropractic practice during the term of appointment as a UCCR committee member.

d. Have no pending disciplinary action, no disciplinary action taken during the three years prior to appointment, and no disciplinary action pending or taken during the period of appointment.

e. Have no malpractice judgment awarded or settlement paid during the three years prior to appointment or during the period of appointment.

f. Not assist in the review or adjudication of claims in which the committee member may reasonably be presumed to have a conflict of interest.

g. Rescinded IAB 5/10/06, effective 6/14/06.

43.3(3) Procedures for utilization and cost control review. A request for review may be made to the UCCR committee by any person governed by the various chapters of Title XIII, subtitle 1, of the Iowa Code, self-insurers for health care benefits to employees, other third-party payers, chiropractic patients or licensees.

a. There shall be a reasonable fee, as established by the UCCR committee and approved by the board, for services rendered, which will be made payable directly to the UCCR committee that conducts the review. Each UCCR committee approved by the board shall make a yearly accounting to the board.

b. A request for service shall be submitted to the executive director of the UCCR committee on a submission form approved by the board, and shall be accompanied by the number of copies required by the UCCR committee.

c. The UCCR committee shall respond in writing to the parties involved with its findings and recommendations within 90 days of the date the request for review was submitted. The committee shall review the appropriateness of levels of treatment and give an opinion as to the reasonableness of charges for diagnostic or treatment services rendered as requested.

43.3(4) Types of cases reviewed shall include:

a. Utilization.

(1) Frequency of treatment;

(2) Amount of treatment;

(3) Necessity of service;

(4) Appropriateness of treatment.

b. Usual and customary service.

43.3(5) Criteria for review may include but are not limited to:

a. Was diagnosis compatible and consistent with information?

b. Were X-ray and other examination procedures adequate, or were they insufficient or unrelated to history or diagnosis?

c. Were clinical records adequate, complete, and of sufficient frequency?

d. Was treatment consistent with diagnosis?

e. Was treatment program consistent with scientific knowledge and with academic and clinical training provided in accredited chiropractic colleges?

f. Were charges reasonable and customary for the service?

43.3(6) Confidentiality. Members of the UCCR committee shall observe the requirements of confidentiality imposed by Iowa Code chapter 272C.

43.3(7) Annual report. Each UCCR committee shall annually submit a report to the board, and shall meet to review that report with the board chairperson or designee upon the board's request. The annual report shall include the following information:

a. The fee to be charged the party requesting UCCR review.

b. A report regarding the activities of the committee for the past year, including a report regarding each review conducted, the conclusions reached regarding that review, and any recommendations made following the review.

43.3(8) A conclusion or recommendation, or both, made by a UCCR committee does not constitute a decision of the board.

645—43.4(151) Chiropractic insurance consultant.

43.4(1) A chiropractic insurance consultant advises insurance companies, third-party administrators and other similar entities of Iowa standards of (a) recognized and accepted chiropractic services and procedures permitted by the Iowa Code and administrative rules and (b) the propriety of chiropractic diagnosis and care.

43.4(2) All licensees who review chiropractic records for the purposes of determining the adequacy or sufficiency of chiropractic treatments, or the clinical indication for those treatments, shall notify the board annually that they are engaged in those activities and of the location where those activities are performed.

43.4(3) Licensed chiropractic physicians shall not hold themselves out as chiropractic insurance consultants unless they meet the following requirements:

a. Hold a current license in Iowa.

b. Have practiced chiropractic in the state of Iowa during the immediately preceding five years.

c. Are actively involved in a chiropractic practice during the term of appointment as a chiropractic insurance consultant. Active practice includes but is not limited to maintaining an office location and providing clinical care to patients.

645—43.5(151) Acupuncture. A chiropractic physician who engages in the practice of acupuncture shall maintain documentation that shows the chiropractic physician has successfully completed the education and examination requirements required by the board and shall make such documentation available to the board upon request. Requirements include:

1. Completion of 100 hours of classroom instruction; and
2. Completion of the certification examination given by a board-approved continuing education sponsor for acupuncture.

645—43.6(151) Nonprofit nutritional product sales. Rescinded IAB 11/26/03, effective 12/31/03.

645—43.7(151) Adjunctive procedures.

43.7(1) Adjunctive procedures are defined as procedures related to differential diagnosis.

43.7(2) For any applicant for licensure to practice chiropractic in the state of Iowa who chooses to be tested in limited adjunctive procedures, those limited procedures must be adequate for the applicant to come to a differential diagnosis in order to pass the examination.

43.7(3) Applicants for licenses to practice chiropractic who refuse to utilize any of the adjunctive procedures which they have been taught in approved colleges of chiropractic must adequately show the board that they can come to an adequate differential diagnosis without the use of adjunctive procedures.

645—43.8(151) Physical examination. The chiropractic physician is to perform physical examinations to determine human ailments, or the absence thereof, utilizing principles taught by chiropractic colleges. Physical examination procedures shall not include prescription drugs or operative surgery.

645—43.9(151) Gonad shielding. Gonad shielding of not less than 0.25 millimeter lead equivalent shall be used for chiropractic patients who have not passed the reproductive age during radiographic procedures in which the gonads are in the useful beam, except for cases in which this would interfere with the diagnostic procedures.

645—43.10(151) Record keeping.

43.10(1) Chiropractic physicians shall maintain clinical records in a manner consistent with the protection of the welfare of the patient. Records shall be timely, dated, chronological, accurate, signed or initialed, legible, and easily understandable. Record-keeping rules apply to all patient records whether handwritten, typed or maintained electronically. Electronic signatures are acceptable when the record has been reviewed by the physician whose signature appears on the record.

43.10(2) Chiropractic physicians shall maintain clinical records for each patient. The clinical records shall, at a minimum, include all of the following:

a. *Personal data.*

(1) Name;

(2) Date of birth;

(3) Address; and

(4) Name of parent or guardian if a patient is a minor.

b. *Health history.* Records shall include information from the patient or the patient's parent or guardian regarding the patient's health history.

c. *Patient's reason for visit.* When a patient presents with a chief complaint, clinical records shall include the patient's stated health concerns.

d. *Clinical examination progress notes.* Records shall include chronological dates and descriptions of the following:

(1) Clinical examination findings, tests conducted, a summary of all pertinent diagnoses, and updated health assessments;

(2) Plan of intended treatment, including description of treatment, frequency and duration;

(3) Services rendered and any treatment complications;

(4) All testing ordered or performed;

(5) Diagnostic imaging report if imaging procedure is ordered or performed;

(6) Sufficient data to support the recommended treatment plan.

e. *Clinical record.* Each page of the clinical record shall include the patient's name, the date information was recorded and the doctor's name or facility's name.

43.10(3) Retention of records. A chiropractic physician shall maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements.

43.10(4) Electronic record keeping. When electronic records are utilized, a chiropractic physician shall maintain either a duplicate hard-copy record or a backup electronic record.

43.10(5) Correction of written records. Notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

43.10(6) Correction of electronic records. Any alterations made after the date of service shall be visibly recorded. All alterations shall include a notation setting forth the date of alteration and identification of the author. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

43.10(7) Abbreviations shall be standard and common to all health care disciplines. Nonstandard abbreviations shall be referenced with a key that is included in the record when the record is requested.

43.10(8) Confidentiality and transfer of records. Chiropractic physicians shall preserve the confidentiality of patient records. Upon signed request of the patient, the chiropractic physician shall furnish such records or copies of the records as directed by the patient within 30 days. A notation indicating the items transferred, date and method of transfer shall be maintained in the patient record. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees. In certain instances a summary of the record may be more beneficial for the future treatment of the patient; however, if a third party requests copies of the original documentation, that request must be honored.

43.10(9) Retirement or discontinuance of practice. A licensee, upon retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community, shall:

a. Notify all active patients, in writing and by publication, once a week for three consecutive weeks in a newspaper of general circulation in the community. The notification shall include the following information:

(1) That the licensee intends to discontinue the practice of chiropractic in the community and that patients are encouraged to seek the services of another licensee; and

(2) How patients can obtain their records, including the name and contact information of the records custodian.

b. Make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee.

c. For the purposes of this subrule, "active patient" means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the one-year period prior to retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community.

43.10(10) Record-keeping procedures and standards shall be utilized for all individuals who receive treatment from a chiropractic physician in all sites where care is provided.

43.10(11) A chiropractic physician who offers a prepayment plan for chiropractic services shall:

a. Have a written prepayment policy statement that is maintained in the office and available to patients upon request. The policy statement, at a minimum, shall include provisions that:

(1) Prepaid funds will not be expended until services are provided; and

(2) The patient shall receive a prompt refund of any unused funds upon request. The refund shall be calculated based on a defined method, which shall be clearly set forth in the written prepayment policy statement.

b. Require the patient to sign and date a prepayment document that incorporates the conditions and descriptions of the written prepayment policy statement.

c. Maintain the signed and dated written prepayment policy statement in the patient's record.

645—43.11(151) Billing procedures.

43.11(1) Chiropractic physicians shall maintain accurate billing records for each patient. Records may be stored on paper or electronically. The records shall contain all of the following:

a. Name, date of birth and address.

b. Diagnosis indicated with description or ICD code.

c. Services provided with description or CPT code.

d. Dates of services provided.

e. Charges for each service provided.

f. Payments made for each service and indication of the party providing payment.

g. Dates payments are made.

h. Balance due for any outstanding charges.

43.11(2) Chiropractic physicians shall preserve the confidentiality of billing records.

43.11(3) Upon signed request of the patient, the chiropractic physician shall furnish billing records or copies of the records as directed by the patient within 30 days. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

43.11(4) Each chiropractic physician is responsible for the accuracy and validity of billings submitted under the chiropractic physician's name.

43.11(5) Chiropractic physicians:

a. Who are owners, operators, members, partners, shareholders, officers, directors, or managers of a chiropractic clinic will be responsible for the policies, procedures and billings generated by the clinic.

b. Who provide clinical services are required to familiarize themselves with the clinic's billing practices to ensure that the services rendered are accurately reflected in the billings generated. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by an employer, agent or any other individual or business entity responsible for such error.

43.11(6) A chiropractic physician has a right to review and correct all billings submitted under the chiropractic physician's name or identifying number(s). Signature stamps or electronically generated signatures shall be utilized only with the authorization of the chiropractic physician whose name or signature is designated. Such authorization may be revoked at any time in writing by the chiropractic physician.

43.11(7) Chiropractic physicians shall not knowingly:

a. Increase charges when a patient utilizes a third-party payment program.

b. Report incorrect dates or types of service on any billing documents.

c. Submit charges for services not rendered.

d. Submit charges for services rendered which are not documented in a patient's record.

e. Bill patients or make claims under a third-party payer contract for chiropractic services that have not been performed.

f. Bill patients or make claims under a third-party payer contract in a manner which misrepresents the nature of the chiropractic services that have been performed.

43.11(8) For cases not involving third-party payers, nothing in this rule shall prevent a chiropractic physician from providing a fee reduction for reasonable time of service or substantiated hardship cases. The chiropractic physician shall document time of service or hardship case fee reduction provisions in the patient record.

43.11(9) The chiropractic physician shall not enter into an agreement to waive, abrogate, or rebate the deductible or copayment amounts of any third-party payer contract by forgiving any or all of any patient's obligation for payment thereunder, except in substantiated hardship cases, unless the third-party payer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness in accordance with the third-party payer contract. The chiropractic physician shall document any hardship case fee reduction provisions in the patient record.

645—43.12(151) Chiropractic assistants. The requirements of this rule shall become effective on July 1, 2009.

43.12(1) *Supervisory responsibilities of the chiropractic physician.*

a. The supervising chiropractic physician shall ensure at all times that the chiropractic assistant has the necessary training and skills as required by these rules to competently perform the delegated services.

b. The supervising chiropractic physician may delegate services to a chiropractic assistant that are within the scope of practice of the chiropractic physician in a manner consistent with these rules. Violation of these rules shall be grounds for discipline under 645—Chapter 45.

c. A chiropractic physician shall not delegate to the chiropractic assistant the following:

(1) Services outside the chiropractic physician's scope of practice;

(2) Initiation, alteration, or termination of chiropractic treatment programs;

(3) Chiropractic manipulation and adjustments;

(4) Diagnosis of a condition.

d. A supervising chiropractic physician shall ensure that a chiropractic assistant is informed of the supervisor and chiropractic assistant relationship and is responsible for all services performed by the chiropractic assistant.

43.12(2) *Education requirements for chiropractic assistants.*

a. The supervising chiropractic physician shall ensure that a chiropractic assistant has completed a chiropractic assistant training program. A chiropractic assistant training program shall include training and instruction on the use of chiropractic physiotherapy procedures related to services to be provided by the chiropractic assistant. Any chiropractic assistant training program shall be provided by an approved CCE-accredited chiropractic college.

b. Chiropractic assistants performing active chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours shall be clinical experience under the supervision of the chiropractic physician.

c. Chiropractic assistants performing passive chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours shall be clinical experience under the supervision of the chiropractic physician.

d. If both paragraphs *"b"* and *"c"* apply, then 12 hours of instruction for active chiropractic physiotherapy procedures and 12 hours of instruction for passive chiropractic physiotherapy procedures shall be required for a total of 24 hours of instruction.

e. The supervising chiropractic physician shall provide a written attestation to the chiropractic college that the chiropractic assistant has completed the clinical experience. The college shall issue a separate certificate of completion for the active or passive chiropractic training program as defined in paragraphs *"b,""c"* and *"d"* of this subrule.

f. The chiropractic physician shall maintain in the chiropractic physician's primary place of business proof of the chiropractic assistant's completion of the training program. Copies of such documents shall be provided to the board upon request.

These rules are intended to implement Iowa Code chapter 151.

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CHAPTER 44
CONTINUING EDUCATION FOR CHIROPRACTIC PHYSICIANS
[Prior to 7/24/02, see 645—Ch 43]

645—44.1(151) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of chiropractic.

"Continuing education" means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest or certificate of completion.

"License" means license to practice.

"Licensee" means any person licensed to practice as a chiropractic physician in the state of Iowa.

645—44.2(272C) Continuing education requirements.

44.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of each even-numbered year two years later. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 60 hours of continuing education approved by the board.

44.2(2) Rescinded IAB 8/3/05, effective 9/7/05.

44.2(3) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses with the exception of two hours in the content areas of Iowa Administrative Code, 645—Chapters 40 through 46 and Iowa Code chapter 151. Continuing education hours acquired anytime from the initial licensing until the second license renewal with the exception of two hours in the content areas of Iowa Administrative Code, 645—Chapters 40 through 46 and Iowa Code chapter 151 may be used. The new licensee will be required to complete a minimum of 60 hours of continuing education per biennium for each subsequent license renewal.

44.2(4) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

44.2(5) No hours of continuing education shall be carried over into the next biennium except as stated in 44.2(3) and 44.3(2)*"a"*(3). A licensee whose license is reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

44.2(6) It is the responsibility of each licensee to finance the cost of continuing education.

645—44.3(151,272C) Standards.

44.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program clock hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

44.3(2) *Specific criteria.*

a. Continuing education hours of credit shall be obtained by completing:

(1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. Beginning with the July 1, 2008, to June 30, 2010, renewal cycle, at least 24 of these hours shall be earned by completing a program in which an instructor conducts the class employing either a traditional in-person classroom-type presentation or a live presentation through the Iowa Communications Network (ICN). The remaining 12 hours may be obtained by independent study, including on-line instruction.

(2) A minimum of two hours per biennium in professional boundaries regarding ethical issues related to professional conduct that may include but are not limited to sexual harassment, sensitivity training and ethics.

(3) Starting with the 2006 renewal cycle, a minimum of 12 hours per biennium of continuing education in the field of acupuncture if the chiropractic physician is engaged in the practice of acupuncture. Continuing education hours in the field of acupuncture earned between December 31, 2003, and June 30, 2004, up to a maximum of 12 hours may be used to satisfy licensure renewal requirements for either the 2004 or 2006 renewal cycle. The licensee may use the earned continuing education credit hours only once. Credit can not be duplicated for both the 2004 and 2006 compliance periods.

(4) Classes on child abuse, dependent adult abuse, and OSHA training that meet the criteria in subrule 44.3(1).

(5) Two hours of continuing education credit at the time of the first biennial renewal period and one hour every biennial renewal period after that in the content areas of Iowa Administrative Code, 645—Chapters 40 through 46 and Iowa Code chapter 151.

b. Continuing education hours of credit may be obtained by:

(1) Teaching at a Council on Chiropractic Education (CCE)-approved program or board of chiropractic-approved institution. A maximum of 15 hours per biennium may be obtained for each course taught.

(2) Completing electronically transmitted programs/activities or independent study programs/activities that have a certificate of completion that meets criteria in 645—44.3(151,272C).

(3) A licensee who is a presenter of a continuing education program that meets criteria in 645—44.3(151,272C) may receive credit once per biennium for the initial presentation of the program.

(4) Completing continuing education that meets criteria in 645—44.3(151,272C) or a program provided by a CCE-accredited chiropractic college in the United States, the Iowa Chiropractic Society, American Chiropractic Association or International Chiropractors Association.

(5) Completing continuing education courses/programs that are certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB).

(6) Proctoring at the NBCE examination. Fifteen hours of continuing education hours per NBCE examination event may be claimed up to a maximum of 30 hours of continuing education credit per biennium. The proctoring hours may apply toward the clinical requirement.

c. Continuing education may not be obtained by completing or teaching classes in basic anatomy and physiology or undergraduate level coursework.

44.3(3) *Specific criteria for presenters.* All instructors/presenters of a continuing education activity must include, as part of the continuing education activity, verbal and written statements to the participants regarding any affiliations or employment relationships with any entity promoting, developing or marketing products, services, procedures or treatment methods.

645—44.4(151,272C) Audit of continuing education report. Rescinded IAB 8/13/08, effective 9/17/08.

645—44.5(151,272C) Automatic exemption. Rescinded IAB 8/13/08, effective 9/17/08.

645—44.6(272C) Continuing education exemption for disability or illness. Rescinded IAB 8/13/08, effective 9/17/08.

645—44.7(151,272C) Grounds for disciplinary action. Rescinded IAB 8/13/08, effective 9/17/08.

645—44.8(272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—44.9(272C) Continuing education exemption for disability or illness. Rescinded IAB 8/3/05, effective 9/7/05.

645—44.10(272C) Reinstatement of inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—44.11(272C) Hearings. Rescinded IAB 8/3/05, effective 9/7/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 151.

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◊ Two or more ARCs

[1] Effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held January 29, 2001; delay lifted by the committee at its meeting held February 9, 2001, effective 2/10/01.

CHAPTER 45
DISCIPLINE FOR CHIROPRACTIC PHYSICIANS
[Prior to 7/24/02, see 645—Ch 44]

645—45.1(151) Definitions.

"Board" means the board of chiropractic.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a chiropractic physician in Iowa.

645—45.2(151,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—45.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

45.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

45.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other chiropractic physicians in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average chiropractic physician acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a chiropractic physician in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

g. Failure to maintain for a minimum of six years from one of the following dates, as applicable, clinical and fiscal records in support of services rendered. For the purposes of this rule, clinical records shall include all laboratory and diagnostic imaging studies.

(1) For an adult patient, the last office visit.

(2) Records for minors shall be maintained for a minimum of either (a) one year after the patient reaches the age of majority (18), or (b) five years, whichever is longer.

45.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. This includes representations utilizing the term "physical therapy" when informing the public of the services offered by the chiropractic physician unless a licensed physical therapist is performing such services. Nothing herein shall be construed as prohibiting a chiropractic physician from making representations regarding physiotherapy that may be the same as, or similar to, physical therapy or physical medicine as long as treatment is appropriate as authorized in Iowa Code chapter 151. Proof of actual injury need not be established.

45.2(4) Practice outside the scope of the profession.

45.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted

through fraud or misrepresentation or representations that are likely to cause the average person to misunderstand.

45.2(6) Habitual intoxication or addiction to the use of drugs.

45.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

45.2(8) Falsification of client records.

45.2(9) Acceptance of any fee by fraud or misrepresentation.

45.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

45.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

45.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

45.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

45.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

45.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

45.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

45.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

45.2(18) Failure to comply with a subpoena issued by the board, or otherwise fail to cooperate with an investigation of the board.

45.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

45.2(20) Failure to pay costs assessed in any disciplinary action.

45.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

45.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

45.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a chiropractic physician.

45.2(24) Failure to report a change of name or address within 30 days after it occurs.

45.2(25) Representing oneself as a chiropractic physician when one's license has been suspended or revoked, or when one's license is on inactive status.

45.2(26) Permitting another person to use the licensee's license for any purposes.

45.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

45.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

45.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

45.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—45.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—45.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—45.5(151) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 8/13/08, effective 9/17/08.

These rules are intended to implement Iowa Code chapters 147, 151 and 272C.

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◊ Two or more ARCs

[1] Effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held January 29, 2001; delay lifted by the committee at its meeting held February 9, 2001, effective 2/10/01.

CHAPTER 46
FEES

[Prior to 7/24/02, see 645—40.14(151)]

Rescinded IAB 8/13/08, effective 9/17/08

CHAPTER 49
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTERS 50 to 58
Reserved

COSMETOLOGISTS

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CHAPTER 59
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF COSMETOLOGY ARTS AND SCIENCES

645—59.1(17A,157) Definitions.

"Board" means the board of cosmetology arts and sciences.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice cosmetology.

"Licensee" means a person licensed to practice cosmetology.

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

645—59.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 157 and 272C with regard to the practice of cosmetology arts and sciences. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and regulations of the licensure board. Responsibilities include, but are not limited to:

59.2(1) Licensing of qualified applicants to practice cosmetology by examination, renewal, endorsement, and reciprocity.

59.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

59.2(3) Imposing discipline on licensees as provided by statute or rule.

645—59.3(17A) Organization of board and proceedings.

59.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

59.3(2) The members of the board shall include three who are licensed cosmetologists; one who is a licensed electrologist, esthetician, or nail technologist; one who is a licensed instructor of cosmetology arts and sciences at a public or private school and who does not own a school of cosmetology arts and sciences; and two who are not licensed in a practice of cosmetology arts and sciences and who shall represent the public.

59.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

59.3(4) The board shall hold at least four meetings annually.

59.3(5) A majority of the members of the board shall constitute a quorum.

59.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

59.3(7) The division of professional licensure shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

59.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of cosmetology upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

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

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

645—59.4(17A) Official communications.

59.4(1) All official communications, including submissions and requests, may be addressed to the Board of Cosmetology Arts and Sciences, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

59.4(2) Notice of change of address. Each licensee and licensed entity shall notify the board of a change of the current mailing address within 30 days after the occurrence.

a. If a salon changes locations, the salon shall apply for a new license, as specified in 645—subrule 61.2(5).

b. If a cosmetology school changes locations, the school shall apply for a new license, as specified in 645—subrule 61.7(5).

59.4(3) Notice of change of name.

a. *Licensees.* Each licensee shall notify the board in writing of a change of name within 30 days after the occurrence. The reissued certificate fee referred to in paragraph 59.4(3)*"b"* will not apply unless the licensee wishes to obtain a certificate with the new name.

b. *Salons and cosmetology schools.* The owner shall notify the board in writing of a change of name within 30 days after the occurrence and, in addition, shall return the current certificate and pay the reissued certificate fee as specified in 645—subrule 62.1(5).

645—59.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—59.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

59.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be

made at the time of the public comment period and may be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

59.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

59.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

59.6(4) Cameras and recording devices may be used at open meetings, provided the cameras or recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, and 157.

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CHAPTER 60
LICENSURE OF COSMETOLOGISTS, ELECTROLOGISTS, ESTHETICIANS, MANICURISTS, NAIL TECHNOLOGISTS, AND INSTRUCTORS OF COSMETOLOGY ARTS AND SCIENCES

[Prior to 7/29/87, Health Department[470] Ch 149]

645—60.1(157) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of cosmetology arts and sciences.

"Certified laser product" means a product which is certified by a manufacturer pursuant to the requirements of 21 Code of Federal Regulations (CFR) Part 1040.

"Chemical exfoliation" means the removal of surface epidermal cells of the skin by using only non-medical-strength cosmetic preparations consistent with labeled instructions and as specified by rule. This procedure is not intended to elicit viable epidermal or dermal wounding, injury, or destruction.

"Core curriculum" means the basic core life sciences curriculum that is required for completion of any course of study of the cosmetology arts and sciences except for manicuring.

"Cosmetology arts and sciences" means any or all of the following disciplines performed with or without compensation by a licensee: cosmetology, electrology, esthetics, nail technology and manicuring.

"Depilatory" means an agent used for the temporary removal of superfluous hair by dissolving it at the epidermal surface.

"Examination" means any of the tests used to determine minimum competency prior to the issuance of a cosmetology arts and sciences license.

"Exfoliation" means the process whereby the superficial epidermal cells are removed from the skin.

"General supervision" means the supervising physician is not onsite for laser procedures or use of an intense pulsed light device for hair removal conducted on minors, but is available for direct communication, either in person or by telephone, radio, radiotelephone, television, or similar means.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Intense pulsed light device" means a device that uses incoherent light to destroy the vein of the hair bulb.

"Laser" means light amplification by the stimulated emission of radiation.

"Licensee" means any person or entity licensed to practice pursuant to Iowa Code chapter 157 and 645—Chapters 60 to 65, Iowa Administrative Code.

"Licensure by endorsement" means the issuance of an Iowa license to practice cosmetology to an applicant who is or has been licensed in another state for 12 months during the last 24 months.

"Mechanical exfoliation" means the physical removal of surface epidermal cells by means that include but are not limited to brushing machines, granulated scrubs, peel-off masques, peeling creams or drying preparations that are rubbed off, and microdermabrasion.

"Mentor" means a licensee providing guidance in a mentoring program.

"Mentoring" means a program allowing students to experience cosmetology arts and sciences in a licensed salon under the guidance of a mentor.

"Microdermabrasion" means mechanical exfoliation using an abrasive material or apparatus to remove surface epidermal cells with a machine which is specified by rule.

"Minor" means an unmarried person who is under the age of 18 years.

"NIC" means the National-Interstate Council of State Boards of Cosmetology, Inc.

"Pedicuring" means the practice of cleaning, shaping or polishing the toenails.

"Practice discipline" means the practice of electrology, esthetics, nail technology, manicuring or cosmetology as recognized by the board of cosmetology arts and sciences.

"Reactivate" or *"reactivation"* means the process as outlined in rule 60.17(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice cosmetology to an applicant who is currently licensed in another state and which state has a mutual agreement to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Testing service" means a national testing service selected by the board.

"Trainee" means any person who completes the requirements listed in Iowa Code section 157.3 for licensure in the cosmetology arts and sciences, except for the examination, and who has a temporary permit.

645—60.2(157) Requirements for licensure.

60.2(1) *Requirements for licensure.* All persons providing services in one or more cosmetology arts and sciences disciplines shall hold a license issued by the board. The applicant shall:

a. Submit a completed, board-approved application for licensure. Application forms may be obtained from the board's Web site (www.idph.state.ia.us/licensure) or directly from the board office. Completed applications and appropriate fees shall be sent to Board of Cosmetology Arts and Sciences, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. Direct the educational program to submit to the board an official transcript of grades in each practice discipline for which the applicant is requesting licensure. The transcript shall denote the date of completion of training at a school approved by the board. Any instances in which a transcript is unavailable due to documented loss or destruction of records or other extenuating circumstance shall be considered by the board on a case-by-case basis. If educated outside the United States, the applicant shall attach an original evaluation of the applicant's education from World Education Services (WES) or any other accredited evaluation service. An applicant may obtain an application for evaluation by contacting WES at (212)966-6311, or by writing to WES, P.O. Box 5087, Bowling Green Station, New York, New York 10274-5087.

c. Pass a national examination as prescribed by the board for the particular practice discipline with a score of 75 percent or greater.

(1) If applying for licensure by examination on or after January 1, 2008, submit the test registration and registration fee directly to the test service. NIC examinations are administered according to guidelines set forth by the National-Interstate Council of State Boards of Cosmetology.

(2) If applying for licensure by endorsement, complete the requirements set forth in rule 645—60.7(157).

60.2(2) *Requirements for an instructor's license.* An applicant for an instructor's license shall:

a. Submit a completed application for licensure and the appropriate fee to the board;

b. Be licensed in the state of Iowa in the specific practice discipline to be taught or be licensed as a cosmetologist who possesses the skill and knowledge required to instruct in that practice discipline;

c. Provide documentation of completion of 1,000 hours of instructor's training with curriculum content to be determined by the board or two years' active practice in the field of cosmetology within six years prior to application;

d. Submit proof of attendance at an advanced instructor's institute prescribed by the board;

e. Submit proof of 60 hours of practical experience, excluding school hours, in the area of electrolysis prior to application for an instructor of electrology license.

f. Pass an instructor's national examination, which, effective January 1, 2008, shall be the NIC instructor examination unless the applicant is applying for an instructor's license by endorsement as outlined in rule 645—60.7(157).

60.2(3) *Conditions.* The following conditions apply for all cosmetology arts and sciences licenses.

a. Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

b. The licensure fee is nonrefundable.

c. Licensees who were issued their initial licenses within six months prior to the license renewal beginning date shall not be required to renew their licenses until the renewal month two years later.

d. Beginning April 1, 2008, a new license granted by the board of cosmetology arts and sciences to an individual who holds multiple active licenses with the board shall have the same license expiration date as the licensee's existing license(s). If the licensee holds only one active license with the board, the license expiration date shall be in the current renewal period unless licensure is issued within six months of the end of the renewal cycle, in which case subrule 60.8(2) shall apply.

645—60.3(157) Criteria for licensure in specific practice disciplines.

60.3(1) A cosmetology license is not a requirement for an electrology, esthetics, nail technology or manicurist license.

60.3(2) Core life sciences curriculum hours shall be transferable in their entirety from one practice discipline to another practice discipline.

60.3(3) Theory hours earned in each practice discipline of cosmetology arts and sciences may be used in applying for a cosmetology license.

60.3(4) A cosmetologist licensed after July 1, 2005, is not eligible to be certified in chemical peels, microdermabrasion, laser or intense pulsed light (IPL) and shall not provide those services.

60.3(5) Pedicuring shall only be done by a cosmetologist or nail technologist.

60.3(6) Facial waxing shall only be done by a cosmetologist or esthetician.

60.3(7) An initial license to practice manicuring shall not be issued by the board after December 31, 2007. A manicurist license issued on or before December 31, 2007, may be renewed subject to licensure requirements identified by statute and administrative rule unless the license becomes inactive. A manicurist license that becomes inactive cannot be reactivated or renewed.

645—60.4(157) Practice-specific training requirements. The board shall approve a licensee to provide the appropriate services once a licensee has complied with training requirements and submitted a completed application, the required supporting evidence, and applicable fees as specified in these rules. The applicant shall receive a certification card following board approval.

60.4(1) Microdermabrasion.

a. Microdermabrasion shall only be performed by a licensed, certified esthetician or a cosmetologist who was licensed prior to July 1, 2005, and is certified by the board.

b. To be eligible to perform microdermabrasion services, the licensee shall:

(1) Complete 14 contact hours of education specific to the material or apparatus used for microdermabrasion. If more than one machine is used or if the licensee changes equipment, the licensee is required to obtain an additional 14 hours of training specific to that equipment.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, course title;
2. Number of contact hours; and
3. Specific identifying description of the microdermabrasion machine covered by the course.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 62.1(19). The fee is nonrefundable.

60.4(2) Chemical exfoliation.

a. Chemical exfoliation shall only be performed by a cosmetologist who was licensed prior to July 1, 2005, and is certified by the board to perform those services. Additional certification is not required for licensed estheticians.

b. Chemical exfoliation procedures are limited to the removal of surface epidermal cells of the skin by using only non-medical-strength cosmetic preparations consistent with labeled instructions and as specified by these rules. This procedure is not intended to elicit viable epidermal or dermal wounding, injury, or destruction.

c. To be eligible to perform chemical peels, a cosmetologist who was licensed prior to July 1, 2005, shall:

(1) Complete 21 hours of training specific to the process and products to be used for chemical peels.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, course title;

2. Number of contact hours; and

3. Specific identifying description of the chemical peel process and products covered by the course.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 62.1(19). The fee is nonrefundable.

60.4(3) Laser services.

a. A cosmetologist licensed after July 1, 2005, shall not use laser products.

b. An electrologist shall only provide hair removal services when using a laser.

c. Estheticians and cosmetologists shall use laser for cosmetic purposes only.

d. Cosmetologists licensed prior to July 1, 2005, electrologists and estheticians must be certified to perform laser services.

e. When a laser service is provided to a minor by a licensed cosmetologist, esthetician or electrologist who has been certified by the board, the licensee shall work under the general supervision of a physician. The parent or guardian shall sign a consent form prior to services being provided. Written permission shall remain in the client's permanent record for a period of five years.

f. To be eligible to perform laser services, a cosmetologist who was licensed on or before July 1, 2005, an electrologist, or an esthetician shall:

(1) Complete 40 hours of training specific to each laser machine, model or device to be used for laser services.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, course title;

2. Number of contact hours;

3. Specific identifying description of the laser equipment; and

4. Evidence that the training program includes a safety training component which provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of nonbeam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 62.1(19). The fee is nonrefundable.

60.4(4) IPL hair removal treatments.

a. A cosmetologist licensed after July 1, 2005, shall not use IPL devices.

b. An IPL device shall only be used for hair removal.

c. Cosmetologists licensed prior to July 1, 2005, electrologists and estheticians must be certified to perform IPL services.

d. When IPL hair removal services are provided to a minor by a licensed cosmetologist, esthetician or electrologist who has been certified by the board, the licensee shall work under the general supervision of a physician. The parent or guardian shall sign a consent form prior to services being provided. Written permission shall remain in the client's permanent record for a period of five years.

e. To be eligible to perform IPL hair removal services, a cosmetologist who was licensed on or before July 1, 2005, an electrologist, or an esthetician shall:

(1) Complete 40 hours of training specific to each IPL machine, model or device to be used for IPL hair removal services.

(2) Obtain from the program a certification of training that contains the following information:

1. Date, location, course title;
2. Number of contact hours;
3. Specific identifying description of the IPL hair removal equipment; and
4. Evidence that the training program includes a safety training component which provides a thorough understanding of the procedures to be performed. The training program shall address fundamentals of nonbeam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

(3) Complete a board-approved certification application form and submit to the board office the completed form, a copy of the certification of training, and the required fee pursuant to 645—subrule 62.1(19). The fee is nonrefundable.

60.4(5) Health history and incident reporting.

a. Prior to providing laser or IPL hair removal, microdermabrasion or chemical peel services, the cosmetologist, esthetician, and electrologist shall complete a client health history of conditions related to the application for services and include it with the client's records. The history shall include but is not limited to items listed in paragraph 60.4(5)*"b."*

b. A licensed cosmetologist, esthetician, or electrologist who provides services related to the use of a certified laser product, IPL device, chemical peel, or microdermabrasion shall submit a report to the board within 30 days of any incident in which provision of such services resulted in physical injury requiring medical attention. Failure to comply with this requirement shall result in disciplinary action by the board. The report shall include the following:

(1) A description of procedures;

(2) A description of the physical condition of the client;

(3) A description of any adverse occurrence, including:

1. Symptoms of any complications including, but not limited to, onset and type of symptoms;
2. A description of the services provided that caused the adverse occurrence;
3. A description of the procedure that was followed by the licensee;

(4) A description of the client's condition on termination of any procedures undertaken;

(5) If a client is referred to a physician, a statement providing the physician's name and office location, if known;

(6) A copy of the consent form.

60.4(6) Failure to report. Failure to comply with paragraph 60.4(5)*"b"* when the adverse occurrence is related to the use of any procedure or device noted in the attestation may result in the licensee's loss of authorization to administer the procedure or device noted in the attestation or may result in other sanctions provided by law.

60.4(7) A licensee shall not provide any services that constitute the practice of medicine.

645—60.5(157) Licensure restrictions relating to practice.

60.5(1) A certified laser product or an intense pulsed light device shall only be used on surface epidermal layers of the skin except for hair removal.

60.5(2) A laser hair removal product or an intense pulsed light device shall not be used on a minor unless the minor is accompanied by a parent or guardian and then shall be used only under general supervision of a physician.

60.5(3) Persons licensed under Iowa Code chapter 157 shall not administer any practice of removing skin by means of a razor-edged instrument.

60.5(4) Persons licensed under this chapter who provide hair removal, manicuring and nail technology services shall not administer any procedure in which human tissue is cut, shaped, vaporized, or otherwise structurally altered, except for the use of a cuticle nipper.

60.5(5) Board-certified licensees providing microdermabrasion, chemical peels, laser or IPL hair removal treatments in a salon or barbershop setting shall not include any practice, activity, or treatment that constitutes the practice of medicine, osteopathic medicine, chiropractic or acupuncture.

645—60.6(157) Consent form requirements. A licensed esthetician, cosmetologist, or electrologist, prior to providing services relating to a certified laser product, intense pulsed light device, chemical peel, or microdermabrasion, shall obtain from a client a consent form that:

1. Specifies in general terms the nature and purpose of the procedure(s);
2. Lists known risks associated with the procedure(s) if reasonably determinable;
3. States an acknowledgment that disclosure of information has been made and that questions asked about the procedure(s) have been satisfactorily answered;
4. Includes a signature of either the client for whom the procedure is performed or, if that client for any reason lacks legal capacity to consent, includes the signature of a person who has legal authority to consent on behalf of that client in those circumstances.

645—60.7(157) Licensure by endorsement.

1. The board may issue a license by endorsement to any applicant from the District of Columbia or another state, territory, province or foreign country who meets the requirements of rule 645—60.2(157).
2. An applicant for licensure by endorsement shall provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Verifications of current licensure in the practice discipline in another state for at least 12 months in the 24-month period preceding the submission of the application must be sent from each state, territory, province or foreign country or the District of Columbia. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

645—60.8(157) License renewal.

60.8(1) Biennial license renewal period for a license to practice cosmetology arts and sciences.

a. Prior to April 1, 2008:

(1) The renewal period shall begin on April 1 of one year and end on March 31 two years later. All licensees shall renew on a biennial basis.

(2) The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.

(3) The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

b. Beginning April 1, 2008:

(1) A licensee who has a license due for renewal in an even-numbered year shall renew all active licenses with the board by April 1, 2008. If one or more licenses are due for renewal in an odd-numbered year, the renewal fee for those licenses shall be prorated. Such prorated license fees shall apply only during the April 1, 2008, renewal period.

(2) The renewal period shall begin on April 1 of one year and end on March 31 two years later. All licensees shall renew on a biennial basis.

(3) The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.

(4) The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

(5) Licensees who renew their licenses one year early shall be subject to continuing education requirements by April 1, 2010. This extension does not apply to a license(s) originally scheduled for renewal on April 1, 2008.

(6) A new or reactivated license granted by the board to a licensee who holds a current license in another practice discipline in cosmetology shall have the same license expiration date as the licensee's other license(s). If the licensee does not have another active license with the board, the license expiration date shall be in the current renewal period unless the license is issued within six months of the end of the renewal cycle and subrule 60.8(2) applies.

60.8(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

60.8(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—64.2(157). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

c. Licensees currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state where the licensee practices. Those licensees living and practicing exclusively in a state which has no continuing education requirement for renewal of a license shall not be required to meet Iowa's continuing education requirement but shall pay all renewal fees when due.

60.8(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

60.8(5) 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 645—subrule 62.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

60.8(6) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice cosmetology arts and sciences in Iowa until the license is reactivated. A licensee who practices cosmetology arts and sciences in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

60.8(7) Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

645—60.9(157) Temporary permits. The board may issue a temporary permit for the purpose of demonstrating cosmetology arts and sciences services to the consuming public or for providing cosmetology arts and sciences services to the consuming public at not-for-profit events.

1. The permit shall be valid for (name of a specific event) for a salon, school, or person. The location, purpose and duration of the permit shall be stated on the permit.
2. The permit shall be valid for no more than 12 days.
3. A completed application shall be submitted on a form provided by the board at least 30 days in advance of the intended use date(s).
4. An application fee shall be submitted as set forth in these rules.
5. No more than four permits shall be issued to any applicant during a calendar year.
6. For not-for-profit events, individuals providing services must hold a current license provided by the board pursuant to rule 60.2(157).

645—60.10(157) Demonstrator's permit. Rescinded IAB 11/23/05, effective 12/28/05.

645—60.11(157) License renewal. Rescinded IAB 11/23/05, effective 12/28/05.

645—60.12(147) Reissued 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 645—62.1(147,157).

645—60.13(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—60.14(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—60.15(147) Duplicate certificate or wallet card.

60.15(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or duplicate certificate shall only be issued under such circumstances.

60.15(2) A duplicate wallet card or certificate shall be issued upon receipt of a completed application and receipt of the fee as specified in 645—subrule 62.1(5).

60.15(3) If the board receives a completed application stating that the licensee has not received the wallet card or certificate within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—60.16(272C) License denial.

60.16(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing, by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

60.16(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

60.16(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—60.17(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

60.17(1) Submit a reactivation application on a form provided by the board.

60.17(2) Pay the reactivation fee that is due as specified in rule 645—62.1(147,157).

60.17(3) Provide verification of current competence to practice cosmetology arts and sciences by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 12 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly

from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 24 hours of continuing education within two years of application for reactivation.

(3) Rescinded IAB 11/21/07, effective 1/1/08.

60.17(4) Licensees who are instructors of cosmetology arts and sciences shall obtain an additional 8 hours of continuing education in teaching methodology.

645—60.18(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 60.17(17A,147,272C) prior to practicing cosmetology arts and sciences in this state.

These rules are intended to implement Iowa Code chapters 272C and 157.

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CHAPTER 61
LICENSURE OF SALONS AND SCHOOLS OF COSMETOLOGY ARTS AND SCIENCES

[Prior to 7/29/87, Health Department[470] Ch 149]
[Prior to 12/23/92, see 645—Chapter 60]

645—61.1(157) Definitions.

"Clinic area" means the area of the school where the paying customers will receive services.

"Dispensary" means a separate area to be used for storing and dispensing of supplies and sanitizing of all implements.

"Inactive license" means a salon license or a school license that has not been renewed as required or the license of a salon or school that has failed to meet stated obligations for renewal within a stated time.

"Mentor" means a licensee providing guidance in a mentoring program.

"Mentoring" means a program allowing students to experience cosmetology arts and sciences in a licensed salon under the guidance of a mentor.

"Salon license" means an establishment licensed to provide cosmetology services to paying customers.

"School" means a school of cosmetology arts and sciences.

"School license" means a license issued to an establishment to instruct students in cosmetology arts and sciences.

645—61.2(157) Salon licensing.

61.2(1) The owner shall complete a board-approved application form. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure), or directly from the board office. All applications shall be submitted to the Board of Cosmetology Arts and Sciences, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

a. The application shall be completed according to the instructions contained in the application and submitted 30 days prior to the anticipated opening day. If the application is not completed according to the instructions, the application will not be reviewed by the board.

b. Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Cosmetology Arts and Sciences. The fees are nonrefundable.

61.2(2) Each salon shall meet the requirements for sanitary conditions established in 645—Chapter 63 to be eligible for licensing. The salon shall be inspected for compliance with sanitation rules within 12 months following the issuance of the salon license.

61.2(3) Business may commence at the salon following receipt of the license.

61.2(4) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records will be maintained after two years only if the applicant submits a written request to the board.

61.2(5) A salon license shall be issued for a specific location. A change in location or site of a salon shall require submission of an application for a new license and payment of the fee required by 645—subrule 62.1(16). A change of address without change of actual location shall not be construed as a new site.

61.2(6) A salon license is not transferable.

a. A change in ownership of a salon shall require the issuance of a new license. "Change in ownership" means any change of controlling interest in any corporation or any change of name of sole proprietorship or partnership.

b. A salon cannot be sold if disciplinary actions are pending.

c. If a salon owner sells the salon, that owner must send the license certificate and a report of the sale to the board within 10 days of the date on which the sale is final. The owner of the salon on record shall retain responsibility for the salon until the notice of sale is received in the board office.

d. The board may request legal proof of the ownership transfer.

e. The owner shall notify the board in writing of a change of name or address within 30 days after the occurrence and, in addition, shall return the current certificate and pay the reissued certificate fee as specified in rule 645—62.1(147,157).

645—61.3(157) Salon license renewal.

61.3(1) The biennial license renewal period for a salon license shall begin on January 1 of every odd-numbered year and end on December 31 two years later.

61.3(2) A renewal of license application shall be mailed to the owner of the salon at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the owner of the obligation to pay the biennial renewal fee on or before the renewal date.

61.3(3) A salon that is issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

61.3(4) The salon owner shall submit the completed application with the renewal fee to the board office before the license expiration date.

61.3(5) A salon shall be in full compliance with this chapter and 645—Chapter 63 to be eligible for renewal. When all requirements for license renewal are met, the salon shall be sent a license renewal card by regular mail.

61.3(6) If the renewal fee and renewal application are postmarked after the license expiration date, but within 30 days following the expiration date, the late fee for failure to renew before expiration shall be charged.

645—61.4(272C) Inactive salon license.

61.4(1) If the renewal application and fee are not postmarked within 30 days after the license expiration date, the salon license is inactive. To reactivate a salon license, the reactivation application and fee shall be submitted to the board office.

61.4(2) A salon that has not renewed the salon license within the required time frame will have an inactive license and shall not provide cosmetology services until the license is reactivated.

645—61.5(157) Display requirements for salons.

61.5(1) Every salon shall have a sign visible outside the entrance designating the place of business.

61.5(2) A salon license and the current renewal card shall be posted and visible to the public in the reception area at eye level.

61.5(3) The original license certificate, duplicate certificate, or reissued certificate shall be visibly displayed in the reception area at eye level for each licensee and temporary permit holder employed by the salon.

61.5(4) Each licensee shall:

a. Display the current license card with the certificate or have the current wallet card in the licensee's possession; and

b. Have a valid U.S. government-issued photo ID to provide to an agent of the board upon request as proof of identity.

645—61.6(147) Duplicate certificate or wallet card for salons.

61.6(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or duplicate certificate shall only be issued under such circumstances.

61.6(2) A duplicate salon wallet card or certificate shall be issued upon receipt of a completed application and receipt of the fee as specified in 645—subrule 62.1(5).

61.6(3) If the board receives a completed application stating that the owner of the salon has not received the wallet card or certificate within 60 days after the card or certificate is mailed by the board, no fee shall be required for issuing the duplicate wallet card or certificate.

645—61.7(157) Licensure for schools of cosmetology arts and sciences. The board shall grant approval for the issuance of an original school of cosmetology arts and sciences license to be issued by the department when the following conditions have been met:

61.7(1) An application shall be submitted to the Board of Cosmetology Arts and Sciences, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The following information shall be submitted with the application:

a. A complete plan of the physical facilities and an explanation detailing how the facilities will be utilized relative to classroom, clinic space and mentoring program; and

b. A list of the names of licensed instructors for the proposed school. The number of instructors must meet the requirement outlined in Iowa Code section 157.8, with the exception of instructors for the mentoring program.

61.7(2) The application shall be completed according to the instructions contained in the application and submitted 30 days prior to the anticipated opening day. If the application is not completed according to the instructions, the application will not be reviewed by the board.

61.7(3) The school owner may be interviewed by the board before an original license is issued.

61.7(4) The school shall not accept students until the school is licensed.

61.7(5) The original license shall be granted for the location(s) identified in the school's application.

a. A change of location shall require submission of an application for a new school license and payment of the license fee.

b. A change of address without change of actual location shall not be construed as a new site.

61.7(6) A school license is not transferable. A change in ownership of a school shall require the issuance of a new license. "Change in ownership" means any change of controlling interest in any corporation or any change of name of sole proprietorship or partnership.

a. A school cannot be sold if disciplinary actions are pending.

b. The board may request legal proof of the ownership transfer.

c. If a school owner sells the school, that owner must send the license certificate and a report of the sale to the board within 10 days of the date on which the sale is final. The owner of the school on record shall retain responsibility for the school until the notice of sale is received in the board office.

d. The owner shall notify the board in writing of a change of name or address within 30 days after the occurrence and, in addition, shall return the current certificate and pay the reissued certificate fee as specified in rule 645—62.1(147,157).

61.7(7) The school shall be inspected prior to the issuance of the school license and shall meet the requirements of this chapter and 645—Chapter 63.

61.7(8) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed. The records will be maintained after two years only if the applicant submits a written request to the board.

645—61.8(157) School license renewal.

61.8(1) The annual license renewal period for a school license shall begin on July 1 and end on June 30 one year later.

61.8(2) A renewal of license application shall be mailed to the school at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the school of the obligation to pay the annual renewal fee on or before the renewal date.

a. The renewal application and renewal fee shall be submitted to the board office before the license expiration date.

b. Schools shall be in full compliance with this chapter and 645—Chapter 63 to be eligible for renewal. When all requirements for license renewal are met, the school shall be sent a license renewal card by regular mail.

61.8(3) A school that is issued a license within six months of the license renewal date will not be required to renew the license until the next renewal one year later.

61.8(4) If the renewal fee and renewal application are postmarked after the license expiration date, but within 30 days following the expiration date, the late fee for failure to renew before expiration shall be charged.

645—61.9(272C) Inactive school license.

61.9(1) If the renewal application and fee are not postmarked within 30 days after the license expiration date, the school license is inactive. To reactivate the school license, the reactivation application and fee shall be submitted to the board.

61.9(2) A school that has not renewed the school license within the required time frame will have an inactive license and shall not provide schooling or services until the license is reactivated.

645—61.10(157) Display requirements for schools.

61.10(1) Every school shall have a sign visible outside the entrance designating the place of business.

61.10(2) A school license and the current renewal card shall be posted and visible to the public in the reception area at eye level.

61.10(3) The original license certificate, duplicate certificate, or reissued certificate shall be visibly displayed for each instructor employed by the school.

645—61.11(147) Duplicate certificate or wallet card for schools.

61.11(1) A duplicate wallet card or a duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall only be issued under such circumstances.

61.11(2) A duplicate school wallet card or duplicate certificate shall be issued upon receipt of the completed application and receipt of the fee as specified in 645—subrule 62.1(5).

61.11(3) If the board receives a completed application stating that the owner of the school has not received the wallet card or certificate within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—61.12(157) Physical requirements for schools of cosmetology arts and sciences. The school shall meet the following physical requirements:

61.12(1) The school premises shall have a minimum floor space of 3000 square feet and, when the enrollment in a school exceeds 30 students, additional floor space of 30 square feet shall be required for each additional student enrolled in the school.

61.12(2) Each licensed school shall provide at least one clinic area where the paying public will receive services. The clinic area shall be confined to the premises occupied by the school.

61.12(3) A school shall provide a theory classroom(s) separate from the clinic area.

61.12(4) Each school shall maintain a library for students consisting of textbooks, current trade publications and business management materials.

61.12(5) The school shall have a separate area to be used as a dispensary. The dispensary shall be equipped with lavatory, shelves or drawers for storing chemicals and sanitized articles, a wet sterilizer and any other sanitation items required in 645—Chapter 63.

61.12(6) Two restrooms shall be equipped with toilets, lavatories, soap and towel dispensers.

61.12(7) A laundry room shall be separated from the clinic area by a full wall or partition.

61.12(8) A separate room shall be equipped for the practice of esthetics and electrology.

61.12(9) Each licensed school shall have an administrative office.

645—61.13(157) Minimum equipment requirements. Each school of cosmetology arts and sciences shall have the following minimum equipment:

1. Workstations equipped with chair, dresserette, closed drawer or container for sanitized articles, and mirror (maximum of two students per unit);
2. One set of textbooks for each student and instructor;
3. Shampoo bowls located in the clinic area and readily accessible for students and clients if the school offers a curriculum course in cosmetology;

4. Audiovisual equipment available for each classroom;
5. Chair and table area for each student in the classroom; and
6. Labeled bottles and containers showing intended use of the contents.

645—61.14(157) Course of study requirements. A school of cosmetology arts and sciences shall not be approved by the board of cosmetology arts and sciences unless it complies with the course of study requirements as provided below.

61.14(1) Requirements for hours.

COSMETOLOGY CURRICULUM		
Core life sciences	150 hours	
Cosmetology theory (Including business and management related to the practice of cosmetology.) Total core life sciences and cosmetology theory is 765 hours.	615 hours	
Applied practical instruction	1335 hours	
Total course of study		2100 hours (70 semester credit hours)
ELECTROLOGY CURRICULUM		
Core life sciences	150 hours	
Electrology theory	50 hours	
Applied practical instruction	225 hours	
Total course of study		425 hours (14 semester credit hours)
ESTHETICS CURRICULUM		
Core life sciences	150 hours	
Esthetics theory	115 hours	
Applied practical instruction	335 hours	
Total course of study		600 hours (20 semester credit hours)
NAIL TECHNOLOGY CURRICULUM		
Core life sciences	150 hours	
Nail technology theory	50 hours	
Applied practical instruction	125 hours	
Total course of study		325 hours (11 semester credit hours)

Proof of curriculum requirements may be submitted to the board by either the clock hour or semester credit hour standard. Semester credit hours or the equivalent thereof shall be determined pursuant to administrative rules and regulations promulgated by the U.S. Department of Education.

61.14(2) Curriculum requirements.

a. Theory instruction shall be taught from a standard approved textbook, but may be supplemented by other related textbooks.

b. Course subjects taught in the school curriculum, including skills and business management, shall relate to the specific practice discipline.

c. Required hours for theory and applied practical hours do not have to be obtained from one school.

d. Core life sciences curriculum hours shall be transferable in their entirety from one practice discipline to another practice discipline.

e. Only hours from accredited or board-approved school programs will be accepted.

61.14(3) Core life sciences curriculum. The core life sciences curriculum shall contain the following instruction:

a. Human anatomy and physiology:
Cell, metabolism and body systems,
Human anatomy;

b. Bacteriology;

c. Infection control practices:
Universal precautions,
Sanitation,
Sterilization,
Disinfection;

d. Basic chemistry;

e. Matter;

f. Elements:
Compounds and mixtures;

g. Basic electricity;

h. Electrical measurements:
Reproduction of light rays,
Infrared rays,
Ultraviolet rays,
Visible rays/spectrum;

i. Safety;

j. Hygiene and grooming:
Personal and professional health;

k. Professional ethics;

l. Public relations; and

m. State and federal law, administrative rules and standards.

Clock hours may be converted to credit hours using a standard, recognized method of conversion.

61.14(4) The school shall maintain a copy of the curriculum plan for two years after the curriculum plan was taught by the school.

645—61.15(157) Instructors. All instructors in a school of cosmetology arts and sciences shall be licensed by the department.

61.15(1) An instructor teaching a course in electrology, esthetics or nail technology shall also hold a license in that practice or hold a cosmetology license that shows proof of having completed training in those practices equivalent to that of a license holder in that practice.

61.15(2) An instructor teaching a course in microdermabrasion, chemical peels, IPLs and lasers shall be certified by the state of Iowa to provide each of the services, as set forth in rule 645—60.4(157).

61.15(3) The number of instructors for each school of cosmetology arts and sciences shall be based upon total enrollment, with a minimum of 2 instructors employed on a full-time basis for up to 30 students and an additional instructor for each additional 15 students. The school shall make every effort to have 2 instructors on duty during school hours. However, a school operated by an area community college prior to September 1, 1982, with only 1 instructor per 15 students is not subject to this subrule and may continue to operate with the ratio of 1 instructor to 15 students.

61.15(4) An instructor shall:

a. Be responsible for and in direct charge of all theory and practical classrooms and clinics at all times;

b. Familiarize students with the different standard supplies and equipment used in salons; and

c. Not perform cosmetology services, with or without compensation, on the school premises except for demonstration purposes.

645—61.16(157) Student instructors. A student instructor shall be a graduate of an approved school of cosmetology arts and sciences. Each student instructor shall be under the direct supervision of a licensed instructor at all times.

645—61.17(157) Students.

61.17(1) A school of cosmetology arts and sciences shall, prior to the time a student is obligated for payment, inform the student of all provisions set forth in Iowa Code section 714.25. The school shall retain a copy of the signed statement for two years following the student's graduating or leaving the program.

61.17(2) Students shall:

a. Wear clean and neat uniforms at all times during school hours and during the mentoring program;

b. Be supervised by a licensed instructor at all times except in a mentoring program when the students shall be under the guidance of a mentor;

c. Be provided regularly scheduled breaks and a minimum of 30 minutes for lunch;

d. Attend school no more than eight hours a day. Schools may offer additional hours to students who submit a written request for additional hours;

e. Receive no compensation from the school for services performed on clients;

f. Provide services to the public only after completion of a minimum of 10 percent of the course of study;

g. Not be called from theory class to provide services to the public;

h. Not be required to perform janitorial services or be allowed to volunteer for such services. Sanitation of the bathroom area shall be limited to replacing products and disinfecting the vanity and mirror surfaces. Sanitation of the toilet and bathroom floor areas is not to be performed by the student and is excluded from student sanitation duty; and

i. Receive no credit or hours for decorating for marketing or merchandising events or for participating in demonstrations of cosmetology arts and sciences when the sole purpose of the event is to recruit students and the event is outside the curriculum course.

645—61.18(157) Attendance requirements. A school of cosmetology arts and sciences shall have a written, published attendance policy.

61.18(1) When determining student hours, a school may define its attendance requirements to include 100 percent attendance for the course length or may allow excused absences for not more than 10 percent of the course length for satisfactory completion.

a. Student attendance policies shall be applied uniformly and fairly.

b. Appropriate credit shall be given for all hours earned.

c. All retake tests, projects to be redone and makeup work shall be completed without benefit of additional hours earned, and it shall be at the school's discretion to schedule the time.

d. Hours or credit shall not be added to the accumulative student record as an award, or deducted from the accumulative student record as a penalty.

61.18(2) The school must maintain each student's attendance records for two years to verify that the minimum attendance standard set by the school is being met.

645—61.19(157) Accelerated learning.

61.19(1) A school may adopt an accelerated learning policy which includes the acceptance of life experience, prior knowledge learned and test-out procedures.

61.19(2) If the school has an accelerated learning policy, the policy shall be a written, published policy that clearly outlines the criteria for acceptance and hours or credit granted or for test-out procedures. The hours or credit granted for accelerated learning shall not exceed 15 percent of the student's entire course of study and shall be documented in the participating student's file.

a. After completion of all entrance requirements, a student may elect to sit for one or more academic written tests to evaluate the knowledge about subject matter gained from life experience or prior learning experience.

b. A student in a cosmetology arts and sciences course of study may be allowed to test out of a subject by sitting for final examinations covering the basic knowledge gained by a student who attends class sessions, or the school may accept and grant hours for prior or concurrent education and life experience.

c. A student who wishes to receive test-out credit or be granted hours for prior or concurrent education or life experience shall have maintained the academic grades and attendance policy standards set by the school.

d. The school may limit the number of times a student is allowed to sit for a test-out examination of a subject.

645—61.20(157) Mentoring program. Each cosmetology school must have a contract between the student, the school and the salon mentor that includes scheduling, liability insurance and purpose of the mentoring program.

61.20(1) Students shall not begin the mentoring program until they have completed a minimum of 50 percent of the total contact or credit hours and other requirements of the mentoring program established by the school.

61.20(2) Students may participate in a mentoring program for no more than 5 percent of the total contact or credit hours.

61.20(3) Students shall be under supervision of the mentor at all times. Students may perform the following: drape, shampoo, remove color and perm chemicals, remove perm rods, remove rollers, apply temporary rinses, apply reconditioners and rebuilders with the recommendation of the mentor, remove nail polish, file nails, perform hand and arm massage, remove cosmetic preparations, act as receptionist, handle retail sales, sanitize salon, consult with client (chairside manners), perform inventory, order supplies, prepare payroll and pay monthly bills, and hand equipment to the stylist.

61.20(4) The salon mentor's responsibilities include the following: introduce the student to the salon and the client, record the time of the student's attendance in salon, prepare evaluation, discuss performance, and allow the student to shadow.

61.20(5) A salon or school shall not compensate students when the students are participating in the mentoring program.

645—61.21(157) Graduate of a school of cosmetology arts and sciences.

61.21(1) A student shall be considered a graduate when the student has completed the required course of study and met the minimum attendance standard.

61.21(2) Students shall be given a final examination upon completion of the course of study but before graduation.

61.21(3) After passage of the final examination and completion of the entire course of study including all project sheets, students shall be issued a certificate of completion of hours required for the course of study.

645—61.22(157) Records requirements.

61.22(1) Each school of cosmetology arts and sciences shall maintain a complete set of student records. Individual student hours shall be kept on file at the school for two years following graduation.

61.22(2) Each school shall maintain daily teaching logs for all instructors, which shall be kept on file at the school for two years.

61.22(3) Prior to closure, the controlling school shall establish agreements with another school to maintain student and graduate transcripts and records. Prior to closure, the controlling school shall also notify the board of the location of student records as established by the maintenance agreements. Provisions in the agreement must include maintenance of student transcript records for a period of no less than two years.

645—61.23(157) Classrooms used for other educational purposes.

61.23(1) The licensed school of cosmetology arts and sciences shall not be used during scheduled instruction time or work experience time for any use other than for student instruction.

61.23(2) Persons attending other educational classes may not (en masse) pass through a classroom or clinic area while it is in use.

61.23(3) Noise level must not be disruptive to other classes.

61.23(4) Use of classrooms shall not usurp the space available for cosmetology instruction.

645—61.24(157) Public notice.

61.24(1) Advertisements shall indicate that all services are performed by students under the supervision of instructors.

61.24(2) A sign shall be clearly displayed in the entrance of the school that indicates in prominent lettering that students perform all services under the supervision of instructors.

These rules are intended to implement Iowa Code chapters 272C and 157.

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CHAPTER 62
FEES

[Prior to 7/29/87, Health Department[470] Ch 149]
[Prior to 12/23/92, see 645—60.14(157) for Fees]

645—62.1(147,157) License fees. All fees are nonrefundable.

62.1(1) Licensure fee for license to practice cosmetology arts and sciences, licensure by endorsement, licensure by reciprocity, or an instructor's license shall be $60.

62.1(2) Biennial license renewal fee for each license for each biennium shall be $60.

62.1(3) Late fee for failure to renew before expiration shall be $60.

62.1(4) Reactivation fee for applicants licensed to practice cosmetology shall be $120, for salons $144 and for schools $330.

62.1(5) Duplicate or reissued wallet card or license fee shall be $20.

62.1(6) Fee for verification of license shall be $20.

62.1(7) Returned check fee shall be $25.

62.1(8) Disciplinary hearing fee shall be a maximum of $75.

62.1(9) to **62.1(13)** Rescinded IAB 11/21/07, effective 1/1/08.

62.1(14) Fee for license to conduct a school teaching cosmetology arts and sciences shall be $600.

62.1(15) Fee for renewal of a school license shall be $270 annually.

62.1(16) Salon license fee shall be $84.

62.1(17) Biennial license renewal fee for each salon license for each biennium shall be $84.

62.1(18) Demonstrator and not-for-profit temporary permit fee shall be $42 for the first day and $12 for each day thereafter that the permit is valid.

62.1(19) An initial fee or a reactivation fee for certification to administer microdermabrasion or utilize a certified laser product or an intense pulsed light (IPL) device shall be $25 for each type of procedure or certified laser product or IPL device.

62.1(20) An initial fee or a reactivation fee for certification of cosmetologists to administer chemical peels shall be $25.

This rule is intended to implement Iowa Code section 147.80 and chapter 157.

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CHAPTER 63
SANITATION FOR SALONS AND SCHOOLS OF COSMETOLOGY ARTS AND SCIENCES

[Prior to 7/29/87, Health Department[470] Chs 149, 150]
[Prior to IAC 12/23/92, see 645—Chapters 60, 61]

645—63.1(157) Definitions. For purposes of these rules, the following definitions shall apply:

"Disinfectant" means an agent intended to destroy or irreversibly inactivate specific viruses, bacteria, or pathogenic fungi, but not necessarily their spores, on inanimate surfaces.

"Disinfection" means the procedure that kills pathogenic microorganisms, but not necessarily their spores.

"Dispensary" means a separate area to be used for storing and dispensing of supplies and sanitizing of all implements.

"FDA" means the federal Food and Drug Administration.

"Germicide" means an agent that destroys germs.

"Sanitization" means the procedure that reduces the level of microbial contamination so that the item or surface is considered safe.

"School" means a school of cosmetology arts and sciences.

"Sterilization" means the procedure that kills all microorganisms, including their spores.

"Universal precautions" means practices consistently used to prevent exposure to blood-borne pathogens and the transmission of disease.

645—63.2(157) Posting of sanitation rules and inspection report. A copy of the most current sanitation rules and the most recent inspection report shall be posted in the reception area at eye level in the salon or school for the information and guidance of all persons employed or studying therein and the general public.

645—63.3(157) Display of licenses. Rescinded IAB 11/21/07, effective 1/1/08.

645—63.4(157) Responsibilities of salon owners and independent contractors.

63.4(1) Each salon owner shall ensure that:

a. Individuals employed for cosmetology arts and sciences services hold a current and active license issued by either the board of cosmetology arts and sciences or the board of barbering; and

b. Licensees employed by the salon or other licensees working in the salon do not exceed their scope of practice; and

c. Licenses and certificates are properly displayed and visible to the public in the reception area at eye level for all individuals employed for cosmetology arts and sciences services. No license which has expired or become invalid for any reason shall be displayed in connection with the practices of the salon.

63.4(2) The salon owner is responsible for all common areas, any employee areas and leased areas.

63.4(3) Independent contractors are responsible:

a. For their own permanently assigned station areas;

b. For common areas on an equal basis;

c. For holding a current and active license issued by the board of cosmetology arts and sciences or the board of barbering; and

d. For ensuring that they do not exceed their scope of practice.

645—63.5(157) Building standards. Salons and schools shall provide:

1. A service area that is equipped with exhaust fans or air filtration equipment that is of sufficient capacity to be capable of removing chemical fumes from the air;
2. A separate area for storing and dispensing of supplies and sanitizing of all implements;
3. A separate area to be used as a reception area;
4. A supply of hot and cold running water and clean lavatory facilities;

5. A supply of safe drinking water;
6. Hand-washing facilities;
7. Adequate lighting; and
8. Work surfaces that are easily cleaned.

645—63.6(157) Salons in residential buildings.

63.6(1) A salon located in a residential building shall comply with all requirements in rule 645—63.5(157).

63.6(2) A separate entrance shall be maintained for salon rooms in a residential building. An exception is that an entrance may allow passage through a non-living area of the residence, i.e., hall, garage or stairway. Any door leading directly from the licensed salon to any portion of the living area of the residence shall be closed at all times during business hours.

645—63.7(157) Salons adjacent to other businesses. A salon operated adjacent to any other business shall be separated by at least a partial partition. When the salon is operated immediately adjacent to a business where food is handled, such establishment shall be entirely separated and any doors between the salon and the business shall be rendered unusable except in an emergency.

645—63.8(157) Smoking.

63.8(1) No smoking by any licensee or student is allowed while the licensee or student is actively engaged in serving the public.

63.8(2) An entire salon may be designated by the salon owner or manager as a nonsmoking area.

63.8(3) The client service and dispensary areas of the salons shall be designated as nonsmoking areas.

63.8(4) No person shall smoke or carry lighted smoking material in a nonsmoking area.

63.8(5) Signs must be posted indicating smoking and nonsmoking areas.

645—63.9(157) Personal cleanliness.

63.9(1) All licensees or students that engage in serving the public shall be neat and clean in person and attire.

63.9(2) All licensees performing services shall thoroughly wash their hands with soap and water or any equally effective cleansing agent immediately before serving each patron.

645—63.10(157) Universal precautions. All licensees shall practice universal precautions consistently by observing the following:

1. Place used needles, razor blades and other sharp instruments in a puncture-resistant container for disposal. These containers shall be located as close to the use area as is practical.
2. Wear disposable gloves to prevent exposure to blood, body fluids containing visible blood, or body fluids to which universal precautions apply.
3. Immediately and thoroughly wash hands and other skin surfaces that are contaminated with blood and other body fluids to which universal precautions apply.
4. Refrain from all direct client care and from handling client-care equipment if the licensee has weeping dermatitis or draining lesions.
5. Any disposable sharp objects that come in contact with blood or other body fluids shall be disposed of in a red, sealable, rigid container (punctureproof) that is clearly labeled for disposal of hazardous waste sharps. Disposable sharp objects include electrology needles which shall be immediately disposed of after use.
6. Disinfect all instruments or implements that do not penetrate or puncture the skin.

645—63.11(157) Minimum equipment and supplies. Salons and schools shall provide:

1. Receptacles to hold all soiled towels, gowns and sheets;
2. Clean storage area to hold all clean towels; and

3. Disinfectant solution that shall be stored in the dispensary area or at each work station for disinfecting instruments and equipment.

645—63.12(157) Disinfecting nonelectrical instruments and equipment.

63.12(1) Before use upon a client, all nonelectrical instruments shall be disinfected by an EPA-registered, hospital-grade disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity and used according to the manufacturer's instructions.

a. All disinfected instruments shall be stored in a clean, covered place.

b. All instruments that have been used on a client or soiled in any manner shall be placed in a proper receptacle.

c. Disinfectant solutions shall be changed at least once per week and whenever visibly cloudy or dirty.

63.12(2) If the nonelectrical instruments and equipment specified in this rule are sterilized in accordance with the requirements outlined in rule 645—63.15(157), the requirements of this rule shall be fulfilled.

645—63.13(157) Disinfecting electrical instruments.

63.13(1) *Disinfection of clippers.* Clippers shall be disinfected prior to each use with an EPA-registered, hospital-grade disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity and used according to the manufacturer's instructions.

63.13(2) *Cleaning and disinfection standards for electric file bits.*

a. After each use, diamond, carbide, natural and metal bits shall be cleaned by either:

(1) Using an ultrasonic cleaner; or

(2) Immersing each bit in acetone for five to ten minutes.

b. Immediately after the cleaning of all visible debris, diamond, carbide, natural and metal bits shall be disinfected by complete immersion in an appropriate disinfectant before use on the next client.

c. Buffing bits and chamois shall be cleaned with soap and water or washed with detergent in a dishwasher or washing machine following use on each client.

d. Arbor or sanding bands or sleeves are single-use items and shall be discarded immediately after use.

645—63.14(157) Instruments and supplies that cannot be disinfected. All instruments and supplies that come into direct contact with a patron and cannot be disinfected, for example, cotton pads, sponges, emery boards, and neck strips, shall be disposed of in a waste receptacle immediately after use.

645—63.15(157) Sterilizing instruments. Before use upon a patron in schools and salons, cuticle nippers, tweezers and comedone extractors shall first be cleaned with detergent and water and then sterilized by one of the following methods:

1. Steam sterilizer, registered and listed with the FDA and used according to the manufacturer's instructions;

2. Dry heat sterilizer, registered and listed with the FDA and used according to the manufacturer's instructions; or

3. Sterilization equipment, calibrated to ensure that it reaches the temperature required by manufacturer's instructions.

645—63.16(157) Sanitary method for creams, cosmetics, dusters and styptics.

63.16(1) Liquids, creams, powders and cosmetics used for patrons must be kept in closed, labeled containers. All creams, makeups and other semisolid substances shall be removed from containers with a clean, sanitized applicator. Applicators made of a washable, nonabsorbent material shall be sanitized before being used again. Applicators made of wood shall be discarded after one use.

63.16(2) The use of a styptic pencil is strictly prohibited; its presence in the workplace shall be prima facie evidence of its use. Any material used to stop the flow of blood shall be used in liquid or powder form.

63.16(3) Rescinded IAB 3/1/06, effective 4/5/06.

63.16(4) All fluids, semifluids and powders must be dispensed with an applicator or from a shaker, dispenser pump, or spray-type container.

645—63.17(157) Disposal of materials.

63.17(1) Any disposable material that would release blood or other potentially infectious materials in a liquid or semiliquid state if compressed shall be placed in a red hazardous waste bag and disposed of in accordance with the regulation for removal of hazardous waste.

63.17(2) Any disposable sharp objects that come in contact with blood or other body fluids shall be disposed of in a red, sealable, rigid container (punctureproof) that is clearly labeled for disposal of hazardous waste sharps.

63.17(3) Hazardous waste containers and bags shall be available for use at all times when services are being performed. The absence of containers shall be prima facie evidence of noncompliance.

63.17(4) Emery boards, cosmetic sponges, cosmetic applicators, toe separators and orangewood sticks must be discarded after use or given to the client.

645—63.18(157) Prohibited hazardous substances and use of products and equipment.

63.18(1) No salon or school shall have on the premises cosmetic products containing substances which have been banned or otherwise deemed hazardous or deleterious by the FDA for use in cosmetic products. Prohibited products include, but are not limited to, any product containing liquid methyl methacrylate monomer and methylene chloride. No product shall be used in a manner that is not approved by the FDA. The presence of the product in a salon or school is prima facie evidence of that product's use in the salon or school.

63.18(2) No salon or school shall have on the premises any razor-edged device or tool which is designed to remove skin with the exception of cuticle nippers used for manicure or pedicure services. If such equipment is on site, it shall be prima facie evidence of its use.

63.18(3) Nail buffers.

a. A nail buffer that can be sanitized may be used more than once, but it must be sanitized before use on the next client.

b. If a nail buffer cannot be sanitized, the nail buffer shall not be used for more than one client.

c. The presence of chamois buffers in the workplace shall be prima facie evidence of their use.

645—63.19(157) Proper protection of neck. A shampoo apron, haircloth, or similar article shall not be placed directly against the neck of the patron but shall be kept from direct contact with the patron by means of a paper neckband or clean towel. A neckband of paper shall not be used more than once. Towels or cloth neckbands shall not be used more than once without proper laundering.

645—63.20(157) Proper laundering and storage. All cloth towels, robes and similar items shall be laundered in a washing machine with laundry detergent used according to manufacturer's directions. A clean storage area shall be provided for clean towels and linen, and a hamper or receptacle must be provided for all soiled towels, robes and linens.

645—63.21(157) Pets. Dogs (except dogs providing assistance to individuals with physical disabilities), cats, birds, or other animals shall not be permitted in a salon. This rule does not apply to fish in an aquarium provided the aquarium is maintained in a sanitary condition.

645—63.22(157) Workstations.

63.22(1) All workstations shall be covered with nonabsorbent, washable material.

63.22(2) Workstations and flooring in work areas shall be kept clean and in good repair.

645—63.23(157) Records. Client records and appointment records shall be maintained for a period of no less than three years following the last date of entry. Proper safeguards shall be provided to ensure the safety of these records from destructive elements.

645—63.24(157) Salons providing electrology or esthetics. A salon in which electrology or esthetics is practiced shall follow the sanitation rules and requirements pertaining to all salons and shall also meet the following requirements:

1. The electrology or esthetics room shall have adequate space, lighting and ventilation.
2. The floors in the immediate area where the electrology or esthetics is performed shall have an impervious, smooth, washable surface.
3. All service table surfaces shall be constructed of impervious, easily cleanable material.
4. Needles, probes and lancets shall be single-client use and disposable.

645—63.25(157) Cleaning and disinfecting whirlpool foot spas and hydrotherapy baths.

63.25(1) As used in this rule, "whirlpool foot spa," "foot spa," "whirlpool," or "spa" is defined as any basin using circulating or still water.

63.25(2) After use for each patron, each whirlpool foot spa shall be cleaned and disinfected in the following manner:

a. All water shall be drained and all debris shall be removed from the spa basin.

b. The spa basin must be cleaned with soap or detergent and water.

c. The spa basin must be disinfected with an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity which must be used according to the manufacturer's instructions.

d. The spa basin and hydrotherapy bath must be wiped dry with a clean towel.

63.25(3) At the end of each day, each whirlpool foot spa shall be cleaned and disinfected in the following manner:

a. The screen shall be removed, all debris trapped behind the screen shall be removed, and the screen and the inlet shall be washed with soap or detergent and water.

b. Before the screen is replaced, it shall be completely immersed in an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity which must be used according to the manufacturer's instructions.

c. The spa system shall be flushed with low sudsing soap and warm water for at least ten minutes, after which the spa shall be rinsed and drained.

63.25(4) Every other week (biweekly), after being cleaned and disinfected as provided in subrule 63.25(3), each whirlpool foot spa and hydrotherapy bath shall be cleaned and disinfected in the following manner:

a. The spa basin and hydrotherapy bath shall be filled completely with water and one teaspoon of 5.25 percent bleach or recommended whirlpool disinfectant for each one gallon of water, or a solution of sodium hypochlorite (bleach) of approximately 50 ppm used according to the manufacturer's instructions.

b. The spa or bath system shall be flushed with the bleach or recommended whirlpool disinfectant and water solution, or sodium hypochlorite (bleach) solution, for five to ten minutes and allowed to sit for six to ten hours.

c. The spa or bath system shall be drained and flushed with water before use for a patron.

63.25(5) For each foot spa and hydrotherapy bath, a record shall be made of the date and time of each cleaning and disinfecting as required by subrules 63.25(3) and 63.25(4), and shall indicate whether the cleaning was a daily or biweekly cleaning. This record shall be made at or near the time of cleaning and disinfecting. Records of cleaning and disinfecting shall be made available upon request by a patron, inspector or investigator. The record must be signed by a licensee and include the licensee's license number beside each recorded cleaning event.

63.25(6) A violation of this rule may result in an administrative fine or disciplinary action or both. A separate violation may result for each foot spa and hydrotherapy bath that is not in compliance with this rule.

63.25(7) A licensee who provides services related to whirlpool foot spas and hydrotherapy baths shall submit a report to the board within 30 days of any incident in which provision of such services

resulted in physical injury requiring medical attention. Failure to comply with this requirement shall result in disciplinary action by the board. The report shall include a description of the following:

a. The procedures;

b. The physical condition of client;

c. The adverse occurrence, including:

(1) Symptoms of any complications including, but not limited to, onset and type of symptoms;

(2) A description of the services provided that caused the situation;

(3) A description of the procedure that was followed by the licensee;

(4) A description of the client's condition on termination of any procedures undertaken;

(5) If a client is referred to a physician, a statement providing the physician's name and address if known.

These rules are intended to implement Iowa Code sections 147.7, 147.46, 157.6, and 157.14.

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CHAPTER 64
CONTINUING EDUCATION FOR COSMETOLOGY ARTS AND SCIENCES

[Prior to 7/29/87, Health Department[470] Ch 151]
[Prior to 12/23/92, see 645—Chapter 62]

645—64.1(157) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of cosmetology arts and sciences.

"Continuing education" means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person or entity licensed to practice pursuant to Iowa Code chapter 157 and 645—Chapters 60 to 65, Iowa Administrative Code.

"Prescribed practice" means an area of specialty within the scope of cosmetology arts and sciences.

645—64.2(157) Continuing education requirements.

64.2(1) The biennial continuing education compliance period shall begin on April 1 of one year and end on March 31 two years later.

64.2(2) Beginning April 1, 2008, a license that is renewed on April 1, 2008, that was originally scheduled to be renewed one year later as described in 645—paragraph 60.8(1)*"b"* shall not be required to meet continuing education requirements until April 1, 2010. This extension does not apply to a license(s) originally due for renewal on April 1, 2008.

64.2(3) Each biennium:

a. A licensee in this state shall be required to complete a minimum of 8 hours of board-approved continuing education, of which 4 hours shall be in the prescribed practice discipline. A minimum of 2 hours of the 8 hours shall be in the content areas of Iowa cosmetology law and rules and sanitation. Individuals holding more than one active license shall obtain 4 hours of board-approved continuing education in each prescribed practice discipline and an additional 2 hours in the content areas of Iowa cosmetology law and rules and sanitation.

b. A licensee who is an instructor of cosmetology arts and sciences shall obtain 8 hours in teaching methodology in addition to meeting all continuing education requirements for renewal of the instructor's practice license. A licensee must comply with all conditions of licensure including obtaining a minimum of 2 hours each biennium specific to Iowa cosmetology law and administrative rules as specified in subrule 64.3(2), paragraph *"i."*

c. A licensee currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state or states where the licensee practices. The licensee living and practicing in a state which has no continuing education requirement for renewal of a license shall not be required to meet Iowa's continuing education requirement but shall pay all renewal fees when due.

64.2(4) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.

64.2(5) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

64.2(6) No hours of continuing education shall be carried over into the next biennium. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

64.2(7) It is the responsibility of each licensee to finance the cost of continuing education.

645—64.3(157,272C) Standards.

64.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

64.3(2) *Specific criteria.*

a. Continuing education hours of credit may be obtained by attending continuing education activities.

b. The licensee may attend programs on product knowledge, methods, and systems. Continuing education shall be directly related to the technique and theory specific to the practice of cosmetology arts and sciences. Business classes specific to owning or managing a salon are acceptable. No direct selling of products is allowed as part of a continuing education offering.

c. The licensee may participate in continuing education courses/programs that are approved by the board of barbering providing criteria in these rules are met.

d. The licensee may participate in independent study as defined in 645—64.1(157). A maximum of two hours of independent study per biennium will be allowed. Independent study must be related to either Iowa cosmetology law and administrative rules or sanitation.

e. In addition to fulfilling the requirements in 64.2(1), those persons holding an instructor's license must complete a minimum of eight hours of continuing education approved by the board in the area of teaching methodology.

f. The licensee shall obtain at least four hours in each area of prescribed practice for each cosmetology license held.

g. Continuing education shall be obtained by attending programs that meet the criteria in subrule 64.3(1) and are approved or offered by the following organizations. Other individuals or groups may offer through one of the organizations listed in this paragraph continuing education programs that meet the criteria in rule 645—64.3(157,272C).

(1) National, state or local associations of cosmetology arts and sciences;

(2) Schools and institutes of cosmetology arts and sciences;

(3) Universities, colleges or community colleges;

(4) National, state or local associations of barbers;

(5) Barber schools or institutes;

(6) Manufacturers of laser or microdermabrasion products;

(7) Institutes of laser technology.

h. Two hours of continuing education per biennium must be specific to Iowa cosmetology law and administrative rules.

i. A licensee who is a presenter of a continuing education program that meets criteria in 645—64.3(157,272C) may receive credit once per biennium for the initial presentation of the program. The licensee may receive the same number of hours granted the attendees.

645—64.4(157,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

64.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

64.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

64.4(3) For auditing purposes, all licensees must retain the information identified in subrule 64.4(2) for two years after the biennium has ended.

64.4(4) Information identified in subrule 64.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

64.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

64.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—64.5(157,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—64.6(157,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

64.6(1) Failure to cooperate with a board audit.

64.6(2) Failure to meet the continuing education requirement for licensure.

64.6(3) Falsification of information on the license renewal form.

64.6(4) Falsification of continuing education information.

645—64.7(157,272C) Continuing education waiver for active practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—64.8(157,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—64.9(157,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

64.9(1) The board may grant an extension of time to fulfill the continuing education requirement.

64.9(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

64.9(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—64.10(157,272C) Reinstatement of inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—64.11(272C) Hearings. Rescinded IAB 8/31/05, effective 10/5/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 157.

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◊ Two or more ARCs

CHAPTER 65
DISCIPLINE FOR COSMETOLOGY ARTS AND SCIENCES LICENSEES, INSTRUCTORS, SALONS, AND SCHOOLS

[Prior to 7/29/87, Health Department[470] Ch 151]
[Prior to IAC 12/23/92, see 645—Chapter 62]

645—65.1(157,272C) Definitions.

"Board" means the board of cosmetology arts and sciences.

"Discipline" means any sanction the board may impose upon cosmetology arts and sciences licensees, instructors, salons, and schools.

"Licensure" means the granting of a license to any person or entity licensed to practice pursuant to Iowa Code chapter 157 and 645—Chapters 60 to 65, Iowa Administrative Code.

645—65.2(157,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—65.3(157,272C) when the board determines that any of the following acts or offenses have occurred:

65.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, the following:

a. An intentional perversion of the truth in making application for a license to practice in this state;

b. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

c. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

65.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice;

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other licensees in the state of Iowa acting in the same or similar circumstances;

c. A failure to exercise the degree of care which is ordinarily exercised by the average licensee acting in the same or similar circumstances;

d. Failure to conform to the minimal standard of acceptable and prevailing practice in this state.

65.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

65.2(4) The use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, acts which constitute making false, deceptive, misleading or fraudulent representations in the practice of the profession.

65.2(5) Practice outside the scope of the profession.

65.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

65.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

65.2(8) Falsification of client records.

65.2(9) Acceptance of any fee by fraud or misrepresentation.

65.2(10) Misappropriation of funds.

65.2(11) Negligence in the practice of the profession. Negligence in the practice of the profession includes a failure to exercise due care, including improper delegation of duties or supervision of

employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair a practitioner's ability to safely and skillfully practice the profession.

65.2(12) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

65.2(13) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of the profession.

65.2(14) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory or country; or failure to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

65.2(15) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of the profession in another state, district, territory or country.

65.2(16) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

65.2(17) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

65.2(18) Engaging in any conduct that subverts or attempts to subvert a board investigation.

65.2(19) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

65.2(20) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

65.2(21) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

65.2(22) Failure to pay costs assessed in any disciplinary action.

65.2(23) Knowingly aiding, assisting, or advising a person to unlawfully practice the profession.

65.2(24) Failure to report a change of name or address within 30 days after the occurrence.

65.2(25) Failure to return the salon license to the board within 30 days of discontinuance of business under that license.

65.2(26) Representing oneself as a licensed individual or entity when one's license has been suspended or revoked, or when one's license is on inactive status.

65.2(27) Permitting another person to use one's license for any purpose.

65.2(28) Permitting an unlicensed employee or person under the licensee's or the licensed school's or salon's control to perform activities that require a license.

65.2(29) Permitting a licensed person under the licensee's or the licensed school's or salon's control to practice outside the scope of the person's license.

65.2(30) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

65.2(31) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

65.2(32) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a client or coworker.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

65.2(33) Performing any of those practices coming within the jurisdiction of the board pursuant to Iowa Code chapter 157, with or without compensation, in any place other than a licensed salon, a licensed school of cosmetology arts and sciences, or a licensed barbershop as defined in Iowa Code section 158.1. EXCEPTION: A licensee may practice at a location that is not a licensed salon or school of cosmetology arts and sciences when extenuating circumstances related to the physical or mental disability or death of a customer prevent the customer from seeking services at the licensed salon or school.

65.2(34) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

65.2(35) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

65.2(36) A person is determined by the investigator to be providing cosmetology services and leaving a salon at the time of inspection, which shall be prima facie evidence that an unlicensed person is providing services for which a license is required.

645—65.3(157,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—65.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—65.5(157) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 157.13(1). In addition to the procedures set forth in Iowa Code chapter 157, this chapter shall apply.

65.5(1) *Unlawful practices.* Practices by an unlicensed person or establishment which are subject to civil penalties include, but are not limited to:

a. Acts or practices by unlicensed persons which require licensure to practice cosmetology arts and sciences under Iowa Code chapter 157.

b. Acts or practices by unlicensed establishments which require licensure as a salon or school of cosmetology arts and sciences under Iowa Code chapter 157.

c. Use or attempted use of a licensee's certificate or use or attempted use of an expired, suspended, revoked, or nonexistent certificate.

d. Falsely impersonating a person licensed under Iowa Code chapter 157.

e. Providing false or forged evidence of any kind to the board in obtaining or attempting to obtain a license.

f. Other violations of Iowa Code chapter 157.

g. Knowingly aiding or abetting an unlicensed person or establishment in any activity identified in this rule.

65.5(2) *Investigations.* The board is authorized by Iowa Code subsection 17A.13(1) and Iowa Code chapter 157 to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

65.5(3) *Subpoenas.* Pursuant to Iowa Code section 17A.13(1) and Iowa Code chapter 157, the board is authorized in connection with an investigation of an unlicensed person or establishment to issue subpoenas to compel persons to testify and to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in 645—9.5(17A,272C).

65.5(4) *Notice of intent to impose civil penalties.* The notice of the board's intent to issue an order to require compliance with Iowa Code chapter 157 and to impose a civil penalty shall be served upon the nonlicensee by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice shall include the following:

a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.

b. Reference to the particular sections of the statutes and rules involved.

c. A short, plain statement of the alleged unlawful practices.

d. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with Iowa Code chapter 157.

e. Notice of the nonlicensee's right to a hearing and the time frame in which the hearing must be requested.

f. The address to which written request for hearing must be made.

65.5(5) *Requests for hearings.*

a. Nonlicensees must request a hearing within 30 days of the date the notice is received if served through restricted certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa Rule of Civil Procedure 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

b. If a request for hearing is not timely made, the board chair or the chair's designee may issue an order imposing the civil penalty and requiring compliance with Iowa Code chapter 157, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

c. If a request for hearing is timely made, the board shall issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees.

d. A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 157 at any stage of the proceeding upon mutual consent of the board.

e. The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published. Hearings shall be open to the public.

65.5(6) *Factors for board consideration.* The board may consider the following when determining the amount of civil penalty to impose, if any:

a. Whether the amount imposed will be a substantial economic deterrent to the violation.

b. The circumstances leading to or resulting in the violation.

c. The severity of the violation and the risk of harm to the public.

d. The economic benefits gained by the violator as a result of noncompliance.

e. The welfare or best interest of the public.

65.5(7) *Enforcement options.* In addition, or as an alternative, to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, or enter into a consent agreement as provided in Iowa Code chapter 157.

65.5(8) *Judicial review.*

a. A person aggrieved by the imposition of a civil penalty under this rule may seek a judicial review in accordance with Iowa Code section 17A.19.

b. The board shall notify the attorney general of the failure to pay a civil penalty within 30 days after entry of an order or within 10 days following final judgment in favor of the board if an order has been stayed pending appeal.

c. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

d. An action to enforce an order under this rule may be joined with an action for an injunction pursuant to Iowa Code section 147.83.

645—65.6(157) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

65.6(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

65.6(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

65.6(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the license bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in

a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

65.6(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

65.6(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

65.6(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

65.6(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 157 and 272C.

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CHAPTER 66
AGENCY PROCEDURE FOR RULE MAKING

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CHAPTER 67
PETITIONS FOR RULE MAKING

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 68
DECLARATORY RULINGS

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 69
PUBLIC RECORDS AND FAIR
INFORMATION PRACTICES

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 70
CHILD SUPPORT NONCOMPLIANCE

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 71
IMPAIRED PRACTITIONER REVIEW COMMITTEE

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 72
Reserved

CHAPTERS 72 and 73
Reserved

CHAPTERS 72 to 74
Reserved

CHAPTERS 72 to 75
Reserved

CHAPTERS 72 to 76
Reserved

CHAPTERS 72 to 77
Reserved

CHAPTERS 72 to 78
Reserved

CHAPTER 79
BOARD OF DIETETIC EXAMINERS
[Prior to 5/15/88, Health Department[470]—Ch 162]
[Prior to 9/19/01, see 645—Chapter 80]
Rescinded IAB 6/26/02, effective 7/31/02

DIETITIANS

CHAPTER 80 ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF DIETETIC EXAMINERS
CHAPTER 81 LICENSURE OF DIETITIANS
CHAPTER 82 CONTINUING EDUCATION FOR DIETITIANS
CHAPTER 83 DISCIPLINE FOR DIETITIANS
CHAPTER 84 FEES

CHAPTER 80
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF DIETETIC EXAMINERS

[Prior to 6/26/02, see 645—79.1(152A) to 645—79.3(152A)]

645—80.1(17A,152A) Definitions.

"Board" means the board of dietetic examiners.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice dietetics.

"Licensee" means a person licensed to practice as a dietitian.

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

645—80.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 152A, and 272C with regard to the practice of dietetics. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and the rules of the licensure board. Responsibilities include, but are not limited to:

80.2(1) Licensing of qualified applicants to practice dietetics, through examination, renewal, endorsement, and reciprocity.

80.2(2) Developing and administering a program of continuing education to ensure continued competency of individuals licensed by the board.

80.2(3) Imposing discipline on licensees as provided by statute or rule.

645—80.3(17A,152A,272C) Organization of board and proceedings.

80.3(1) The board is composed of five members appointed by the governor and confirmed by the senate.

80.3(2) The members of the board shall include one licensed dietitian representing the approved or accredited dietetic education programs, one licensed dietitian representing clinical dietetics in hospitals, one licensed dietitian representing community nutrition services and two members who are not licensed dietitians and who shall represent the general public.

80.3(3) The board shall elect a chairperson, vice chairperson and a secretary from its membership at the first meeting after April 30 of each year.

80.3(4) The board shall hold at least one meeting annually.

80.3(5) A majority of the members of the board shall constitute a quorum.

80.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

80.3(7) The division of professional licensure shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

80.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of dietetics upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

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

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

645—80.4(17A) Official communications.

80.4(1) All official communications, including submissions and requests, may be addressed to the Board of Dietetic Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

80.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

80.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—80.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—80.6(17A) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

80.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

80.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

80.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

80.6(4) Cameras and recording devices may be used at open meetings, provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 152A and 272C.

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CHAPTER 81
LICENSURE OF DIETITIANS
[Prior to 6/26/02, see 645—Ch 80]

645—81.1(152A) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of dietetic examiners.

"Dietetics" means the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and from behavioral and social sciences to achieve and maintain an individual's health.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a dietitian in the state of Iowa.

"License expiration date" means the fifteenth day of the birth month every two years following initial licensure.

"Licensure by endorsement" means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state.

"Nutrition assessment" means the evaluation of the nutrition needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition.

"Nutrition counseling" means advising and assisting individuals or groups, with consideration of cultural background and socioeconomic status, about appropriate nutritional intake by integrating information from the nutrition assessment with information about food and other sources of nutrients and meal preparation.

"Reactivate" or *"reactivation"* means the process as outlined in rule 81.15(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of dietetic examiners to license persons who have the same or similar qualifications as those required in Iowa.

"Registered dietitian" means a dietitian who has met the standards and qualifications of the Commission on Dietetic Registration, a member of the National Commission for Health Certifying Agencies.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—81.2(152A) Nutrition care. The primary function of dietetic practice is the provision of nutrition care services that shall include:

1. Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting.
2. Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints.
3. Providing nutrition counseling concerning health and disease.
4. Developing, implementing, and managing nutrition care systems.
5. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

645—81.3(152A,272C) Principles. The dietetic practitioner shall:

1. Provide professional services with objectivity and with respect for the unique needs and values of individuals.
2. Avoid discrimination against other individuals on the basis of race, creed, religion, sex, age, and national origin.
3. Fulfill professional commitments in good faith.
4. Conduct oneself with honesty, integrity, and fairness.
5. Remain free of conflict of interest while fulfilling the objectives and maintaining the integrity of the dietetic profession.
6. Maintain confidentiality of information.
7. Practice dietetics based on scientific principles and current information.
8. Assume responsibility and accountability for personal competence in practice.
9. Recognize and exercise professional judgment within the limits of qualifications and seek counsel or make referrals as appropriate.
10. Provide sufficient information to enable clients to make their own informed decisions.
11. Inform the public and colleagues by using factual information and shall not advertise in a false or misleading manner.
12. Promote or endorse products in a manner that is neither false nor misleading.
13. Permit the use of the practitioner's name for the purpose of certifying that dietetic services have been rendered only after having provided those services or supervised the provision of those services.
14. Accurately present professional qualifications and credentials.
15. Present substantiated information and interpret controversial information without personal bias, recognizing that legitimate differences of opinion exist.
16. Make all reasonable efforts to avoid bias in any kind of professional evaluation and provide objective evaluation of candidates for professional association membership, awards, scholarships, or job advancements.

645—81.4(152A) Requirements for licensure. The following criteria shall apply to licensure:

81.4(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Dietetic Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

81.4(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

81.4(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Dietetic Examiners. The fees are nonrefundable.

81.4(4) No application will be considered by the board until:

a. Official copies of academic transcripts have been sent directly from the school to the board;

b. Official verification statements from the didactic and internship or preprofessional practice programs have been sent to the board; and

c. The applicant satisfactorily completes the registration examination for dietitians administered by the Commission on Dietetic Registration. The board will accept the passing score set by the Commission on Dietetic Registration. Verification of satisfactory completion may be established by sending a notarized copy of the Commission on Dietetic Registration (CDR) card or an official letter sent directly from CDR to the board to verify that the applicant holds registration status.

81.4(5) A license is not required for dietitians who are in this state for the purpose of consultation when they are licensed in another state, U.S. possession, or country, or have received at least a baccalaureate degree in human nutrition from a U.S. regionally accredited college or university. Consultation means the practice of dietetics in affiliation with, and at the request of, a dietitian licensed in this state.

81.4(6) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

645—81.5(152A) Educational qualifications.

81.5(1) The applicant shall be issued a license to practice dietetics by the board when the applicant possesses a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university with a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management, or in an equivalent major course of minimum academic requirements as established by the American Dietetic Association and approved by the board.

81.5(2) Foreign-trained dietitians shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or E-mail at info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a dietetic program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—81.6(152A) Supervised experience. The applicant shall:

81.6(1) Complete a documented supervised practice experience component in a dietetic practice of not less than 900 hours under the supervision of:

a. A registered dietitian;

b. A licensed dietitian; or

c. An individual with a doctoral degree conferred by a U.S. regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics or food systems management; and

81.6(2) Have a supervised practice experience that was completed:

a. In the United States or its territories; or

b. Under the supervision of a person who obtained a doctoral degree outside the United States or its territories, which has been validated as equivalent to the doctoral degree conferred by a U.S. regionally accredited college or university.

645—81.7(152A) Licensure by endorsement. An applicant who has been a licensed dietitian under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides official copies of the academic transcripts;
5. Provides a copy of the registration card; and
6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

645—81.8(152A) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal

or similar requirements for licensure of dietitians. The applicant shall take the examination required by the board.

645—81.9(152A) License renewal.

81.9(1) The biennial license renewal period for a license to practice dietetics shall begin on the sixteenth day of the licensee's birth month and end on the fifteenth day of the licensee's birth month two years later. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

81.9(2) An initial license issued by the board may be valid for an 18- to 29-month period. When an initial license is renewed, it will be placed on a two-year renewal period identified in subrule 81.9(1).

81.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—82.2(152A) and the mandatory reporting requirements of subrule 81.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

81.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 82.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

81.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

81.9(6) A person licensed to practice dietetics shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

81.9(7) 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 645—subrule 84.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

81.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a dietitian in Iowa until the license is reactivated. A licensee who practices as a dietitian in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

81.9(9) Renewal of a reactivated license. A licensee who reactivates the license in accordance with rule 645—81.15(17A,147,272C) will not be required to renew the license until the next renewal two years later if the license is reactivated within six months prior to the license renewal date.

645—81.10(272C) Exemptions for inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—81.11(147) Duplicate certificate or wallet card.

81.11(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

81.11(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—84.1(147,152A).

81.11(3) If the board receives a completed application for a duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—81.12(147) Reissued 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 645—84.1(147,152A).

645—81.13(272C) Lapsed licenses. Rescinded IAB 7/6/05, effective 8/10/05.

645—81.14(17A,147,272C) License denial.

81.14(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

81.14(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

81.14(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—81.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

81.15(1) Submit a reactivation application on a form provided by the board.

81.15(2) Pay the reactivation fee that is due as specified in 645—subrule 84.1(4).

81.15(3) Provide verification of current competence to practice dietetics by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 30 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 60 hours of continuing education within two years of application for reactivation.

645—81.16(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 81.15(17A,147,272C) prior to practicing dietetics in this state.

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

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CHAPTER 82
CONTINUING EDUCATION FOR DIETITIANS
[Prior to 6/26/02, see 645—Ch 81]

645—82.1(152A) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means the license is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of dietetic examiners.

"Continuing education" means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a dietitian in the state of Iowa.

645—82.2(152A) Continuing education requirements.

82.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on the sixteenth day of the licensee's birth month and ending on the fifteenth day of the birth month two years later. Each biennium, each person who is licensed to practice as a dietitian in this state shall be required to complete a minimum of 30 hours of continuing education approved by the board.

82.2(2) Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

82.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

82.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

82.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—82.3(152A,272C) Standards.

82.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of the presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

82.3(2) *Specific criteria.*

a. Continuing education hours of credit may be obtained by completing programs/activities that reflect the educational needs of the dietitian and the nutritional needs of the consumer. Continuing education programs/activities that are scientifically founded and offered at a level beyond entry-level dietetics for professional growth shall be accepted for continuing education.

b. The licensee shall participate in other types of activities identified in the individual licensee's professional development portfolio for Commission on Dietetic Registration (CDR) certification. Programs or activities shall be subject to approval in the event of an audit.

c. The following areas are appropriate for continuing education credit:

(1) Sciences related to dietetic practice, education, or research including biological sciences, food and resource management and behavioral and social sciences to achieve and maintain people's health.

(2) Dietetic practice related to assessment, counseling, teaching, or care of clients in any setting.

(3) Management or quality assurance of nutritional care delivery systems.

(4) Dietetic practice related to community health needs.

d. Criteria for hours of credit are as follows:

(1) Academic coursework. Coursework for credit must be completed at a regionally accredited U.S. college or university. In order for the licensee to receive continuing education credit, the coursework must be beyond entry-level dietetics.

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(2) Scholarly publications. Publication may be approved if submitted in published form in the continuing education documentation file of the licensee. All publications must appear in refereed professional journals. Material related to work responsibilities, such as diet and staff manuals, and publications for the lay public are unacceptable. Continuing education credit hours may be reported using the following guidelines:

1. Senior author: first of two or more authors listed.
2. Coauthor: second of two authors listed.
3. Contributing author: all but senior of the three or more authors.
4. Research papers:

● Single author	10 hours
● Senior author	8 hours
● Coauthor	5 hours
● Contributing author	3 hours

5. Technical articles:

● Single author	5 hours
● Senior author	4 hours
● Coauthor	3 hours
● Contributing author	2 hours

6. Information-sharing articles: 1 hour

7. Abstracts:

● Senior author	2 hours
● Coauthor	1 hour

(3) Poster sessions. Continuing education credit may be obtained for attending juried poster sessions at national meetings that meet the criteria for appropriate subject matter as required in these rules. One hour of continuing education credit is allowed for each 12 posters reviewed not to exceed six hours in a continuing education biennium.

(4) Presenters. Presenters may receive continuing education credit. Presentations to the lay public shall not receive credit for continuing education. For each 50-minute hour of presentation, two hours of credit for continuing education shall be earned. Presenters of poster sessions at national professional meetings shall receive a maximum of two hours of credit per topic. A copy of the abstract or manuscript and documentation of the peer review process must be included in the licensee's documentation list.

(5) Staff development training. Staff development training that meets the criteria in this subrule shall be credited on the basis of the defined hour of continuing education stated in these rules.

645—82.4(152A,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

82.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

82.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

d. For other professional development activities identified in the licensee's CDR portfolio, the licensee shall provide a brief narrative of the learning plan objective, the completed activity and the hours accrued.

82.4(3) For auditing purposes, all licensees must retain the above information for two years after the biennium has ended.

82.4(4) Information identified in subrule 82.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

82.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is within 120 days from the date of mailing to the address of record at the board office.

82.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—82.5(152A,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—82.6(152A,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

82.6(1) Failure to cooperate with a board audit.

82.6(2) Failure to meet the continuing education requirement for licensure.

82.6(3) Falsification of information on the license renewal form.

82.6(4) Falsification of continuing education information.

645—82.7(152A,272C) Continuing education waiver for active practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—82.8(152A,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—82.9(152A,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. Applicants shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver to a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

82.9(1) The board may grant an extension of time to fulfill the continuing education requirement.

82.9(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

82.9(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—82.10(152A,272C) Reinstatement of inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—82.11(272C) Hearings. Rescinded IAB 7/6/05, effective 8/10/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 152A.

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CHAPTER 83
DISCIPLINE FOR DIETITIANS

[Prior to 9/19/01, see 645—80.100(152A,272C)]
[Prior to 6/26/02, see 645—Ch 82]

645—83.1(152A) Definitions.

"Board" means the board of dietetic examiners.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a dietitian in Iowa.

645—83.2(152A,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—83.3(152A,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

83.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to:

a. An intentional perversion of the truth in making application for a license to practice in this state;

b. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

c. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

83.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other dietitians in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average dietitian acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of licensed dietitians in this state.

83.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of dietetics or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

83.2(4) Practice outside the scope of the profession.

83.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

83.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

83.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

83.2(8) Falsification of client or patient records.

83.2(9) Acceptance of any fee by fraud or misrepresentation.

83.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the licensee's ability to safely and skillfully practice the profession.

83.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice dietetics. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

83.2(12) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of dietetics.

83.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

83.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of dietetics in another state, district, territory or country.

83.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

83.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

83.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

83.2(18) Failure to respond within 30 days to a communication of the board which was sent by registered or certified mail.

83.2(19) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

83.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

83.2(21) Failure to pay costs assessed in any disciplinary action.

83.2(22) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

83.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

83.2(24) Knowingly aiding, assisting, or advising a person to unlawfully practice dietetics.

83.2(25) Failure to report a change of name or address within 30 days after it occurs.

83.2(26) Representing oneself as a licensed dietitian when one's license has been suspended or revoked, or when one's license is on inactive status.

83.2(27) Permitting another person to use the licensee's license for any purpose.

83.2(28) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

83.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a patient or client.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

83.2(30) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

83.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—83.3(152A,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—83.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—83.5(152A) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

83.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

83.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or to request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

83.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of

the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

83.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

83.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

83.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

83.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

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

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CHAPTER 84
FEES
[Prior to 6/26/02, see 645—Ch 83]

645—84.1(147,152A) License fees. All fees are nonrefundable.

84.1(1) Licensure fee for license to practice dietetics, licensure by endorsement, or licensure by reciprocity is $120.

84.1(2) Biennial license renewal fee for each biennium is $120.

84.1(3) Late fee for failure to renew before expiration is $60.

84.1(4) Reactivation fee is $180.

84.1(5) Duplicate or reissued license certificate or wallet card fee is $20.

84.1(6) Verification of license fee is $20.

84.1(7) Returned check fee is $25.

84.1(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152A and 272C.

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CHAPTER 85
Reserved

CHAPTER 86
AGENCY PROCEDURE FOR RULE MAKING

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 87
PETITIONS FOR RULE MAKING

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 88
DECLARATORY RULINGS

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CHAPTER 89
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 90
CHILD SUPPORT NONCOMPLIANCE

Rescinded IAB 6/30/00, effective 8/4/99

CHAPTER 91
IMPAIRED PRACTITIONER REVIEW COMMITTEE

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 92
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Reserved

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CHAPTER 99
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF MORTUARY SCIENCE

645—99.1(17A) Definitions.

"Board" means the board of mortuary science.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice as a funeral director in the state of Iowa.

"Licensee" means a person licensed to practice as a funeral director in the state of Iowa.

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

645—99.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 156 and 272C with regard to the practice of mortuary science. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and the rules of the licensure board. Responsibilities include, but are not limited to:

99.2(1) Licensing of qualified applicants by examination, renewal, endorsement, and reciprocity.

99.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

99.2(3) Imposing discipline on licensees as provided by statute or rule.

645—99.3(17A,147,272C) Organization of board and proceedings.

99.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

99.3(2) The members of the board shall include four members who are licensed to practice mortuary science, one member owning, operating, or employed by a crematory, and two members not licensed to practice mortuary science and not a crematory owner, operator, or employee who shall represent the general public.

99.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

99.3(4) The board shall hold at least one meeting annually.

99.3(5) A majority of the members of the board shall constitute a quorum.

99.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

99.3(7) The division of professional licensure shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

99.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of mortuary science upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

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

h. Perform any other function as authorized by a provision of law.

645—99.4(17A) Official communications.

99.4(1) All official communications, including submissions and requests, may be addressed to the Board of Mortuary Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

99.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

99.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—99.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—99.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

99.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

99.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

99.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

99.6(4) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the

meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 147, 21, and 156.

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CHAPTER 100
PRACTICE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND CREMATION ESTABLISHMENTS

[Prior to 9/21/88, see Health Department[470] Ch 146]

645—100.1(156) Definitions.

"Alternative container" means an unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed wood, composition materials (with or without an outside covering) or like materials which prevents the leakage of body fluid.

"Authorized person" means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements including, but not limited to, embalming, cremation, funeral services, and the disposition of human remains. In the absence of a contrary court order, a funeral director may reasonably rely upon any available member of the following classes of persons, in the order of priority listed:

1. The spouse of the decedent if not legally separated from the decedent.
2. The decedent's surviving adult children. If there is more than one adult child, any adult child who can confirm in writing the notification of all other adult children may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another adult child. Alternatively, a majority of the surviving adult children of the decedent whose whereabouts are reasonably ascertainable.
3. The surviving parents of the decedent whose whereabouts are reasonably ascertainable.
4. The decedent's surviving adult grandchildren. If there is more than one adult grandchild, any adult grandchild who can confirm in writing the notification of all other adult grandchildren may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another adult grandchild. Alternatively, a majority of the surviving adult grandchildren of the decedent whose whereabouts are reasonably ascertainable.
5. An adult sibling of the decedent. If there is more than one adult sibling, any adult sibling who can confirm in writing the notification of all other adult siblings may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another adult sibling. Alternatively, a majority of the surviving adult siblings of the decedent whose whereabouts are reasonably ascertainable.
6. A grandparent of the decedent. If there is more than one grandparent, any grandparent who can confirm in writing the notification of all other grandparents may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another grandparent. Alternatively, a majority of the surviving grandparents of the decedent whose whereabouts are reasonably ascertainable.
7. Other adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession.
8. The county medical examiner, if responsible for the decedent's remains.

A funeral director may await court order before finalizing the funeral arrangements if the funeral director is aware of a dispute between the authorized person or persons who would be in a priority position under the definition of "authorized person" in this rule and the executor named in the decedent's will or a personal representative appointed by a court, or is aware of a dispute among authorized persons within the same priority classification.

"Autopsy" means the postmortem examination of a human remains.

"Board" means the board of mortuary science.

"Body parts" means appendages or other portions of the anatomy that are from a human body.

"Burial." See *"Interment."*

"Burial transit permit" means a legal document authorizing the removal and transportation of a human remains.

"Casket" means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic or like material and ornamented and lined with fabric.

"Cemetery" means an area designated for the final disposition of human remains.

"Change of ownership" means a change of controlling interest in a funeral establishment or crematory establishment.

"Columbarium" means a structure, room or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.

"Common carrier" means any carrier engaged in the business of transportation of persons or property from place to place for compensation, and who offers services to the public generally.

"Communicable disease" means an illness due to a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal or inanimate reservoir to a susceptible host; either directly or indirectly through an intermediate plant or animal host, vector or the inanimate environment.

"Cremated remains" means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of any foreign matter including casket material, bridgework or eye glasses that were cremated with the human remains.

"Cremation" means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

"Cremation authorization form" means a form, completed and signed, to accompany all human remains accepted for cremation.

"Cremation chamber" means the enclosed space within which the cremation takes place.

"Cremation establishment" means a place of business which provides any aspect of cremation services.

"Cremation permit" means a permit issued by a medical examiner allowing cremation of human remains.

"Cremation room" means the room in which the cremation chamber is located.

"Crematory" means any person, partnership or corporation that performs cremation.

"Crypt" means a chamber in a mausoleum of sufficient size to contain casketed human remains.

"Custody" means immediate charge and control exercised by a person or an authority.

"Dead body." See *"Human remains."*

"Death certificate" means a legal document containing vital statistics pertaining to the life and death of the decedent.

"Decedent." See *"Human remains."*

"Disinterment" means to remove human remains from their place of final disposition.

"Disinterment application" means a legal document requesting authorization from the department of public health to disinter a casketed human remains or an urn containing cremated remains from its place of final disposition.

"Disinterment application number" means the number assigned to a disinterment application by the department of public health, giving the funeral director the authority to disinter a casketed human remains or an urn containing cremated remains from its place of final disposition.

"Embalming" means the disinfecting or preserving of dead human remains, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by surface application into or on the organs or cavities for the purpose of preservation or disinfection.

"Entombment" means to place a casketed body or an urn containing cremated remains in a structure such as a mausoleum, crypt, tomb or columbarium.

"Final disposition" means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

"First call" means the original notification to the funeral director indicating the place of death from which the human remains are to be removed.

"Funeral ceremony" means a service commemorating the decedent.

"Funeral director" means a person licensed by the board to practice mortuary science.

"Funeral establishment" means a place of business as defined by the board devoted to providing any aspect of mortuary science.

"Funeral rule" means the Federal Trade Commission rule.

"Funeral services" means any services which may be used to (1) care for and prepare deceased human remains for burial, cremation or other final disposition; and (2) arrange, supervise or conduct the funeral ceremony or final disposition of deceased human remains.

"Holding facility" means an area isolated from the general public that is designated for the temporary retention of human remains.

"Human remains" means a deceased human being for which a death certificate or fetal death certificate is required.

"Interment" means to place a casketed human remains or an urn containing cremated remains in the ground.

"Intern" means a person registered by the board to practice mortuary science under the direct supervision of a preceptor certified by the board pursuant to 645—subrule 101.5(2).

"Mausoleum" means an aboveground structure designed for entombment of human remains.

"Medical examiner" means a public official whose primary function is to investigate and determine cause of death when death may be thought to be from other than natural causes.

"Memorial ceremony" means a service commemorating the decedent.

"Niche" means a recess or space in a columbarium or mausoleum used for placement of cremated human remains.

"Outer burial container" means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.

"Preparation room" means a room in a funeral establishment where human remains are prepared, sanitized, embalmed or held for ceremonies and final disposition.

"Pulverization" means a process following cremation which reduces identifiable bone fragments into granulated particles.

"Removal" means the act of taking a human remains from the place of death or place where a human remains is being held, to a funeral establishment or other designated place.

"Scattering area" means a designated area where cremated remains may be commingled with other cremated remains.

"Temporary cremated remains container" means a durable receptacle designed for short-term retention of cremated remains.

"Their own dead" refers to the legal authority the authorized person has regarding a human remains.

"Topical disinfection" means the direct application of chemical substances on the surface of a human remains for the purpose of preservation or disinfection.

"Transfer." See *"Removal."*

"Universal precautions" means a concept of care based upon the assumption that all blood and body fluids, and materials that have come into contact with blood or body fluids, are potentially infectious.

"Urn" means a receptacle designed for permanent retention of cremated remains.

645—100.2(156) Funeral director duties.

100.2(1) Practices requiring a funeral director's license include but are not limited to:

a. Removal as specified in rule 645—100.4(142,156).

b. Embalming deceased human beings as specified in rule 645—100.6(156).

c. Conducting funeral arrangements as specified in subrule 100.7(2).

d. Conducting funeral services when contracted to do so, including:

(1) Direct supervision of visitation and viewing.

(2) Funeral and memorial ceremonies.
(3) Committal and final disposition services.
e. Cremation services as specified in rule 645—100.10(156).
f. Signing death certificates.

100.2(2) Registered interns. Registered interns may provide funeral director services identified in subrule 100.2(1), paragraphs *"a"* through *"e,"* under the direct supervision of an Iowa-licensed preceptor. Registered interns shall not sign death certificates.

100.2.(3) CDC universal precautions and OSHA standards. The funeral director shall observe current guidelines of universal precautions as prescribed by the Centers for Disease Control (CDC) as well as Occupational Safety and Health Administration (OSHA) standards.

645—100.3(156) Permanent identification tag.

100.3(1) The funeral director who assumes possession of the human remains shall attach a permanent identification tag.

100.3(2) The identification tag shall initially contain, at a minimum, the name of the deceased.

100.3(3) Before final disposition, the identification tag shall contain the name of the deceased, date of birth, date of death and social security number of the deceased and the name and license number of the funeral home in charge of disposition.

100.3(4) The identification tag shall be attached to the remains throughout the entire time the body is in the possession of the funeral home and shall remain with the human remains.

645—100.4(142,156) Removal and transfer of dead human remains and fetuses.

100.4(1) Removal and transfer of dead human remains. The funeral director shall perform the following duties upon notification of a death.

a. Comply with jurisdictional authority, with respect to medico-legal responsibilities, regarding the removal of the human remains.

b. Provide signature and license number when removing a dead human remains from a hospital, nursing establishment or any other institution involved with the care of the public.

c. Inquire if an autopsy is to be performed and whether embalming is to be performed prior to the autopsy or following.

d. Obtain authorization for embalming from an authorized person.

100.4(2) After the funeral director has assumed custody of the human remains, provided that death was not caused by a reportable communicable disease, the funeral director may delegate the task of transferring the dead human remains to an unlicensed employee or agent. Prior to transfer, the funeral director shall topically disinfect the body, secure all body orifices to retain all secretions, place the human remains in a leakproof container for transfer that will control odor and prevent the leakage of body fluids, and issue a burial transit permit. If the decedent died of a reportable communicable disease, transfer shall only be made by a funeral director.

645—100.5(135,144) Burial transit permits. A licensed funeral director may issue a burial transit permit for the removal and transfer of dead human remains and such burial transit permit shall be issued in accordance with state law and the administrative rules promulgated by the department of public health regarding burial transit permits.

645—100.6(156) Prepreparation and embalming activities.

100.6(1) The funeral director shall perform the following duties prior to and during embalming according to commonly accepted industry standards.

a. Permission for embalming. If permission to embalm cannot be obtained after a diligent attempt to contact the authorized person, the funeral director may proceed with the embalming without the permission of the authorized person.

b. If the funeral director has knowledge that the decedent died of a reportable communicable disease, the human remains shall be embalmed without the permission of the authorized person, unless cremation is performed within 48 hours after death.

c. Embalming shall be done entirely in private. No one except the funeral director, intern, immediate family, or student shall be allowed in the preparation room without the written permission of the authorized person. A student must be under the direct physical supervision of the funeral director and currently enrolled and attending a program of mortuary science which is recognized by the board to be allowed in the preparation room during the embalming without written permission.

d. The human remains shall be properly covered at all times.

e. Conduct a preembalming case analysis of the human remains. Recognize the potential chemical effects on the body and select the proper embalming chemicals based upon the analysis.

f. Position the human remains on the preparation table and pose the facial features.

g. Select points of drainage and injection, and raise the necessary vessels.

h. Embalming shall include arterial and cavity injection of embalming chemicals. If the condition of the human remains does not allow arterial and cavity injection of embalming chemicals, topical embalming, using appropriate chemicals and procedures, shall be performed.

i. Once the arterial and cavity injection of the embalming chemicals is complete, evaluate the distribution of the embalming chemicals and perform treatment for discoloration, vascular difficulties, decomposition, dehydration, purge and close any incisions.

100.6(2) Reportable communicable diseases. For the purpose of the rules under this chapter, the diseases listed in 641—paragraph 1.3(1)*"a"* are classified as communicable and reportable in Iowa. Refer to this paragraph for a current list of these diseases.

100.6(3) Postembalming activities. The funeral director shall perform the following duties at the conclusion of the embalming activities if necessary.

a. Pack or otherwise secure all body orifices with material which will absorb and retain all secretions.

b. Apply chemicals topically and perform hypodermic treatments.

c. Bathe, disinfect and reposition the human remains.

d. Clean and disinfect the embalming instruments, equipment and preparation room.

e. Perform any restorative treatments.

f. Select and apply the appropriate cosmetic treatments.

g. Prepare the human remains for viewing.

100.6(4) Care of the unembalmed human remains.

a. When death is not attributed to a reportable communicable disease, embalming may be omitted provided that interment or cremation is performed within 48 hours after death or within 24 hours of taking custody if the human remains were previously in the custody of others, whichever is longer.

b. When death is attributed to a reportable communicable disease, embalming may be omitted provided that cremation is performed within 48 hours after death. In such cases, the human remains shall be immediately topically disinfected, placed in a container that will control odor and prevent the leakage of body fluids and shall only be transported to the crematory by the funeral director or intern.

c. If viewing of the unembalmed human remains is requested, the human remains shall be topically disinfected and all body orifices shall be packed or otherwise secured with material which will absorb and retain all secretions. No public viewing will be allowed of an unembalmed decedent who has died of a reportable communicable disease, but private viewing is permissible at the discretion of the funeral director.

645—100.7(156) Arranging and directing funeral and memorial ceremonies.

100.7(1) *The Federal Trade Commission.* The funeral director shall observe current guidelines of the Federal Trade Commission (FTC) funeral rule.

100.7(2) *Arrangement conference activities.* If responsible the funeral director shall perform the following duties associated with arranging ceremonies and the final disposition of a human remains.

a. Gather necessary statistical and biographical information relating to the decedent and explain the varied use of the information gathered.

b. Present, discuss and explain the mandated Federal Trade Commission price lists and assist or provide the consumer with:

(1) The types of ceremony or final disposition.

(2) The specific goods and services.

(3) The prices of any goods and services.

(4) The written, itemized statement of the funeral goods and services.

(5) A general price list.

At the conclusion of arrangements the itemized statement shall be signed by the purchaser and the funeral director.

100.7(3) *Directing of funeral and memorial ceremonies.* If responsible, the funeral director shall perform the following duties:

1. Direct and supervise ceremonies.

2. Direct and supervise final disposition.

645—100.8(142,156) Unclaimed dead human remains for scientific use.

100.8(1) A human remains is unclaimed when:

a. The decedent did not express a desire to be interred, entombed or cremated.

b. Relatives or friends of the decedent did not request that the human remains be interred, entombed or cremated.

100.8(2) Friend distinguished from casual acquaintance. A friend shall be distinguished from a casual acquaintance by the friend's having been closely associated with the decedent during the decedent's lifetime.

100.8(3) Delivery of human remains for scientific purposes. The funeral director, the medical examiner or managing officer of a public health institution, hospital, county home, penitentiary or reformatory shall notify the state department of public health as soon as any human remains, which are unclaimed and may be suitable for scientific purposes, shall come into their custody.

100.8(4) Department instructions. When the department of public health receives notice, the funeral director shall be instructed as to the proper disposition of the human remains.

100.8(5) Expenses incurred by funeral director. The expenses incurred by the funeral director for the transportation of the human remains to a medical college shall be paid by the medical college receiving the human remains.

645—100.9(144) Disinterments. A funeral director in charge of a disinterment shall ensure that the disinterment is performed in accordance with rules promulgated by the Iowa department of public health and shall first secure a disinterment application issued by the Iowa department of public health.

1. No person shall disinter a human remains or cremated remains unless the funeral director, in charge of the disinterment, has a numbered disinterment application which has been issued by the department of public health or by an order of the district court of the county in which the human remains or cremated remains are interred or entombed.

2. All disinterment applications shall be requested and provided by the department of public health.

3. All disinterment applications shall be signed by the authorizing person.

4. Disinterment applications shall be furnished upon request from the department of public health and will remain valid for 30 days after issuance.

5. Disinterment numbers will only be issued to the funeral director, and the disinterment must be done under the direct supervision of the funeral director.

6. Disinterment applications and numbers shall be required for any relocation of a human remains or cremated remains from the original site of interment or entombment.

7. No disinterment application or number is necessary to remove a human remains or cremated remains from a holding facility for interment or entombment in the same cemetery where being temporarily held.

645—100.10(156) Cremation of human remains and fetuses.

100.10(1) *Record keeping.*

a. Delivery receipt. When a human remains is delivered to a crematory, the crematory shall furnish to the delivery person a delivery receipt containing:

(1) The name, address, age, gender, and cause of death of the human remains that are delivered to the crematory.

(2) The date and time of delivery and the type of container that contains the human remains.

(3) If applicable, the name of the funeral director who sent the human remains and the name and license number of the funeral director's associated funeral establishment.

(4) The signature of the person who delivered the human remains.

(5) The signature of the person receiving the human remains on behalf of the crematory.

(6) The name and business address of the crematory establishment.

The crematory shall retain a copy of this receipt in its permanent records.

b. Receiving receipt. The crematory authority shall furnish to any person who receives the cremated remains from the crematory a receiving receipt containing:

(1) The name of the decedent whose cremated remains are released from the crematory.

(2) The date and time when the cremated remains were released from the crematory.

(3) The name of the person to whom the cremated remains are released and the name and license number of the funeral establishment, cemetery, family or other person or entity with which they are affiliated.

(4) The signature of the person who receives the cremated remains.

(5) The signature of the person who released the cremated remains on behalf of the crematory.

(6) The name of the crematory operator and the date and time of the cremation.

The crematory shall retain a copy of this receipt in its permanent records.

c. Permanent record. A crematory shall maintain at its place of business a permanent record that includes the following:

(1) Name of deceased person.

(2) Date and time of the cremation.

(3) Copies of the delivery receipt and the receiving receipt.

(4) Disposition of the cremated remains.

(5) Cremation authorization.

(6) Permit for cremation from a medical examiner if required in jurisdiction of death.

100.10(2) *Employment of a funeral director by a crematory.* No aspect of these rules shall be construed to require a funeral director to supervise or perform any functions at a crematory not otherwise required by law to be performed by a funeral director. The crematory establishment shall contract only with a licensed funeral establishment and shall not contract directly with the general public.

100.10(3) *Authorizing person and preneed cremation arrangements.* The authorized person has legal authority and may make decisions regarding the final disposition of the decedent. If the decedent in the decedent's lifetime requested that the decedent's body be cremated by signing a cremation authorization, the authorized person at the time of death may revoke the cremation authorization to cancel the cremation.

100.10(4) *Authorization to cremate.*

a. The crematory shall have the authority to cremate human remains upon the receipt of the following:

(1) Cremation authorization form signed by the authorizing person. The cremation authorization form shall contain the following:

1. The name, address, age and gender of the decedent whose human remains are to be cremated.

2. The date, time of death and cause of death of the decedent.

3. The name and license number of the funeral establishment and of the funeral director who obtained the cremation authorization form signed by the authorizing person.

4. The signature of the funeral director.

5. The name and address of the crematory authorized to cremate the human remains.

6. The name and signature of the authorizing person granting permission to cremate the human remains and the authorizing person's relationship to the decedent.

7. A representation that the authorizing person has the right to authorize the cremation of the decedent in accordance with this rule.

8. A representation that in the event there is another person who has superior priority right to that of the authorizing person, the authorizing person has made all reasonable efforts to contact that person and has no reason to believe that the person would object to the cremation of the decedent.

9. A representation that the human remains do not contain any material or implants that may be potentially hazardous to equipment or persons performing the cremation.

10. A representation that the authorizing person has made a positive identification of the decedent or, if the authorizing person is unavailable or declines, there are alternative means of positive identification.

11. The name of the person, funeral establishment or funeral establishment's designee to which the cremated remains are to be released.

12. The manner of the final disposition of the cremated remains.

13. A listing of all items of value and instructions for their disposition.

(2) Permit for cremation from a medical examiner if required in jurisdiction of death.

(3) Any other documentation required by this state.

b. If the authorizing person is not available to execute the cremation authorization form in person, the funeral director may accept written authorization by facsimile, E-mail, or such alternative written or electronic means the funeral director reasonably believes to be reliable and credible.

c. The authorizing person may revoke the authorization and instruct the funeral director or funeral establishment to cancel the cremation. The crematory shall honor any instructions from a funeral director or funeral establishment under this rule if the crematory receives instructions prior to beginning the cremation.

100.10(5) *Cremation procedures.*

a. A crematory shall cremate within 48 hours of death or within 24 hours of taking custody if the human remains were previously in the custody of others, whichever is longer.

b. No crematory shall cremate human remains when it has actual knowledge that the human remains contain a pacemaker or have any other implants or materials which will present a health hazard to those performing the cremation and processing and pulverizing the cremated remains.

c. No crematory shall refuse to accept human remains for cremation because such human remains are not embalmed.

d. Whenever a crematory is unable or unauthorized to cremate human remains immediately upon taking custody of the remains, the crematory shall place the human remains in a holding facility in accordance with the crematory rules and regulations and within the parameters of rules 100.5(135,144) and 100.6(156).

e. No crematory shall accept human remains unless they are delivered to the crematory in a container which prevents the leakage of body fluids.

f. Under no circumstances shall an alternative container or casket be opened at the cremation establishment except to facilitate proper cremation.

g. The container in which the human remains are delivered to the crematory shall be cremated with the human remains or safely destroyed.

h. The simultaneous cremation of the human remains of more than one person within the same cremation chamber, without the prior written consent of the authorized person, is prohibited. Nothing in this rule, however, shall prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the crematory from multiple sources, or the use of cremation equipment that contains more than one cremation chamber.

i. No unauthorized person shall be permitted in the holding facility or cremation room while any human remains are being held there awaiting cremation, being cremated, or being removed from the cremation chamber.

j. A crematory shall not allow removal of any dental gold, body parts, organs, or any item of value prior to or subsequent to a cremation without previously having received specific written authorization from the authorizing person and written instructions for the delivery of these items to the authorizing person.

k. Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process shall be removed from the cremation chamber.

l. If all of the recovered cremated remains will not fit within the receptacle that has been selected, the remainder of the cremated remains shall be returned to the authorizing person or this person's designee in a separate container. The crematory shall not return to an authorized person or this person's designee more or less cremated remains than were removed from the cremation chamber.

m. A crematory shall not knowingly represent to an authorized person or this person's designee that a temporary cremation container or urn contains the cremated remains of a specific decedent when it does not.

n. Cremated remains shall be shipped only by a method that has an internal tracing system available and that provides a receipt signed by the person accepting delivery.

o. A crematory shall maintain an identification system that shall ensure the identity of human remains in its possession throughout all phases of the cremation process. A noncombustible tag or disc that includes the name and license number of the crematory and the city and state where the crematory is located shall be attached to the plastic bag with the cremated remains or placed in amongst the cremated remains.

100.10(6) *Disposition of cremated remains.* If responsible, the funeral director shall supervise the final disposition of the cremated remains as follows:

a. Cremated remains may be disposed of by placing them in a grave, crypt, or niche; by scattering them in a scattering area as defined in these rules; or they may remain in the personal care and custody of the authorized person. After supervising the transfer of cremated remains to the authorized person or place of final disposition, the funeral director shall be discharged.

b. Upon the completion of the cremation process, the crematory shall release the cremated remains to the funeral establishment or the authorized person or the authorized person's designee. Upon the receipt of the cremated remains, the individual receiving them may transport them in any manner in this state without a permit and may dispose of them in accordance with this rule. After releasing the cremated remains, the crematory shall be discharged from any legal obligation or liability concerning the cremated remains.

c. If, after a period of 60 days from the date of the cremation, the authorizing person or designee has not instructed the funeral director to arrange for the final disposition of the cremated remains, the funeral director may dispose of the cremated remains in any manner permitted by this rule. The funeral establishment, however, shall keep a permanent record identifying the site of final disposition. The authorizing person shall be responsible for reimbursing the funeral establishment for all reasonable expenses incurred in disposing of the cremated remains. Any entity that was in possession of cremated remains prior to the effective date of these rules may dispose of them in accordance with this rule.

d. Except with the express written permission of the authorizing person, no funeral director or cremation establishment shall:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition shall not apply to the scattering of cremated remains in an area located in a cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary cremation container or urn.

100.10(7) *Scope of rules.* These rules shall be construed and interpreted as a comprehensive cremation statute, and the provisions of these rules shall take precedence over any existing laws

containing provisions applicable to cremation, but that do not specifically or comprehensively address cremation.

100.10(8) *Establishment rule.* Rescinded IAB 4/2/03, effective 5/7/03.

These rules are intended to implement Iowa Code chapters 147, 156, and 272C.

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CHAPTER 101
LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND CREMATION ESTABLISHMENTS

[Prior to 9/21/88, see Health Department[470] Ch 147]
[Prior to 7/10/02, see 645—100.9(156) and 645—100.10(156)]

645—101.1(156) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of mortuary science.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a funeral director in the state of Iowa.

"License expiration date" means the fifteenth day of the birth month every two years following initial licensure.

"Licensure by endorsement" means the issuance of an Iowa license to practice mortuary science to an applicant who is or has been licensed in another state.

"Reactivate" or *"reactivation"* means the process as outlined in rule 101.18(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice mortuary science to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of mortuary science to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—101.2(156) Requirements for licensure. The following criteria shall apply to licensure:

101.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Mortuary Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

101.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

101.2(3) Each application shall be accompanied by the appropriate fees payable to the Board of Mortuary Science. The fees are nonrefundable.

101.2(4) No application will be considered by the board until official copies of academic transcripts showing the completion of training in a college of mortuary science approved by the Iowa board of mortuary science have been sent directly from the school to the board.

101.2(5) Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

101.2(6) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—101.3(156) Educational qualifications.

101.3(1) The applicant shall be issued a license to practice mortuary science by the board when the applicant has successfully completed:

a. A minimum of 60 hours as indicated on the transcript from a regionally accredited college or university with a minimum of a 2.0 or "C" grade point average. The 60 semester hours shall not include any technical mortuary science courses; and

b. A program in mortuary science from a school accredited by the American Board of Funeral Service Education.

c. Prior to July 1, 2007, an examination covering the Iowa law and rules for mortuary science with a score of at least 75 percent, or a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. Beginning July 1, 2007, a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

101.3(2) Foreign-trained funeral directors shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or E-mail at info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a mortuary science program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

d. Prior to July 1, 2007, successfully pass an examination covering the Iowa law and rules for mortuary science with a score of at least 75 percent or a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. Beginning July 1, 2007, successfully complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

645—101.4(156) Examination requirements.

101.4(1) The board shall accept a certificate of examination issued by the International Conference of Funeral Service Examining Boards, Inc., indicating a passing score on both the arts and sciences portions of the examination.

101.4(2) Prior to being registered as an intern in Iowa and prior to July 1, 2007, an applicant shall be required to pass an examination covering the Iowa law and rules for mortuary science or a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. A 75 percent score shall be required for passing this examination. Beginning July 1, 2007, prior to being registered as an intern in Iowa, an applicant shall successfully complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

645—101.5(147,156) Internship and preceptorship.

101.5(1) *Internship.*

a. The intern must serve a minimum of one year of internship under the direct supervision of an Iowa board-certified preceptor. The beginning and ending dates of the internship shall be indicated on the internship certificate. The intern shall engage in the practice of mortuary science only during the time

indicated on the internship certificate. The intern must be approved and licensed following a successful internship before the intern may practice mortuary science.

b. The intern shall, during this internship, embalm not fewer than 25 human remains and direct or assist in the direction of not fewer than 25 funerals under the direct supervision of the certified preceptor and report on forms furnished by the department of public health. Work on the first 5 embalming cases and funeral cases must be completed in the physical presence of the preceptor. The first 12 embalming cases and first 12 funeral case reports must be completed and submitted by the completion of the sixth month of the internship.

c. Before being eligible for licensure, the intern must have filed the 25 completed embalming and funeral directing case reports and a 6-month and a 12-month evaluation form with the department of public health.

d. No licensed funeral director shall permit any person in the funeral director's employ or under the funeral director's supervision or control to serve an internship in funeral directing unless that person has a certificate of registration as a registered intern from the department of public health.

e. No licensed funeral director or licensed funeral establishment shall have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per funeral establishment.

f. Registered interns shall not advertise or hold themselves out as funeral directors or use the degree F.D. or any other title or abbreviation indicating that the intern is a funeral director.

g. The length of an internship may be extended if the board determines that the intern requires additional time or supervision in order to meet the minimum proficiency in the practice of mortuary science.

h. Every person who is registered as an intern with the department of public health shall have a registration certificate posted in a conspicuous place in the intern's primary place of practice.

i. Internship begins upon approval and due notification by the board. Application for change of preceptor or any other alteration must be made in writing and approval granted by the board before the status of the intern is altered.

j. When, for any valid reason, the board determines that the education of a registered intern which is being received under the supervision of the present preceptor might be detrimental to the intern or the profession at large, the intern may be required to serve the remainder of the internship under the supervision of a licensed funeral director who meets the approval of the board.

k. The intern shall complete a confidential evaluation of the preceptorship program at the end of the internship on a form provided by the board. This form shall be submitted before the funeral director's license is issued to the intern.

l. The intern shall, during the internship, be a full-time employee with the funeral establishment at the site of internship except as provided in subrule 101.5(2), paragraph *"j."*

101.5(2) *Preceptorship.*

a. A preceptor must have a valid preceptor certificate. A preceptor must have completed a training course within five years prior to accepting an intern. If the certification is older than five years, the funeral director must recertify as specified by the board.

b. Any duly Iowa-licensed funeral director who has been practicing for a minimum of five years and who has not had any formal disciplinary action within the past five years with the board of mortuary science and has completed a board-approved training course will be eligible to be a preceptor. This training course is to cover mortuary science Iowa law and rule content areas including but not limited to Iowa law and rules governing licensure and the practice of mortuary science and human resource issues. The training course may be counted toward the continuing education hours required for that licensing period.

c. Is affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

d. The preceptor is required to file a progress report of the intern that has been signed by both the preceptor and the intern on a board-prescribed form. The 6-month progress report form shall be submitted

to the board by the end of the sixth month. The 12-month progress report form shall be submitted to the board by the end of the twelfth month.

e. The preceptor shall certify that the intern engages in the practice of mortuary science only during the time frame designated on the official intern certificate.

f. A preceptor's duties shall include the following:

(1) Be physically present and supervise the first five embalmings and first five funeral cases;

(2) Familiarize the intern in the areas specified by the preceptor training outline;

(3) Read and sign each of the 25 embalming reports and the 25 funeral directing reports completed by the intern;

(4) Complete a written six-month report of the intern on a form provided by the board. This report is to be reviewed with and signed by the intern and submitted to the board before the end of the seventh month; and

(5) At the end of the internship, complete a confidential evaluation of the intern on a form provided by the board. This evaluation shall be submitted within two weeks of the end of the internship.

g. Failure of a preceptor to fulfill the requirements set forth by the board, including failure to remit the required six-month progress report, as well as the final evaluation, shall result in an investigation of the preceptor by the board.

h. If a preceptor does not serve the entire year, the board will evaluate the situation; and if a certified preceptor is not available, a licensed funeral director may serve with the approval of the board.

i. No licensed funeral director or licensed funeral establishment shall have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per funeral establishment.

j. With prior board approval, an intern may serve under the supervision of more than one preceptor under the following terms and conditions:

(1) A single preceptor must act in the role of the primary preceptor.

(2) The primary preceptor is responsible for coordinating all intern training and activities.

(3) The intern shall be a full-time employee of the funeral establishment of the primary preceptor; however, compensation may be shared between preceptors.

(4) The primary preceptor may make arrangements with a maximum of two additional preceptors to share preceptor responsibilities for such purposes as providing an intern with a higher volume practice or a broader range of intern experiences.

(5) Each preceptor shall be individually responsible for directly supervising the intern's activities performed under the preceptor's guidance, but the primary preceptor remains responsible for coordinating the intern's activities and submitting all forms to the board.

645—101.6(156) Student practicum.

101.6(1) A student may participate in a student practicum in a licensed funeral establishment in Iowa if the student's school is accredited by and in good standing with the American Board of Funeral Service Education (ABFSE). The student practicum must meet the requirements of the ABFSE.

101.6(2) Students serving a practicum in Iowa shall be under the direct physical supervision of a funeral director who meets the following requirements:

a. Has completed the Iowa preceptor training course within the immediately preceding five years.

b. Has not had any formal disciplinary action within the past five years.

c. Is affiliated with a funeral establishment that has not had formal disciplinary action within the past five years.

645—101.7(156) Funeral establishment license or cremation establishment license or both establishment licenses.

101.7(1) Any person or any corporation, partnership, joint venture, limited liability company, voluntary organization or any other entity doing business in this state may erect, maintain, and operate a funeral establishment, cremation establishment, or both establishments, provided the necessary

appliances and facilities for the care, preparation and disposition of human remains are in place and proper licenses are obtained and maintained.

a. A funeral establishment, a cremation establishment, or a combined funeral and cremation establishment shall not be operated until it has obtained a license from the board. Such an establishment shall timely renew the license in order to continue operations.

b. A funeral or cremation establishment shall surrender its license to the board if it fails to engage in or ceases to engage in the business for which the license was issued, pursuant to Iowa Code section 156.15(2)*"d."*

c. A funeral or cremation establishment license is not transferable or assignable.

d. A change in ownership shall require the issuance of a new license. A change in ownership shall be reported to the board prior to the date ownership will change or, in the case of change of ownership by death or other unexpected event, within 30 days following change of ownership. The board may request legal proof of the ownership transfer. A change in ownership shall be defined as any change of controlling interest in any corporation or other business entity.

e. An establishment license shall be issued for a specific physical location. A change in location or site of an establishment shall require the submission of an application for a new license and payment of the fee required by 645—subrule 105.1(9). A new establishment license must be issued prior to the commencement of business in a new location.

f. A change in the name of an establishment shall be reported to the board within 30 days. The establishment owner shall pay the fee for reissuing the certificate.

g. A change in address or of the funeral director in responsible charge shall be reported to the board within 30 days.

h. An establishment shall have an employment or other relationship with one or more licensed funeral directors who shall perform all mortuary science services for which licensure as a funeral director is required by Iowa Code chapter 156. A cremation establishment is not, however, required to employ or contract with a funeral director on an ongoing basis because a cremation establishment shall not offer services directly to the general public. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment shall designate the funeral director who shall be in responsible charge of all mortuary science services performed at the funeral establishment. The funeral establishment shall report to the board any change of the funeral director in responsible charge within 30 days of the change.

i. All funeral or cremation establishments shall maintain the necessary appliances and facilities for the care, preparation and disposition of human remains as are required by all applicable federal, state or local laws, rules, and ordinances. An establishment license shall not be issued to a person or business entity that does not maintain a business at the physical location for which the license was issued.

j. The board shall not routinely issue more than one establishment license for a single location, but the board may do so if the multiple applicants provide proof, satisfactory to the board, that the establishments are wholly separate except for the sharing of facilities. If the board issues more than one establishment license for a single location, the licensees shall ensure that the public will not be confused or deceived as to the establishment with which the public is interacting. A facility may have a funeral establishment license and a separate cremation establishment license at a single location.

k. The establishment license shall be displayed in a conspicuous place at the location of the establishment.

l. Failure to comply with any of these rules shall constitute grounds for discipline pursuant to 645—Chapter 103 or civil penalties for unlicensed practice pursuant to 645—Chapter 104.

101.7(2) A funeral establishment, cremation establishment, or both establishments shall be subject to applicable local, state and federal health and environmental requirements and shall obtain all necessary licenses and permits from the agencies with jurisdiction.

101.7(3) License application. An application for a funeral establishment license, cremation establishment license, or both establishment licenses shall be in writing on forms furnished by the board and shall be accompanied by the funeral or cremation establishment fee. The application shall contain all of the following:

a. The name, mailing address and telephone number of the applicant.

b. The physical location of the establishment.

c. The mailing address, telephone number, fax and E-mail address of the establishment.

d. The name, home address and telephone number of the individual in charge who has the authority and responsibility for the establishment's compliance with laws and rules pertaining to the operation of the establishment.

e. The name and address of all owners and managers of the establishment (e.g., sole proprietor, partner, director, officer, managing partner, member, or shareholder with 10 percent or more of the stock).

f. The legal name of the establishment and all trade names, assumed names, or other names used by the establishment.

g. The signature of the responsible authority at the site of the establishment and an acknowledgment of the funeral director in responsible charge of mortuary science services at the funeral establishment that the funeral director is aware of and consents to the designation.

h. The names and license numbers of all funeral directors employed by or associated with the establishment through contract or otherwise who provide mortuary science services at or for the establishment. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment shall designate the funeral director who shall be in responsible charge of all mortuary science services performed at the funeral establishment. No funeral establishment shall be issued a license if it fails to designate the funeral director in responsible charge of the mortuary science services to be performed at the establishment.

i. All felony or misdemeanor convictions of the applicant and all owners and managing officers of the applicant (except minor traffic offenses with fines of less than $500).

j. All disciplinary actions against any professional or occupational license of the applicant by any jurisdiction including, but not limited to, disciplinary action by the Iowa insurance division under Iowa Code chapter 523A or 523I, or action by the Federal Trade Commission.

k. Further information that the board may reasonably require, such as whether the establishment includes a preparation room.

645—101.8(156) Licensure by endorsement. An applicant who has been a licensed funeral director under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. Applicants licensed before 1980 are exempt from showing a passing grade on the national board examination. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

101.8(1) Submits to the board a completed application;

101.8(2) Pays the licensure fee;

101.8(3) Shows evidence of licensure requirements that are similar to those required in Iowa;

101.8(4) Provides official copies of the academic transcripts showing the completion of a mortuary science program accredited by the American Board of Funeral Service Education;

101.8(5) Provides official transcript of grades showing 60 semester hours from a regionally accredited college or university with a minimum of a 2.0 or "C" grade point average;

101.8(6) Prior to July 1, 2007, successfully passes an examination covering the Iowa law and rules for mortuary science with a score of at least 75 percent or a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. Beginning July 1, 2007, an applicant must complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed;

101.8(7) Furnishes certified evidence of two or more years of actual practice as a licensed funeral director in the state from which the applicant desires to endorse;

101.8(8) Was issued the initial license by endorsement within six months of the birth month and will not be required to renew the license until the fifteenth day of the birth month two years later. The

new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license was originally issued;

101.8(9) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

645—101.9(156) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of funeral directors. The applicant shall take the examination required by the board.

645—101.10(156) License renewal.

101.10(1) The biennial license renewal period for a license to practice as a funeral director shall begin on the sixteenth day of the licensee's birth month and end on the fifteenth day of the licensee's birth month two years later. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license. All licensees shall renew on a biennial basis.

101.10(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal. Effective July 1, 2007, 2 of the 24 hours of continuing education shall be in current Iowa law and rules.

101.10(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—102.2(272C). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

c. Persons licensed to practice funeral directing shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

101.10(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

101.10(5) A person licensed to practice as a funeral director shall keep the license certificate displayed in a conspicuous public place at the primary site of practice.

101.10(6) 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 645—subrule 105.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

101.10(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a funeral director in Iowa until the license is reactivated. A licensee who practices as a funeral director in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—101.11(147) Duplicate certificate or wallet card.

101.11(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

101.11(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—104.1(147,156).

101.11(3) If the board receives a completed application for duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—101.12(147) Reissued 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 645—104.1(147,156).

645—101.13(272C) Renewal of a funeral establishment license or cremation establishment license or both establishment licenses.

101.13(1) The renewal cycle shall be triennial beginning July 1 and ending on June 30 of the third year. The renewal shall be:

a. Submitted on a form provided by the board; and

b. Accompanied by the renewal fee.

101.13(2) A renewal of license application shall be mailed at least 60 days prior to the expiration of the license. Failure to receive the notice shall not relieve the license holder of the obligation to pay triennial renewal fees on or before the renewal date.

101.13(3) Funeral and cremation establishments shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

101.13(4) Late renewal. If the renewal fee and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration shall be charged.

101.13(5) When all requirements for license renewal are met, the licensee shall be sent a license renewal card by regular mail.

645—101.14(272C) Inactive funeral establishment license or cremation establishment license or both establishment licenses.

101.14(1) If the renewal application and fee are not postmarked within 30 days after the license expiration date, the funeral establishment license or cremation establishment license is inactive. To reactivate a funeral establishment license or a cremation establishment license, the reactivation application and fee shall be submitted to the board office.

101.14(2) A funeral establishment or a cremation establishment that has not renewed the funeral establishment license or cremation establishment license within the required time frame will have an inactive license and shall not provide mortuary science services until the license is reactivated.

645—101.15(17A,147,272C) License reinstatement. For a funeral or cremation establishment license that has been revoked, suspended, or voluntarily surrendered, the owner must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 101.14(272C) prior to offering mortuary science services from that establishment in this state.

645—101.16(272C) Reinstatement of a funeral establishment license or a cremation establishment license or both establishment licenses. Rescinded IAB 1/4/06, effective 2/8/06.

645—101.17(17A,147,272C) License denial. Rescinded IAB 1/4/06, effective 2/8/06.

645—101.18(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

101.18(1) Submit a reactivation application on a form provided by the board.

101.18(2) Pay the reactivation fee that is due as specified in 645—Chapter 105.

101.18(3) Provide verification of current competence to practice as a funeral director by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 24 hours of continuing education that meet continuing education standards defined in 645—102.3(156,272C) within two years prior to filing the application for reactivation; and

(3) Verification of completion of 2 hours of continuing education in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. These 2 hours shall be included as a part of the 24 hours required in 101.18(3)*"a"*(2).

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 48 hours of continuing education that meet continuing education standards defined in 645—subrule 102.3(1) and 645—paragraphs 102.3(2)*"a," "b," "c,"* and *"e,"* within two years prior to filing the application for reactivation. Independent study identified in 645—paragraph 102.3(2)*"f"* shall not exceed 24 hours of the 48 hours; and

(3) Prior to July 1, 2007, verification of successful passage of an examination covering the Iowa law and rules for mortuary science with a score of at least 75 percent or a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. Beginning July 1, 2007, verification of completion of a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

645—101.19(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 101.18(17A,147,272C) prior to practicing as a funeral director in this state. The owner of a funeral home establishment whose establishment license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the establishment license and must

apply for and be granted reactivation of the establishment license prior to reopening the funeral home establishment.

These rules are intended to implement Iowa Code chapters 17A, 147, 156 and 272C.

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◊ Two or more ARCs

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CHAPTER 102
CONTINUING EDUCATION FOR FUNERAL DIRECTORS

645—102.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of mortuary science.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Direct supervision" means under the direction and immediate supervision of a licensed funeral director.

"Full-time" means a minimum of a 35-hour work week.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in these rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a funeral director in the state of Iowa.

645—102.2(272C) Continuing education requirements.

102.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on the fifteenth day of the licensee's birth month and ending on the fifteenth day of the licensee's birth month. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 24 hours of continuing education approved by the board. Two of the 24 hours of continuing education shall be in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. Beginning January 1, 2009, 12 hours of the 24 hours of continuing education required for renewal shall be earned by completing a program in which an instructor conducts the class employing either in-person or live, real-time interactive media.

102.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal.

102.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

102.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

102.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—102.3(156,272C) Standards.

102.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters.

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

102.3(2) *Specific criteria.*

a. The following categories of continuing education are accepted:

(1) Public health and technical: chemistry, microbiology and public health, anatomy, pathology, restorative art, arterial and cavity embalming.

(2) Business management: accounting, funeral home and crematory management and merchandising, computer application, funeral directing, and small business management.

(3) Social sciences/humanities: psychology of grief, counseling, sociology of funeral service, history of funeral service, communication skills, and philosophy.

(4) Legal, ethical, regulatory: mortuary law; business law; ethics; Federal Trade Commission, OSHA, ADA, and EPA regulations; preneed regulation; social services; veterans affairs benefits; insurance; state and county benefits; legislative concerns. Insurance shall be related to life insurance and shall not exceed 8 hours each biennium.

b. Academic coursework that meets the criteria set forth in the rule is accepted. Continuing education credit equivalents are as follows:

1 academic semester hour = 10 continuing education hours

1 academic trimester hour = 8 continuing education hours

1 academic quarter hour = 7 continuing education hours

A course description and an official school transcript indicating successful completion of the course must be provided by the licensee to receive credit for an academic course if continuing education is audited.

c. Attendance at or participation in a program or course which is offered or sponsored by a state or national funeral association that meets the criteria in paragraph 102.3(2)*"a."*

d. Independent study, including television viewing, Internet, video- or sound-recorded programs, or correspondence work, or by other similar means that meet the criteria in paragraph 102.3(2)*"a."* Independent study credits must be accompanied by a certificate from the sponsoring organization that indicates successful completion of the test. After January 1, 2009, continuing education credit obtained by independent study shall not exceed 12 hours of the 24 hours required during the compliance period.

e. Presentations of a structured continuing education program or a college course that meets the criteria established in standards for approval may receive 1.5 times the number of hours granted the attendees. These hours shall be granted only once per biennium for identical presentations.

f. Two of the 24 hours of continuing education shall be in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

645—102.4(156,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

102.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

102.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

102.4(3) For auditing purposes, all licensees must retain the information identified in subrule 102.4(2) for two years after the biennium has ended.

102.4(4) Information identified in subrule 102.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

102.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

102.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—102.5(156,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—102.6(272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

102.6(1) Failure to cooperate with a board audit.

102.6(2) Failure to meet the continuing education requirement for licensure.

102.6(3) Falsification of information on the license renewal form.

102.6(4) Falsification of continuing education information.

645—102.7(272C) Continuing education waiver for active practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—102.8(272C) Continuing education exemption for inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—102.9(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver to a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify

status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

102.9(1) The board may grant an extension of time to fulfill the continuing education requirement.

102.9(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

102.9(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—102.10(272C) Reinstatement of inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—102.11(272C) Hearings. Rescinded IAB 7/6/05, effective 8/10/05.

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CHAPTER 103
DISCIPLINARY PROCEEDINGS

[Prior to 7/10/02, see 645—101.7(272C) to 645—101.10(272C)]

645—103.1(156) Definitions.

"Board" means the board of mortuary science.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means an individual licensed pursuant to Iowa Code section 156.4 to practice as a funeral director in Iowa and a person issued an establishment license pursuant to Iowa Code section 156.14 to establish, conduct, or maintain a funeral establishment or cremation establishment in Iowa.

645—103.2(17A,147,156,272C) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 147, 156, and 272C and related administrative rules for the protection and well-being of those persons who may rely upon licensed individuals and establishments for the performance of mortuary science services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of licensees, to determine whether disciplinary proceedings are warranted, to initiate and prosecute disciplinary proceedings, to establish standards of professional conduct, and to impose discipline pursuant to Iowa Code sections 17A.13, 147.55, 272C.3 to 272C.6 and 272C.10 and Iowa Code chapter 156.

645—103.3(17A,147,156,272C) Grounds for discipline against funeral directors. The board may initiate disciplinary action against a licensed funeral director based on any of the following grounds:

103.3(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

103.3(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

d. Failure to conform to the minimal standards of acceptable and prevailing practice of a funeral director in this state.

103.3(3) Deceptive practices. Deceptive practices are grounds for discipline, whether or not actual injury is established, and include:

a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of mortuary science.

b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

c. Acceptance of any fee by fraud or misrepresentation.

d. Falsification of business records through false or deceptive representations or omissions.

e. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.

f. Knowingly misrepresenting any material matter to a prospective purchaser of funeral merchandise, furnishings, or services.

g. Representing oneself as a funeral director when one's license has been suspended, revoked, or surrendered, or when one's license is on inactive status.

h. Permitting another person to use the licensee's license for any purposes.

i. Misrepresenting the legal need or other requirement for embalming.

j. Fraud in representations as to skill or ability.

103.3(4) Unethical, harmful or detrimental conduct. Licensees engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct which are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

a. Practice outside the scope of the profession which requires licensure by a different professional licensing board.

b. Any violation of Iowa Code section 144.32.

c. Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of mortuary science or such behavior otherwise provides a reasonable basis for the board to conclude that such behavior would place the public at risk within the practice of mortuary science.

d. Betrayal of a professional confidence.

e. Engaging in a professional conflict of interest.

f. Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

g. Embalming or attempting to embalm a deceased human body without first having obtained authorization from a family member or representative of the deceased, except where embalming is done to meet the requirements of applicable state or local law. However, a funeral director may embalm without authority when, after due diligence, no authorized person can be contacted and embalming is in accordance with legal or accepted standards in the community, or the licensee has good reason to believe that the family wishes embalming. The order of priority for those persons authorized to permit embalming is found in Iowa Code section 142A.2(2). If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the prohibition in this paragraph.

h. Failure to keep and maintain records as required by Iowa Code chapter 156 and associated rules.

103.3(5) Unlicensed practice.

a. Practicing mortuary science when one's license has been suspended, revoked, or surrendered, or when one's license is on inactive status.

b. Practicing mortuary science within an unlicensed funeral or cremation establishment.

c. Permitting an unlicensed employee or other person under the licensee's control or supervision to perform activities requiring a license.

d. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice mortuary science, or aiding or abetting a licensee, license applicant or unlicensed person in committing any act or omission which is grounds for discipline under this rule or is an unlawful act by a nonlicensee under Iowa Code section 156.16.

103.3(6) Lack of proper qualifications.

a. Continuing to practice as a funeral director without satisfying the continuing education mandated by 645—Chapter 102.

b. Acting as a preceptor or continuing education provider without proper board approval or qualification.

c. Habitual intoxication or addiction to the use of drugs, or impairment which adversely affects the licensee's ability to practice in a safe and competent manner.

d. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications which are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2)*"b."*

103.3(7) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes:

a. A failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results.

b. Any conduct, practice or condition which impairs a licensee's ability to safely and skillfully practice the profession.

103.3(8) Professional misconduct.

a. Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

b. Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of mortuary science, including, but not limited to, Iowa Code chapters 272C, 144, 147, 156, 523A, 523I, 566, and 566A; board rules, including rules of professional conduct set forth in 645—Chapter 100; and regulations promulgated by the Federal Trade Commission relating to funeral services or merchandise, or funeral or cremation establishments, as applicable to the profession. Any violation involving deception, dishonesty or moral turpitude shall be deemed related to the practice of mortuary science.

c. Engaging in any conduct that subverts or attempts to subvert a board investigation, or failure to fully cooperate with a licensee disciplinary investigation or investigation against a nonlicensee, including failure to comply with a subpoena issued by the board or to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the licensee's last address on file at the board office.

d. Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated.

103.3(9) Willful or repeated violations. The willful or repeated violation of any provision of Iowa Code chapter 147, 156, or 272C.

103.3(10) Failure to report.

a. Failure by a licensee or an applicant for licensure to report in writing to the board any revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action.

b. Failure of a licensee or an applicant for licensure to report, within 30 days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action.

c. Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

d. Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

e. Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

f. Failure to report a change of name or address within 30 days after it occurs.

103.3(11) Failure to comply with board order.

a. Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

b. Failure to pay costs assessed in any disciplinary action.

103.3(12) Conviction of a felony. Conviction of a felony related to the practice of mortuary science or the conviction of any felony that would affect the licensee's ability to practice mortuary science. A copy of the record of conviction or plea of guilty shall be conclusive evidence. "Conviction" shall include any plea of guilty, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred. Any felony involving deception, dishonesty or moral turpitude shall be deemed related to the practice of mortuary science. "Moral turpitude" includes any act which is so contrary to justice or good

morals or is so reprehensible as to undermine the public confidence and trust imposed upon the licensee as a funeral director in this state.

103.3(13) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

103.3(14) Failure to comply with conditions of Iowa Code section 142C.10.

645—103.4(17A,147,156,272C) Grounds for discipline against funeral establishments and cremation establishments. The board may initiate disciplinary action against a funeral establishment or cremation establishment, at time of license application or thereafter, based on all grounds set forth in Iowa Code section 156.15, summarized as follows:

103.4(1) The licensee or applicant has been convicted of a felony or any crime related to the practice of mortuary science or implicating the establishment's ability to safely perform mortuary science services, or if the applicant is an association, joint stock company, partnership, or corporation, the managing officer or owner has been convicted of such a crime under the laws of this state, another state, or the United States.

103.4(2) The licensee or applicant, or any owner or employee of the establishment has violated Iowa Code chapter 156, rule 645—103.3(17A,147,156,272C), or any other rule promulgated by the board.

103.4(3) The licensee or applicant knowingly aided, assisted, procured, or allowed a person to unlawfully practice mortuary science.

103.4(4) The licensee or applicant failed to engage in or ceased to engage in the business described in the application for licensure.

103.4(5) The licensee or applicant failed to keep and maintain records as required by Iowa Code chapter 156 or rules promulgated by the board.

645—103.5(17A,147,156,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revoke a license.
2. Suspend a license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the licensee's engaging in specified procedures, methods, or acts.
4. Place a licensee on probation and impose such conditions as the board may reasonably impose including, but not limited to, requiring periodic reporting to the board designated features of the licensee's practice of mortuary science.
5. Require additional education or training. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for license renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a license.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1,000 against an individual licensed as a funeral director, or not to exceed $10,000 against a licensed funeral establishment or cremation establishment. Civil penalties may be imposed for any of the disciplinary violations specified in 645—103.3(17A,147,156,272C) and 103.4(17A,147,156,272C), as applicable.
9. Issue a citation and warning, or reprimand.
10. Refuse to issue or renew a license.
11. Such other sanctions allowed by law as may be appropriate.

645—103.6(17A,147,156,272C) Board discretion in imposing disciplinary sanctions. Factors the board will consider when determining the nature and severity of the disciplinary sanction to be imposed, including whether to assess and the amount of civil penalties, include:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state.
2. Whether the amount of a civil penalty will be a substantial deterrent to the violation.
3. The circumstances leading to the violation.
4. The risk of harm to the public.
5. The economic benefits gained by the licensee as a result of the violation.
6. The interest of the public.
7. Evidence of reform or remedial action.
8. Time lapsed since the violation occurred.
9. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
10. The clarity of the issues involved.
11. Whether the violation was willful and intentional.
12. Whether the nonlicensee acted in bad faith.
13. The extent to which the licensee cooperated with the board.
14. Whether a licensee holding an inactive, suspended, restricted or revoked license engaged in practices which require licensure.
15. Any extenuating factors or other countervailing considerations.
16. Number and seriousness of prior violations or complaints.
17. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—103.7(156) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

103.7(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

103.7(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

103.7(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding

and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

103.7(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

103.7(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

103.7(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

103.7(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

645—103.8(17A,147,156,272C) Informal discussion. If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. The licensee is not required to attend the informal discussion. By electing to attend, the licensee waives the right to seek disqualification, based upon personal investigation of a board or staff member, from participating in making a contested case decision or acting as a presiding officer in a later contested case proceeding. Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges shall be filed simultaneously with the consent order.

These rules are intended to implement Iowa Code chapters 17A, 147, 156, and 272C.

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CHAPTER 104
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

645—104.1(156) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 156.16. In addition to the procedures set forth in Iowa Code section 156.16, this chapter shall apply.

645—104.2(156) Unlawful practices. Practices by unlicensed persons or establishments which are subject to civil penalties include, but are not limited to:

1. Acts or practices by unlicensed persons which require licensure as a funeral director under Iowa Code chapter 156.
2. Acts or practices by unlicensed establishments which require licensure as a funeral establishment or cremation establishment under Iowa Code chapter 156.
3. Use of the words "funeral director," "mortician," or other title in a manner which states or implies that the person is engaged in the practice of mortuary science as defined in Iowa Code chapter 156.
4. Use or attempted use of a licensee's certificate or an expired, suspended, revoked, or nonexistent certificate.
5. Falsely impersonating a licensed funeral director.
6. Providing false or forged evidence of any kind to the board in obtaining or attempting to obtain a license.
7. Other violations of Iowa Code chapter 156.
8. Knowingly aiding or abetting an unlicensed person or establishment in any activity identified in this rule.

645—104.3(156) Investigations. The board is authorized by Iowa Code sections 17A.13(1) and 156.16 to conduct such investigations as are needed to determine whether grounds exist to impose civil penalties against a nonlicensee. Such investigations shall conform to the procedures outlined in this chapter. Complaint and investigatory files concerning nonlicensees are not confidential except as may be provided in Iowa Code chapter 22.

645—104.4(156) Subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 156.16, the board is authorized in connection with an investigation of an unlicensed person or establishment to issue subpoenas to compel persons to testify and to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Board procedures concerning investigative subpoenas are set forth in 645 IAC 9.5(17A,272C).

645—104.5(156) Notice of intent to impose civil penalties. The notice of the board's intent to issue an order to require compliance with Iowa Code chapter 156 and to impose a civil penalty shall be served upon the nonlicensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel. The notice shall include the following:

1. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with Iowa Code chapter 156.
5. Notice of the nonlicensee's right to a hearing and the time frame in which hearing must be requested.

6. The address to which written request for hearing must be made.

645—104.6(156) Requests for hearings.

104.6(1) Nonlicensees must request a hearing within 30 days of the date the notice is received if served through restricted certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

104.6(2) If a request for hearing is not timely made, the board chairperson or the chairperson's designee may issue an order imposing the civil penalty and requiring compliance with Iowa Code chapter 156, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

104.6(3) If a request for hearing is timely made, the board shall issue a notice of hearing and conduct a contested case hearing in the same manner as applicable to disciplinary cases against licensees.

104.6(4) A nonlicensed person who fails to timely request a contested case hearing shall have failed to exhaust "adequate administrative remedies" as that term is used in Iowa Code section 17A.19(1).

104.6(5) A nonlicensed person who is aggrieved or adversely affected by the board's final decision following a contested case hearing may seek judicial review as provided in Iowa Code section 17A.19.

104.6(6) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 156 at any stage of the proceeding upon mutual consent of the board.

104.6(7) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in rule 645—11.30(272C). Hearings shall be open to the public.

645—104.7(156) Factors to consider. The board may consider the following when determining the amount of civil penalty to impose, if any:

1. Whether the amount imposed will be a substantial economic deterrent to the violation.
2. The circumstances leading to the violation.
3. The severity of the violation and the risk of harm to the public.
4. The economic benefits gained by the violator as a result of noncompliance.
5. The interest of the public.
6. The time lapsed since the unlawful practice occurred.
7. Evidence of reform or remedial actions.
8. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
9. Whether the violation involved an element of deception.
10. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
11. The clarity of the issue involved.
12. Whether the violation was willful and intentional.
13. Whether the nonlicensee acted in bad faith.
14. Whether the nonlicensee cooperated with the board.

645—104.8(156) Enforcement options. In addition, or as an alternative, to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, or enter into a consent agreement as provided in Iowa Code section 156.16.

These rules are intended to implement Iowa Code chapters 17A, 147, and 156.

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CHAPTER 105
FEES
[Prior to 7/10/02, see 645—101.6(147)]

645—105.1(147,156) License fees. All fees are nonrefundable.

105.1(1) Licensure fee for license to practice funeral directing is $120.

105.1(2) Biennial funeral director's license renewal fee for each biennium is $120.

105.1(3) Late fee for failure to renew before expiration is $60.

105.1(4) Reactivation fee for a funeral director is $180 and for a funeral establishment or cremation establishment is $150.

105.1(5) Duplicate or reissued license certificate or wallet card fee is $20.

105.1(6) Verification of license fee is $20.

105.1(7) Returned check fee is $25.

105.1(8) Disciplinary hearing fee is a maximum of $75.

105.1(9) Funeral establishment or cremation establishment fee is $90.

105.1(10) Three-year renewal fee of funeral establishment or cremation establishment is $90.

105.1(11) Rescinded IAB 4/9/08, effective 5/14/08.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 156 and 272C.

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CHAPTER 109
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 114
IMPAIRED PRACTITIONER REVIEW COMMITTEE

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 115
CHILD SUPPORT NONCOMPLIANCE

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 116 to 119
Reserved

HEARING AID DISPENSERS

CHAPTER 120 ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF EXAMINERS FOR THE LICENSING AND REGULATION OF HEARING AID DISPENSERS
CHAPTER 121 LICENSURE OF HEARING AID DISPENSERS
CHAPTER 122 CONTINUING EDUCATION FOR HEARING AID DISPENSERS
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CHAPTER 124 DISCIPLINE FOR HEARING AID DISPENSERS
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CHAPTER 120
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF EXAMINERS FOR THE LICENSING AND REGULATION OF HEARING AID DISPENSERS

[Prior to 5/18/88, see Health Department[470], Ch 145]

645—120.1(17A,154A) Definitions.

"Board" means the board of examiners for the licensing and regulation of hearing aid dispensers.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license issued by the state to hearing aid dispensers.

"Licensee" means a person licensed to practice as a hearing aid dispenser in the state of Iowa.

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

645—120.2(17A,154A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 154A and 272C with regard to the practice of fitting, dispensing and the sale of hearing aids and providing hearing aid services or maintenance. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and the rules of the licensure board. Responsibilities include, but are not limited to:

120.2(1) Licensing of qualified applicants as hearing aid dispensers through examination, renewal, endorsement, and reciprocity.

120.2(2) Developing and administering a program of continuing education to ensure continued competency of individuals licensed by the board.

120.2(3) Imposing discipline on licensees as provided by statute or rule.

645—120.3(17A,154A) Organization of board and proceedings.

120.3(1) The board is composed of five members appointed by the governor and confirmed by the senate.

120.3(2) The members of the board shall include three licensed hearing aid dispensers and two members who are not licensed hearing aid dispensers who shall represent the general public. Hearing aid dispensers appointed to the board shall:

a. Be actively employed as hearing aid dispensers for five years preceding the appointment; and

b. Have practiced in Iowa during the two years preceding the appointment.

120.3(3) The board shall elect a chairperson, vice chairperson and a secretary from its membership at the first meeting after April 30 of each year.

120.3(4) The board shall hold at least one meeting annually.

120.3(5) A majority of the members of the board shall constitute a quorum.

120.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

120.3(7) The division of professional licensure shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

120.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

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

e. Investigate alleged violations of statutes or rules that relate to the practice of fitting, dispensing and the sale of hearing aids and providing hearing aid services or maintenance upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

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

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

645—120.4(17A) Official communications.

120.4(1) All official communications, including submissions and requests, may be addressed to the Board of Hearing Aid Dispensers, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

120.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

120.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—120.5(154A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—120.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

120.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

120.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

120.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

120.6(4) Cameras and recording devices may be used at open meetings, provided the cameras or recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the

meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 154A, and 272C.

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[1] Effective date of 120.212(8)*"d"* rescission delay until the adjournment of the 1990 session of the General Assembly.

CHAPTER 121
LICENSURE OF HEARING AID DISPENSERS

[Prior to 5/29/02, see 645—120.2(154A) to 120.6(154A) and 120.10(154A)]

645—121.1(154A) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of examiners for the licensing and regulation of hearing aid dispensers.

"Department" means the department of public health.

"Dispense" or *"sell"* means a transfer of title or of the right to use by lease, bailment, or any other means, but excludes a wholesale transaction with a distributor or dispenser, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Hearing aid dispenser" means any person engaged in the fitting, dispensing and the sale of hearing aids and providing hearing aid services or maintenance by means of procedures stipulated by Iowa Code chapter 154A or the board.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"License" means a license issued by the state to hearing aid dispensers.

"Licensee" means any person licensed to practice as a hearing aid dispenser in the state of Iowa.

"Licensure by endorsement" means the issuance of an Iowa license to practice as a hearing aid dispenser to an applicant who is or has been licensed in another state.

"National examination" means the written licensing examination of the International Hearing Society or its successor organization.

"Reactivate" or *"reactivation"* means the process as outlined in rule 121.14(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice as a hearing aid dispenser to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of examiners for licensing and regulation of hearing aid dispensers to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Temporary permit" means a permit issued while the applicant is in training to become a licensed hearing aid dispenser.

"Trainee" means the holder of a temporary permit.

645—121.2(154A) Temporary permits.

121.2(1) An applicant shall send a completed application and fee to the board office. The application must be accompanied by a statement from the employer, which includes the following information:

a. The type of supervision which shall be provided to the trainee;

b. A list of the subjects to be covered;

c. The books and other training materials to be used for training; and

d. An outline of the training program to be followed in preparing the trainee for examination.

121.2(2) A temporary permit is valid for one year and shall not be renewable.

121.2(3) The board reserves the right to deny an application for a temporary permit or rescind a temporary permit once issued.

121.2(4) The licensed hearing aid dispenser employing the holder of a temporary permit shall be responsible for the following:

a. Training of the temporary permit holder;

b. Evaluating the audiograms and determining which hearing aid and ear mold will best compensate for hearing loss of a particular person; and

c. Notifying the board within 15 days of the termination of the holder of a temporary permit.

d. Submitting a report on a board-approved form verifying completion of the supervision and training requirements in accordance with 121.2(1).

645—121.3(154A) Supervision requirements. The supervisor's report must provide assurance of completion of training pursuant to 121.2(1).

121.3(1) Supervision of temporary permit holders. The supervisor(s) shall:

a. Have a current hearing aid dispenser license that has been valid for the immediately preceding 24 months;

b. Have two years of actual experience in testing, fitting, and dispensing of hearing aids;

c. Supervise not more than three trainees with temporary permits at the same time;

d. For the first 90 days, provide a minimum of 20 hours of direct supervision per week in the physical presence of the trainee;

e. Provide direct supervision of the trainee before completion of the first 90 days for any client activity that would require dispensing of hearing aids, including evaluation, selection, fitting or selling of hearing aids; and

f. Cosign all audiometric evaluations and contracts processed by the trainee for the duration of the temporary permit.

g. Submit, on a board-approved form, a final, completed supervision report for trainees prior to taking the board-approved examination.

121.3(2) A trainee with a temporary permit must notify the board in writing within ten days of an interruption of training due to loss of supervision. The trainee shall, within 30 days, obtain a replacement supervisor for continuance of the training period and shall obtain and submit to the board a statement signed by the replacement supervisor, which states that the training program will be maintained.

121.3(3) If a statement by the replacement supervisor is not submitted, the trainee shall revert to new trainee status.

645—121.4(154A) Requirements for initial licensure. The following criteria shall apply to licensure:

121.4(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Hearing Aid Dispensers, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

121.4(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

121.4(3) Each application shall be accompanied by the appropriate fees, which include the following*:*

a. Application fee payable to the Board of Hearing Aid Dispensers; and

b. Examination fee payable to the International Hearing Society.

121.4(4) Examination score results must be received from the testing service.

121.4(5) Each applicant must successfully pass the national examination.

121.4(6) Examination candidates who hold a temporary permit are required to have a completed supervisory report in accordance with paragraph 121.3(1)*"g."*

121.4(7) Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal month two years later.

121.4(8) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

121.4(9) Notification of eligibility for licensure shall be sent to the licensee by the board.

645—121.5(154A) Examination requirements.

121.5(1) The following criteria shall apply to the written examination:

a. The supporting data and documentation must be received at least ten business days prior to the examination with check or money order made payable to the International Hearing Society in the amount specified in the application for the examination fee;

b. Applicants must pass the national examination. The passing score is set by the International Hearing Society.

121.5(2) Applicants who fail the national examination three times must apply to the board to retake the examination.

645—121.6(154A) Licensure by endorsement. An applicant who has been a licensed hearing aid dispenser under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

121.6(1) Submits to the board a completed application;

121.6(2) Pays the licensure fee;

121.6(3) Shows evidence of licensure requirements that are similar to those required in Iowa;

121.6(4) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

121.6(5) Provides official verification of one of the following:

a. A passing score on the national examination. For the ten-part examination, the passing score is 70 percent on each subject or 75 percent overall. The International Hearing Society sets the passing score for the five-part competency examination;

b. A passing score on an examination that the board determines is equivalent to the national examination; or

c. Current certification from the National Board for Certification in Hearing Instrument Sciences; and

121.6(6) Provides evidence of:

a. Completing a minimum of 32 continuing education hours within the 24 months prior to application; or

b. Continuing education certificates that verify that the minimum hours of continuing education required by a state(s) in which the licensee is currently licensed have been met; or

c. Current certification from the National Board for Certification in Hearing Instrument Sciences.

645—121.7(154A) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of hearing aid dispensers.

645—121.8(154A) Display of license. Persons licensed as hearing aid dispensers shall display their original licenses in a conspicuous public place at the primary site of practice.

645—121.9(154A) License renewal.

121.9(1) The biennial license renewal period for a license to dispense hearing aids shall begin on January 1 of each odd-numbered year and end on December 31 of the next even-numbered year. All

licensees shall renew on a biennial basis. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

121.9(2) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—122.2(154A) and the mandatory reporting requirements of subrule 121.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

121.9(3) 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 645—subrule 125.1(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

121.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."* Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 122.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

121.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

121.9(6) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in

Iowa, but may not practice as a hearing aid dispenser in Iowa until the license is reactivated. A licensee who practices as a hearing aid dispenser in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—121.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—121.11(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—121.12(154A,147) Duplicate certificate or wallet card.

121.12(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed.

121.12(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application and receipt of the fee as specified in rule 645—125.1(147).

121.12(3) If the board receives a completed application stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—121.13(272C) License denial.

121.13(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

121.13(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

121.13(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—121.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

121.14(1) Submit a reactivation application on a form provided by the board.

121.14(2) Pay the reactivation fee that is due as specified in 645—subrule 125.1(6).

121.14(3) Provide verification of current competence to practice as a hearing aid dispenser by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 32 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly

from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 64 hours of continuing education within two years of application for reactivation.

645—121.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 121.14(17A,147,272C) prior to practicing as a hearing aid dispenser in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154A and 272C.

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◊ Two or more ARCs

CHAPTER 122
CONTINUING EDUCATION FOR HEARING AID DISPENSERS

645—122.1(154A) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of examiners for the licensing and regulation of hearing aid dispensers.

"Continuing education" means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a hearing aid dispenser in the state of Iowa.

645—122.2(154A) Continuing education requirements.

122.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a hearing aid dispenser in this state shall be required to complete a minimum of 32 hours of continuing education approved by the board.

122.2(2) Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 32 hours of continuing education per biennium for each subsequent license renewal.

122.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

122.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

122.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—122.3(154A,272C) Standards.

122.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of the presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, place, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

122.3(2) *Specific criteria.* Continuing education hours of credit may be obtained by completing the following:

a. Academic coursework if the coursework is offered by an accredited postsecondary educational institution. The maximum number of continuing education hours of credit for academic coursework per biennium is 15 hours with:

1 academic semester hour = 15 continuing education hours; and

1 academic quarter hour = 10 continuing education hours.

b. A maximum of 4 hours of credit for telnet courses. Independent study telnet courses are acceptable only when an on-site monitor is present.

c. Attending programs, conferences, or business, technical, or professional seminars which enhance a licensee's ability to provide quality hearing health care services.

645—122.4(154A,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

122.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

122.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

122.4(3) For auditing purposes, all licensees must retain the information identified in subrule 122.4(2) for two years after the biennium has ended.

122.4(4) Information identified in subrule 122.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

122.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

122.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—122.5(154A,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—122.6(154A,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

122.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

122.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

122.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—122.7(154A,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

122.7(1) Failure to cooperate with a board audit.

122.7(2) Failure to meet the continuing education requirement for licensure.

122.7(3) Falsification of information on the license renewal form.

122.7(4) Falsification of continuing education information.

645—122.8(154A,272C) Continuing education waiver for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—122.9(154A,272C) Continuing education exemption for disability or illness. Rescinded IAB 8/31/05, effective 10/5/05.

645—122.10(154A,272C) Reinstatement of inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—122.11(272C) Hearings. Rescinded IAB 8/31/05, effective 10/5/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154A.

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◊ Two or more ARCs

CHAPTER 123
Reserved

CHAPTER 124
DISCIPLINE FOR HEARING AID DISPENSERS
[Prior to 5/29/02, see 645—120.11(272C)]

645—124.1(154A,272C) Definitions.

"Board" means the board of examiners for the licensing and regulation of hearing aid dispensers.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a hearing aid dispenser in Iowa.

645—124.2(154A,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—124.3(154A,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

124.2(1) Failure to comply with the current Code of Ethics of the International Hearing Society. The board hereby adopts by reference the current Code of Ethics of the International Hearing Society, available at http://www.ihsinfo.org.

124.2(2) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, the following:

a. An intentional perversion of the truth in making application for a license to practice in this state;

b. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

c. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

124.2(3) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice;

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other hearing aid dispensers in the state of Iowa acting in the same or similar circumstances;

c. A failure to exercise the degree of care which is ordinarily exercised by the average hearing aid dispenser acting in the same or similar circumstances;

d. Failure to conform to the minimal standard of acceptable and prevailing practice of licensed hearing aid dispensers in this state.

124.2(4) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of hearing aid dispensing or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

124.2(5) Advertising that hearing testing or hearing screening is for the purpose of detection or diagnosis of medical problems or medical screening for referral to a physician.

124.2(6) Failure to place the hearing aid dispenser's name, office address, and telephone number in an advertisement relating to hearing aids.

124.2(7) Practice outside the scope of the profession.

124.2(8) The use of untruthful or improbable statements in advertisements. The use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

124.2(9) Except in cases of selling replacement hearing aids of the same make or model within one year of the original sale, a hearing aid shall not be sold without adequate diagnostic testing and evaluation using established procedures. Instruments shall be calibrated to current standards at least annually or more often if necessary. The distributor shall keep with the instruments a certificate indicating the date of calibration. "Established procedures" means use of pure tone air conduction and bone conduction and speech audiometry.

124.2(10) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

124.2(11) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

124.2(12) Falsification of client records.

124.2(13) Acceptance of any fee by fraud or misrepresentation.

124.2(14) Misappropriation of funds.

124.2(15) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including improper delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

124.2(16) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice as a hearing aid dispenser. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

124.2(17) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of hearing aid dispensing.

124.2(18) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

124.2(19) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice as a hearing aid dispenser in another state, district, territory or country.

124.2(20) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

124.2(21) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

124.2(22) Engaging in any conduct that subverts or attempts to subvert a board investigation.

124.2(23) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

124.2(24) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

124.2(25) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

124.2(26) Failure to pay costs assessed in any disciplinary action.

124.2(27) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

124.2(28) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

124.2(29) Knowingly aiding, assisting, or advising a person to unlawfully practice as a hearing aid dispenser.

124.2(30) Failure to report a change of name or address within 30 days after the occurrence.

124.2(31) Representing oneself as a licensed hearing aid dispenser when one's license has been suspended or revoked, or when one's license is on inactive status.

124.2(32) Permitting another person to use the licensee's license for any purpose.

124.2(33) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

124.2(34) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a patient, client, or coworker.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

e. Being adjudged mentally incompetent by a court of competent jurisdiction.

124.2(35) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

124.2(36) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—124.3(154A,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—124.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—124.5(154A) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

124.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

124.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

124.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

124.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

124.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

124.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

124.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 154A and 272C.

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CHAPTER 125
FEES
[Prior to 5/29/02, see 645—120.9(154A)]

645—125.1(147,154A) License fees. All fees are nonrefundable.

125.1(1) Application fee for a license to practice by examination, endorsement, or reciprocity is $156.

125.1(2) Examination fee (check or money order made payable to the International Hearing Society) is $95.

125.1(3) Renewal of license fee is $60.

125.1(4) Temporary permit fee is $42.

125.1(5) Late fee is $60.

125.1(6) Reactivation fee is $120.

125.1(7) Duplicate and reissued license and wallet card fee is $20.

125.1(8) Verification of license fee is $20.

125.1(9) Returned check fee is $25.

125.1(10) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code chapter 154A.

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CHAPTER 129
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 8/25/99, effective 9/29/99

MASSAGE THERAPISTS

CHAPTER 130 ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF MASSAGE THERAPY
CHAPTER 131 LICENSURE OF MASSAGE THERAPISTS
CHAPTER 132 MASSAGE THERAPY EDUCATION CURRICULUM
CHAPTER 133 CONTINUING EDUCATION FOR MASSAGE THERAPISTS
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CHAPTER 130
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF MASSAGE THERAPY

645—130.1(17A) Definitions.

"Board" means the board of massage therapy.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice massage therapy.

"Licensee" means a person licensed to practice massage therapy in the state of Iowa.

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

645—130.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 152C and 272C with regard to the practice of massage therapy. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

130.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

130.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

130.2(3) Imposing discipline on licensees as provided by statute or rule.

645—130.3(17A,147,272C) Organization of board and proceedings.

130.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

130.3(2) The members of the board shall include four members who shall be massage therapists and three members who are not licensed massage therapists and who shall represent the general public.

130.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

130.3(4) The board shall hold at least one meeting annually.

130.3(5) A majority of the members of the board shall constitute a quorum.

130.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

130.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

130.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of massage therapy upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licensees who are restricted by a board order.

h. Perform any other function as authorized by a provision of law.

645—130.4(17A) Official communications.

130.4(1) All official communications, including submissions and requests, may be addressed to the Board of Massage Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

130.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

130.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—130.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

645—130.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

130.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

130.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

130.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

130.6(4) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 152C and 272C.

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CHAPTER 131
LICENSURE OF MASSAGE THERAPISTS

[Prior to 6/26/02, see 645—130.4(152C) and 645—130.6(152C)]

645—131.1(152C) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the Iowa board of massage therapy.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a massage therapist in the state of Iowa.

"License expiration date" means the fifteenth day of the anniversary month every two years.

"Licensure by endorsement" means the issuance of an Iowa license to practice massage therapy to an applicant who is or has been licensed in another state.

"Massage therapy" means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

"Reactivate" or *"reactivation"* means the process as outlined in rule 131.14(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice massage therapy to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of massage therapy to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—131.2(152C) Requirements for licensure. All persons acting or serving in the capacity of a massage therapist shall hold a massage therapist's license issued by the board. The following criteria shall apply to licensure:

131.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Massage Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

131.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

131.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Massage Therapy. The fees are nonrefundable.

131.2(4) The applicant shall have official copies of academic transcripts sent directly from the board-approved school to the board of massage therapy. If a school has closed and is no longer operational, the board will accept an official transcript provided by the student.

131.2(5) The board may consider applications on a case-by-case basis which do not appear on their face to meet requirements if the requirements may be alternatively satisfied by demonstrated equivalency.

The burden shall be on the applicant to document that the applicant's education and experience are substantially equivalent to the requirements which may be alternatively satisfied.

131.2(6) The applicant shall submit proof of completion of a cardiopulmonary resuscitation (CPR) course and a first-aid course that were certified by the American Red Cross, by the American Heart Association, or by the National Safety Council. One of the following shall be required:

a. Official transcript documenting completion of a CPR class and a first-aid class within one year prior to submitting the application for licensure; or

b. Copy of the current certification card(s) or renewal card(s).

131.2(7) The applicant shall provide proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination or the Massage and Bodywork Licensing Examination (MBLEx). Proof of passing shall be sent directly from the testing service to the board of massage therapy. The applicant may submit a copy of the official notification from the testing service of the applicant's passing a board-approved examination. The copy of the applicant's official notification may be used by the board as proof of passage of a board-approved examination until the official proof of passage is received directly from the testing service. Submission of the applicant's copy of the official notification from the testing service shall not be allowed in lieu of the applicant's arranging for and the board's receiving the official record of proof of passage sent directly from the testing service. The examination score must be received from the testing service within 60 days of issuance of the license. The passing score on the written examination shall be the passing point criterion established by the national testing authority at the time the test was administered.

131.2(8) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

131.2(9) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

131.2(10) The applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a massage therapist, sent directly from the state(s) to the board office.

645—131.3(152C) Educational qualifications.

131.3(1) The applicant shall have graduated from a board-approved school that has a minimum of 500 hours of massage therapy education.

131.3(2) Foreign-trained massage therapists shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a massage therapy program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—131.4(152C) Examination requirements. The examination required by the board shall be the examination required pursuant to subrule 131.2(7).

131.4(1) The applicant shall apply to the National Certification Board for Therapeutic Massage and Bodywork.

131.4(2) Results of the examination are mailed directly from the examination service to the board of massage therapy after the applicant takes the examination.

645—131.5(152C) Temporary licensure of a licensee from another state.

131.5(1) A temporary license may be issued to an applicant who holds a current license from another state with lower licensure requirements than those in Iowa. The applicant shall:

a. Submit to the board a completed application;

b. Pay the licensure fee;

c. Provide proof of completion of a cardiopulmonary resuscitation (CPR) course and a first-aid course that were certified by the American Red Cross, the American Heart Association, or the National Safety Council. One of the following shall be required:

(1) An official transcript documenting completion of a CPR class and a first-aid class within one year prior to submitting the application for licensure; or

(2) A copy of the current certification card(s) or renewal card(s);

d. Provide proof of passing any NCBTMB examination or the Massage and Bodywork Licensing Examination (MBLEx), to be sent directly from the testing service to the board office, if applicable;

e. Provide official verification of license(s) from every state in which the applicant has been licensed, to be sent directly from the state(s) to the board office;

f. Submit a plan for meeting the board's requirements for licensure within one year of the issuance of the temporary permit. Such plan shall include proof of enrollment in a school of massage therapy whose curriculum has been approved by the board, the date of enrollment, and the expected date of graduation.

131.5(2) A temporary license shall be valid for a period of up to one year and shall not be renewed.

131.5(3) The applicant shall be issued a permanent license upon receipt of a transcript of completion from a board-approved school sent directly from the school, and proof of passing any board-approved examination sent directly from the testing service to the board office.

131.5(4) There is no additional fee for converting a temporary license to a permanent license.

645—131.6(152C) Licensure by endorsement. An applicant who has been a licensed massage therapist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides official copies of the academic transcripts sent directly from the school to the board;
5. Provides proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination. Proof of passing shall be sent directly from the testing service to the board of massage therapy. The passing score on the written examination shall be the passing point criterion established by the national testing authority at the time the test was administered; and
6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

645—131.7(152C) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of massage therapists.

645—131.8(152C) License renewal.

131.8(1) The biennial license renewal period for a license to practice massage therapy shall begin on the sixteenth day of the anniversary month and end on the fifteenth day of the anniversary month two years later. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

131.8(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses.

131.8(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—133.2(152C) and the mandatory reporting requirements of subrule 131.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date; and

c. Submit evidence of current certification in CPR.

131.8(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 133.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

131.8(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

131.8(6) A person licensed to practice as a massage therapist shall keep the license certificate displayed in a conspicuous public place at the primary site of practice.

131.8(7) 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 645—subrule 135.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

131.8(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a massage therapist in Iowa until the license is reactivated. A licensee who practices as a massage therapist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—131.9(272C) Exemptions for inactive practitioners. Rescinded IAB 7/6/05, effective 8/10/05.

645—131.10(272C) Lapsed licenses. Rescinded IAB 7/6/05, effective 8/10/05.

645—131.11(147) Duplicate certificate or wallet card.

131.11(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

131.11(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—135.1(147).

131.11(3) If the board receives a completed application for duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—131.12(147) Reissued 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 645—135.1(147).

645—131.13(17A,147,272C) License denial.

131.13(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

131.13(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

131.13(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—131.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

131.14(1) Submit a reactivation application on a form provided by the board.

131.14(2) Pay the reactivation fee that is due as specified in 645—Chapter 135.

131.14(3) Provide verification of current competence to practice as a massage therapist by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and

4. Any disciplinary action taken against the license; and

(2) Verification of completion of 12 hours of continuing education within two years of application for reactivation or, beginning August 15, 2006, for a licensee whose license is inactive, verification of completion of 24 hours of continuing education within two years of application.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 12 hours of continuing education within two years of application for reactivation or, for a licensee whose license expires August 15, 2006, or thereafter, verification of completion of 24 hours of continuing education within two years of application; and

(3) Verification of passing one of the following examinations offered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) or the Federation of State Massage Therapy Boards (FSMTB) within two years immediately prior to the submission of the completed reactivation application. If the applicant can provide proof of two years of active practice in another state as a licensed massage therapist, the applicant is not required to provide proof of passing one of these examinations. The two years of active practice must have occurred immediately prior to the submission of the completed reactivation application.

1. The National Certification Examination for Therapeutic Massage (NCETM); or
2. The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB); or
3. The National Examination for States Licensing (NELS) option; or
4. The Massage and Bodywork Licensing Examination (MBLEx).

645—131.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 131.14(17A,147,272C) prior to practicing as a massage therapist in this state.

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

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CHAPTER 132
MASSAGE THERAPY EDUCATION CURRICULUM
[Prior to 6/26/02, see 645—130.5(152C)]

645—132.1(152C) Definitions.

"Approved curriculum" means that the massage therapy education course of study meets the criteria specified in this chapter and has been approved by the board of massage therapy.

"Board" means the board of massage therapy.

"Client" means any person with whom the school has an agreement to provide massage therapy.

"Clinical practicum" means hands-on massage therapy provided to members of the public by a student who is enrolled at a massage therapy school and is under the supervision of an instructor who is an Iowa-licensed massage therapist, is physically present on the premises and is available for advice and assistance. "Clinical practicum" does not include classroom practice.

"Course of study" means a series of classroom courses, not including continuing education, which is approved by the board as having a unified purpose in training individuals toward a certificate, degree or diploma in the practice of massage therapy.

"Massage therapy" means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

645—132.2(152C) Application for approval of massage therapy education curriculum.

132.2(1) From October 31, 2007, through June 30, 2008, both in-state and out-of-state massage therapy schools may apply for curriculum approval. Beginning July 1, 2008, only in-state massage therapy schools may request curriculum approval or reapproval. Massage therapy schools seeking curriculum approval shall submit the application and fees in accordance with the requirements of subrule 132.2(3). The curriculum approval shall be valid for up to two years with reapplication for approval due June 30 of each even-numbered year. The biennial renewal cycle shall begin July 1 of an even-numbered year and end June 30 two years later. Schools that receive curriculum approval within six months prior to the start of the next biennial renewal cycle shall not need to reapply for curriculum approval until the following even-numbered year.

132.2(2) The board-approved application form and Curriculum Criteria and Documentation form for schools providing a massage therapy curriculum shall be obtained from the board's Web site, www.idph.state.ia.us/licensure, or directly from the board office.

132.2(3) Applications and fees shall be submitted to the Board of Massage Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. The application for curriculum approval shall include all of the following:

a. A completed board-approved application form;

b. The curriculum approval application fee as specified in 645—Chapter 135;

c. A completed Curriculum Criteria and Documentation form;

d. The current school catalog, including name of the program(s), a description of the curriculum delivery system, course descriptions, and program accreditation or approval by other professional entities; and

e. A sample diploma and a sample transcript that identify the name of the graduate, name of the program, graduation date, and the degree, diploma or certificate awarded.

132.2(4) Beginning June 30, 2008, the board shall conduct curriculum reviews only for in-state massage therapy schools. Out-of-state school curriculum shall be reviewed on a case-by-case basis upon receipt of the curriculum as a part of an individual's application for licensure to practice massage therapy in the state of Iowa.

132.2(5) Massage therapy schools that do not renew curriculum approval by the expiration date shall be removed from the board's list of approved curriculum providers until such time that they comply with curriculum approval requirements.

132.2(6) Schools that apply for curriculum approval shall, at a minimum, provide a curriculum that meets the requirements of this chapter, offer a course of study of at least 500 clock hours or the equivalent in academic credit hours, and require for entrance into the massage therapy school graduation from high school or its equivalent.

645—132.3(152C) Curriculum requirements. An approved curriculum shall include but not be limited to the following content areas:

1. Fundamentals of massage therapy.
2. Clinical application of massage and bodywork therapies.
3. Client communication theory and practice.
4. Health care referral theory and practice.
5. Anatomy and physiology.
6. Kinesiology.
7. Pathology and skills in infection control, injury prevention and sanitation.
8. Iowa law and ethics.
9. Business management, including legal and financial aspects, documentation and record maintenance.
10. Wellness and healthy lifestyle theory and practice in such areas as hydrotherapy, hot and cold applications, spa techniques, nutrition, herbal studies, wellness models, somatic movement and energy work.

645—132.4(152C) Student clinical practicum standards.

132.4(1) The school must provide clinical practicum hours at the school's primary location or an event sponsored by the school.

132.4(2) At all times when the student delivers physical contact with the public or other students, a clinical instructor/supervisor who is an Iowa-licensed massage therapist shall be personally in attendance.

132.4(3) Students shall complete at least 200 hours of coursework in the content areas of fundamentals of massage therapy and assessment that includes indications and contraindications for treatment prior to providing services to the public and beginning the clinical practicum. Included in this 200 hours will be a minimum of 100 hours in anatomy and physiology, which shall include the structure and function of the human body and common pathologies.

132.4(4) The clinical practicum shall not exceed 100 hours of a 500-hour program.

645—132.5(152C) School certificate or diploma. Upon successful completion of a school's course of study, the student shall be awarded a certificate or diploma, which shall identify the legal name of the graduate, the name of the program, the graduation date, and the degree or certificate awarded.

645—132.6(152C) School records retention. Records documenting the student's completion of the curriculum shall be maintained for two years following the student's graduation date. In the event of school closure, the board shall be notified of the location of the records.

645—132.7(152C) Massage school curriculum compliance.

132.7(1) A school shall maintain curriculum records and shall make the records available to the board upon request.

132.7(2) A school whose curriculum is approved shall notify the board in writing within 30 days if there is a change of address, a school closing, or a curriculum revision that does not meet the requirements of this chapter.

132.7(3) For each student who successfully completes curriculum requirements, the school shall provide the student an official transcript that includes the student's legal name and date of graduation.

645—132.8(152C) Denial or withdrawal of approval.

132.8(1) The board shall deny approval of a school curriculum if the curriculum does not meet the requirements of this chapter.

132.8(2) The board shall withdraw approval of an approved school curriculum if the board determines that the curriculum no longer meets the requirements of this chapter.

132.8(3) The board shall notify the school in writing if the board denies or withdraws curriculum approval. Following denial or withdrawal of approval by the board, the school may request that the board reconsider its decision. Requests for curriculum approval reconsideration must be submitted in writing and include any evidence the school believes supports its belief that all requirements of this chapter are met. The board in its sole discretion shall determine whether to grant such a request.

These rules are intended to implement Iowa Code chapter 152C.

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CHAPTER 133
CONTINUING EDUCATION FOR MASSAGE THERAPISTS

[Prior to 6/26/02, see 645—Ch 132]

645—133.1(152C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.

"Board" means the board of massage therapy.

"Continuing education" means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hands-on training" means learning techniques that manipulate the soft tissue of the body.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a massage therapist in the state of Iowa.

"Presenter" means person(s)/instructor(s) providing continuing education training.

645—133.2(152C) Continuing education requirements. Each biennium, each person who is licensed to practice as a massage therapist in this state shall be required to complete a minimum of 24 hours of continuing education. A biennium is a two-year period beginning with the date the license was granted.

133.2(1) The biennial continuing education compliance period shall run concurrently with each two-year renewal period. The renewal period begins on the date the initial license is granted and ends two years later on the day before the anniversary date of that initial license.

133.2(2) Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal period may be used.

133.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity meeting the requirements of this chapter. These hours must be in accordance with these rules.

133.2(4) No hours of continuing education shall be carried over into the next renewal period. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

133.2(5) The cost of continuing education is the responsibility of each licensee.

645—133.3(152C,272C) Continuing education criteria.

133.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance, including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course from the course sponsor.

133.3(2) *Specific criteria.* A licensee shall obtain a minimum of 24 hours of continuing education credit every two years. Twelve hours must be obtained in Category A and 12 hours may be in either Category A or B. A licensee may choose to obtain all 24 hours in Category A.

a. Category A specific continuing education requirements.

(1) A minimum of 12 hours of the 24 hours shall be:

1. Direct, hands-on training attended personally by the licensee;

2. Related to the actual practice of massage/bodywork therapy;

3. Sponsored by a local, state, national or international professional organization or chapter of massage/bodywork therapy, or a professional, hands-on school of massage/bodywork therapy that meets or exceeds the standards set forth in 645—Chapter 132;

4. Presented by a massage/bodywork therapist with a minimum of five years of clinical experience in massage/bodywork therapy. The individuals presenting the continuing education activity must have specialized education, training and experience by reason of which said individuals are considered qualified concerning the subject matter of the program.

(2) Excluded content areas for continuing education in Category A are any massage/bodywork techniques that do not directly make physical contact with the body and that are outside the scope of practice in accordance with the definition of massage therapy set forth in rule 645—131.1(152C), including but not limited to: Reiki, Barbara Brennan Healing Sciences, reflexology, bloodletting, and ear candling.

b. Category B specific continuing education requirements.

(1) A maximum of 12 hours of the 24 hours may be in either of the following:

1. Content areas that are programs of learning which contribute directly to professional competency and enhance the practice of the licensee.

2. Content areas that are hands-on training programs.

(2) Programs that are taken in Category B do not have to be sponsored by organizations noted in 133.3(2)*"a"*(1)"3" and instructors do not have to have a minimum of five years of clinical experience in massage/bodywork therapy.

(3) A licensee may receive credit on a one-time basis, not to exceed two hours of continuing education credit every two years, for delivery of course(s) in a massage school setting, if the following criteria are met:

1. The course(s) is part of a curriculum approved by the board as outlined in 645—132.4(152C);

2. The licensee is qualified to teach the course(s) as outlined in 645—132.3(152C);

3. The school provides an official written statement that verifies the following:

- Course title and number of credit hours;
- Inclusive dates the course was taught by the licensee;
- Teaching qualifications of the licensee.

(4) A maximum of six hours may be obtained in independent study courses in the areas of massage/bodywork techniques, ethics, mandatory reporter training, and practice management.

(5) A licensee shall obtain two hours of credit in CPR for every two-year renewal period.

(6) Only the number of hours obtained during the two-year renewal period to meet mandatory reporter training requirements may be utilized in the renewal period. No hours shall be carried over into the next biennium.

(7) Excluded content areas for continuing education in Category B include, but are not limited to, any program or training that is outside the scope of practice of massage therapy in accordance with the definition of massage therapy set forth in rule 645—131.1(152C) or that does not enhance professional competency relating to the field of massage/bodywork therapy. Bloodletting and ear candling are excluded content areas.

645—133.4(152C,272C) Audit of continuing education report. After every two-year renewal period, the board may audit licensees to review compliance with continuing education requirements.

133.4(1) The board may audit a percentage of its licensees and may, at its discretion, audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

133.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

133.4(3) For auditing purposes, all licensees must retain the information identified in subrule 133.4(2) for two years after the renewal period has ended.

133.4(4) Information identified in subrule 133.4(2) must be submitted within one month after the date of notification of the audit. An extension of time may be granted on an individual basis.

133.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

133.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—133.5(152C,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—133.6(152C,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver to a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

133.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

133.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

133.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in a manner determined by the board.

645—133.7(152C,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

133.7(1) Failure to cooperate with a board audit.

133.7(2) Failure to meet the continuing education requirement for licensure.

133.7(3) Falsification of information on the license renewal form.

133.7(4) Falsification of continuing education information.

These rules are intended to implement Iowa Code chapters 21, 147, 152C and 272C.

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CHAPTER 134
DISCIPLINE FOR MASSAGE THERAPISTS
[Prior to 6/26/02, see 645—Ch 131]

645—134.1(152C) Definitions.

"Board" means the board of massage therapy.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a massage therapist in Iowa.

645—134.2(152C,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—134.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

134.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

134.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a massage therapist in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

134.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

134.2(4) Practice outside the scope of the profession.

134.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

134.2(6) Habitual intoxication or addiction to the use of drugs.

134.2(7) Obtaining, possessing, attempting to obtain or possess, prescribing, selling, giving away, or administering controlled substances without lawful authority.

134.2(8) Falsification of client records.

134.2(9) Acceptance of any fee by fraud or misrepresentation.

134.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

134.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession which

includes, but is not limited to, a felonious act which is so contrary to honesty, justice or good morals and so reprehensible as to violate the public confidence and trust imposed upon the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

134.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

134.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

134.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

134.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

134.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

134.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

134.2(18) Failure to comply with a subpoena issued by the board, or failure to otherwise cooperate with an investigation of the board.

134.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

134.2(20) Failure to pay costs assessed in any disciplinary action.

134.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

134.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

134.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a massage therapist.

134.2(24) Failure to report a change of name or address within 30 days after it occurs.

134.2(25) Representing oneself as a massage therapist when one's license has been suspended or revoked, or when one's license is on inactive status.

134.2(26) Permitting another person to use the licensee's license for any purpose.

134.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

134.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service or directing or requiring an individual to purchase or secure a drug, device, treatment, procedure, or service from a person, place, facility, or business in which the licensee has a financial interest.

134.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

134.2(30) Practicing the profession while the license is under suspension, inactive or delinquent for any reason.

134.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—134.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—134.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—134.5(152C) Civil penalties.

134.5(1) Civil penalties may be imposed upon a person or business that employs an individual who is not licensed as a massage therapist. Civil penalties may be imposed upon a person or business that employs an individual who uses the initials "L.M.T." or the words "licensed massage therapist," "massage therapist," "masseur," or "masseuse," or any other words or titles which imply or represent that the employed person practices massage therapy but who is not licensed as a massage therapist. Failure to follow the above may result in:

a. A civil penalty not to exceed $1000 on a person or business that violates this rule:

(1) Each violation is a separate offense.

(2) Each day a continued violation occurs after citation by the board is a separate offense with the maximum penalty not to exceed $10,000;

b. The board's inspection of any facility which advertises or offers services purporting to be delivered by massage therapists;

c. A citation being sent to the alleged violator by certified mail, return receipt requested; and

d. The board's consideration of the following in determining civil penalties:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to or resulting in the violation.

(3) The severity of the violation and the risk of harm to the public.

(4) The economic benefits gained by the violator as a result of noncompliance.

(5) The welfare or best interest of the public.

134.5(2) Civil penalties may be imposed upon a person who is practicing as a massage therapist without a license. Civil penalties may be imposed upon a person who practices as an individual and uses the initials "L.M.T." or the words "licensed massage therapist," "massage therapist," "masseur," or "masseuse," or any other words or titles which imply or represent that the person practices massage therapy but who is not licensed as a massage therapist. A person must be licensed as a massage therapist to practice in this state as a massage therapist. Failure to follow the above may result in:

a. A civil penalty not to exceed $1000 on a person who violates this rule:

(1) Each violation is a separate offense.

(2) Each day a continued violation occurs after citation by the board is a separate offense with the maximum penalty not to exceed $10,000;

b. The board's inspection of any facility which advertises or offers services purporting to be delivered by massage therapists;

c. A citation being sent to the alleged violator by certified mail, return receipt requested;

d. The board's consideration of the following in determining civil penalties:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to or resulting in the violation.

(3) The severity of the violation and the risk of harm to the public.

(4) The economic benefits gained by the violator as a result of noncompliance.

(5) The welfare or best interest of the public.

134.5(3) Issuing an order or citation.

a. The board shall provide a written notice and the opportunity to request a hearing on the record.

b. The hearing must be requested within 30 days of the issuance of the notice and shall be conducted according to Iowa Code chapter 17A.

c. The board may, in connection with a proceeding under this subrule, issue subpoenas to require the attendance and testimony of witnesses and the disclosure of evidence and may request the attorney general to bring an action to enforce the subpoena.

134.5(4) Judicial review.

a. A person aggrieved by the imposition of a civil penalty under this rule may seek a judicial review in accordance with Iowa Code section 17A.19.

b. The board shall notify the attorney general of the failure to pay a civil penalty within 30 days after entry of an order or within 10 days following final judgment in favor of the board if an order has been stayed pending appeal.

c. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

d. An action to enforce an order under this rule may be joined with an action for an injunction.

134.5(5) A person is not in violation of the statute or rules if that person practices massage therapy for compensation while in attendance at a school offering a curriculum meeting the requirements of 645—Chapter 132 and is under the supervision of a member of the school's faculty.

645—134.6(152C) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

134.6(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

134.6(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

134.6(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

134.6(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

134.6(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

134.6(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

134.6(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

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

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CHAPTER 135
FEES
[Prior to 6/26/02, see 645—130.7(152C)]

645—135.1(147) License fees. All fees are nonrefundable.

135.1(1) Licensure fee for license to practice massage therapy is $120.

135.1(2) Biennial license renewal fee for each biennium is $60.

135.1(3) Temporary license fee for up to one year is $120.

135.1(4) Late fee for failure to renew before expiration is $60.

135.1(5) Reactivation fee is $120.

135.1(6) Duplicate or reissued license certificate or wallet card fee is $20.

135.1(7) Verification of license fee is $20.

135.1(8) Returned check fee is $25.

135.1(9) Disciplinary hearing fee is a maximum of $75.

135.1(10) Application fee for approval of massage therapy education curriculum is $120.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

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CHAPTER 136
PETITIONS FOR RULE MAKING

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 137
DECLARATORY RULINGS

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 138
AGENCY PROCEDURE FOR RULE MAKING

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 139
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 7/14/99, effective 8/18/99

NURSING HOME ADMINISTRATORS

CHAPTER 140 ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS
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CHAPTER 140
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

645—140.1(17A,155) Definitions.

"Board" means the board of examiners for nursing home administrators.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice as a nursing home administrator under the laws of this state.

"Licensee" means a person licensed to practice as a nursing home administrator in the state of Iowa.

"Nursing home" means any institution or facility, or part thereof, defined as such for licensing purposes under state law or pursuant to the rules for nursing homes established by the department of inspections and appeals, whether proprietary or nonproprietary, including but not limited to nursing homes owned and administered by the federal or state government or any agency or political subdivision thereof.

"Nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of a nursing home whether or not such individual has an ownership interest in such home and whether or not the individual's functions and duties are shared with one or more individuals. A member of a board of directors, unless also serving in a supervisory or managerial capacity, shall not be considered a nursing home administrator.

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

"Peer review" means evaluation of professional services rendered by a professional practitioner.

"Peer reviewer(s)" means one or more persons acting in a peer review capacity who have been appointed by the board for such purpose.

645—140.2(17A,155) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 155 and 272C with regard to practicing as a nursing home administrator. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and the rules of the licensure board. Responsibilities include, but are not limited to:

140.2(1) Licensing of qualified applicants by examination, renewal, endorsement, and reciprocity.

140.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

140.2(3) Imposing discipline on licensees as provided by statute or rule.

645—140.3(17A,147,272C) Organization of board and proceedings.

140.3(1) The board is composed of nine members appointed by the governor and confirmed by the senate.

140.3(2) The members of the board shall include:

a. Four members who shall be licensed nursing home administrators, one of whom shall be an administrator of a nonproprietary nursing home;

b. Three members shall be persons who are licensed members of any of the professions concerned with the care and treatment of chronically ill or elderly patients and who are not nursing home administrators or nursing home owners; and

c. Two members who are not licensed nursing home administrators or licensed persons under Iowa Code chapter 147 and who shall represent the general public. The members shall be interested in the problems of elderly patients and nursing home care, but shall have no financial interest in any nursing home.

140.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

140.3(4) The board shall hold at least one annual meeting.

140.3(5) A majority of the members of the board shall constitute a quorum.

140.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

140.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

140.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to practicing as a nursing home administrator upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licensees who are restricted by a board order.

h. Establish and register peer reviewers.

i. Refer a complaint to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

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

645—140.4(17A) Official communications.

140.4(1) All official communications, including submissions and requests, may be addressed to the Board of Examiners for Nursing Home Administrators, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

140.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

140.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—140.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—140.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

140.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

140.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

140.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

140.6(4) Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 155 and 272C.

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CHAPTER 141
LICENSURE OF NURSING HOME ADMINISTRATORS

[Prior to 8/24/88, see Nursing Home Administrators Board of Examiners[600], Ch 2]

645—141.1(155) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Administrator" means a licensed nursing home administrator.

"Board" means the board of examiners for nursing home administrators.

"CNHA" means a certified nursing home administrator.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a nursing home administrator in the state of Iowa.

"License expiration date" means December 31 of odd-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice nursing home administration to an applicant who is or has been licensed in another state.

"NAB" means National Association of Boards of Examiners of Long Term Care Administrators.

"Reactivate" or *"reactivation"* means the process as outlined in rule 141.15(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice nursing home administration to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of examiners for nursing home administrators to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—141.2(155) Requirements for licensure. The following criteria shall apply to licensure:

1. An applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Examiners for Nursing Home Administrators, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075;

2. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board;

3. Each application shall be accompanied by the appropriate fees payable to the Board of Examiners for Nursing Home Administrators. The fees are nonrefundable;

4. The applicant shall have official copies of academic transcripts sent directly from the school(s) to the board;

5. The applicant shall provide satisfactory evidence of the completion of the long-term care practicum;

6. An applicant shall successfully pass the approved national examination;

7. Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

8. Incomplete applications that have been on file in the board office for more than two years shall be:

- Considered invalid and shall be destroyed; or
- Maintained upon request of the applicant. The applicant is responsible for requesting that the file be maintained.

9. Notification of eligibility for licensure shall be sent to the licensee by the board.

645—141.3(155) Examination requirements. The following criteria shall apply to the written examination:

1. In order to be eligible to take the written examination, the supporting data and documentation required by the board are completed and on file at the board office.
2. The supporting data and documentation must be received at least 30 days prior to the date the applicant desires board eligibility determination for the examination.
3. Notification shall be sent by the board office to the examination service of an applicant's eligibility for the examination.
4. Each applicant who fails the national examination may apply to the board for reexamination. The applicant shall not take the national examination more than three times. If the applicant fails a third national examination, education in areas established by the board must be obtained before another examination will be allowed or a license is issued.

645—141.4(155) Educational qualifications. An applicant for licensure as a nursing home administrator shall fulfill the educational requirements of one of the following:

141.4(1) *Applicants with degrees in health care administration, health services administration, health care management, health services management, nursing home administration or long-term care administration.* An applicant for licensure to practice as a nursing home administrator shall possess a baccalaureate or postbaccalaureate degree in a qualifying degree program from a college or university currently accredited by one of the following: a regional accrediting agency, an organization affiliated with the National Commission on Accrediting (Council of Post-secondary Accreditation), or the National Association of Boards of Examiners of Long Term Care Administrators. The practicum requirements are as follows:

a. The applicant shall complete 720 clock hours of long-term health care practicum. There are nine areas of practicum requiring 80 clock hours each: social services; dietary; legal aspects and government organizations; nursing; environmental services; activities/community resources; business administration; administrative organization; and human resource management; or

b. Rescinded IAB 8/17/05, effective 9/21/05.

c. The school may waive up to 320 clock hours of practicum based on prior academic coursework or experience. The designated faculty shall provide written verification of completion of a minimum of 400 clock hours of practicum and that each of the nine required areas of practicum has been satisfied; or

d. Substitution of one year of long-term health care administration experience may be allowed at the discretion of the board. An applicant must submit to the board the following:

(1) Written verification provided directly from the facility owner, chief operating officer, human resources officer, or board president that states the dates of service, facility name(s), and position(s) held; and

(2) A written attestation provided directly from a licensed nursing home administrator to verify the completion of the equivalent of a minimum of 80 clock hours in each of the nine areas of practicum as specified in 141.4(1)*"a."*

141.4(2) *Applicants with degrees in other disciplines.* An applicant shall possess a baccalaureate degree in any other discipline from a college or university currently accredited by a regional accrediting agency or organization affiliated with the National Commission on Accrediting (Council of Post-secondary Accreditation). The applicant's coursework shall show satisfactory completion of the following:

a. Ten semester hours of business management, accounting or business law or any combination thereof;

b. Six semester hours of gerontology or aging-related coursework in disciplines including but not limited to the sciences and humanities;

c. Twelve semester hours in health care administration including but not limited to the areas of organizational management, regulatory management, human resources management, resident care management, environmental services management, and financial management; and

d. Practicum. The applicant shall complete a practicum as follows:

(1) The applicant shall complete 720 clock hours of long-term health care practicum. There are nine areas of practicum requiring 80 clock hours each: social services; dietary; legal aspects and government organizations; nursing; environmental services; activities/community resources; business administration; administrative organization; and human resource management; or

(2) Rescinded IAB 8/17/05, effective 9/21/05.

(3) The school may waive up to 320 clock hours of practicum based on prior academic coursework or experience. The designated faculty shall provide written verification of completion of a minimum of 400 clock hours of practicum and that each of the nine required areas of practicum has been satisfied; or

(4) Substitution of one year of long-term health care administration experience may be allowed at the discretion of the board. An applicant must submit to the board the following:

1. Written verification provided directly from the facility owner, chief operating officer, human resources officer, or board president that states the dates of service, facility name(s), and position(s) held; and

2. A written attestation provided directly from a licensed nursing home administrator to verify the completion of the equivalent of a minimum of 80 clock hours in each of the nine areas of practicum as specified in 141.4(2)*"d"*(1).

141.4(3) *Foreign-trained applicants.* Foreign-trained nursing home administrators shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or E-mail at info@ierf. org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a nursing home administration program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—141.5(155) Practicum experience.

141.5(1) The practicum experience shall be performed under the supervision of a preceptor (licensed administrator) in a licensed nursing home in accordance with the following:

a. The facility must have a licensed capacity of no fewer than 25 beds.

b. The facility cannot be owned or operated by a parent, spouse or sibling of the student.

c. Rescinded IAB 8/17/05, effective 9/21/05.

d. The practicum student may be compensated while completing the practicum experience.

e. The preceptor (licensed administrator):

(1) Shall hold a current license in good standing as a nursing home administrator;

(2) Shall have at least two years' experience as a licensed nursing home administrator; and

(3) Cannot be related to the student as a parent, spouse or sibling.

141.5(2) Rescinded IAB 8/17/05, effective 9/21/05.

645—141.6(155) Provisional administrator. Under certain limited circumstances, and only upon the filing of an application requesting approval, a provisional administrator may be appointed to serve as the administrator of a nursing home. A provisional administrator is considered a temporary appointment, and the person appointed may serve as an administrator for a period of time not to exceed 12 months. The 12-month appointment runs from the date approved by the board, and the 12 months in service do not need to be consecutive. The person serving as a provisional administrator shall not be permitted to serve in that capacity for more than a total of 12 months in an entire career. It is the responsibility of

an approved provisional administrator to maintain documentation of the actual dates the administrator serves in that capacity.

141.6(1) The limited circumstances under which the request for a provisional appointment shall be granted include the inability of the licensed administrator to perform the administrator's duties, the death of the licensed administrator or circumstances which prevent the immediate transfer of the licensed administrator's duties to another licensed administrator.

141.6(2) Applications for a provisional appointment shall be in writing on a form prescribed by the board. Applicants shall meet the following minimum qualifications:

a. Be at least 18 years of age.

b. Be employed on a full-time basis of no less than 32 hours per week to perform the duties of the nursing home administrator.

c. Be knowledgeable of the nursing home administrator's domains of practice including resident care management, human resources management, financial management, environmental management, regulatory management and organizational management.

d. Be without a history of unprofessional conduct or denial of or disciplinary action against a license to practice nursing home administration or any other profession by any lawful licensing authority for reasons outlined in 645—Chapter 144.

e. Provide evidence to establish that the provisional appointment will not exceed the maximum lifetime period of 12 calendar months in duration. Official employment verification is required for any period in which the applicant previously served as a provisional administrator.

f. Provide evidence that the time period of the provisional appointment complies with the requirements in 481—subrule 58.8(4). A written attestation of the facility owner or chief operating officer shall satisfy this requirement.

141.6(3) The board expressly reserves the right to withdraw approval of a provisional appointment. Withdrawal of approval shall be based on information or circumstances warranting such action. The provisional administrator shall be notified in writing by certified mail.

645—141.7(155) Licensure by endorsement. An applicant who has been a licensed nursing home administrator under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Provides evidence of a minimum of a bachelor's degree from a college or university accredited by the United States Department of Education. An official copy of the academic transcript denoting date of graduation and the degree conferred shall be sent directly from the school to the board office;
4. Provides evidence of an active license as a nursing home administrator for at least two years just prior to application, or meets the qualifications outlined in rule 141.4(155);
5. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:
   - Licensee's name;
   - Date of initial licensure;
   - Current licensure status; and
   - Any disciplinary action taken against the license; and
6. Provides one of the following:
   - The official NAB examination score sent directly from NAB to the board or from the state in which the applicant was first licensed; or
   - Evidence of certification as a nursing home administrator (CNHA) in good standing with the American College of Health Care Administrators.

645—141.8(155) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of nursing home administrator applicants.

645—141.9(155) License renewal.

141.9(1) The biennial license renewal period for a license to practice nursing home administration shall begin on January 1 of each even-numbered year and end on December 31 of the next odd-numbered year. All licensees shall renew on a biennial basis. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

141.9(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

141.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—143.2(272C) and the mandatory reporting requirements of subrule 141.9(8). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

141.9(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

141.9(5) 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 645—subrule 145.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

141.9(6) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a nursing home administrator in Iowa until the license is reactivated. A licensee who practices as a nursing home administrator in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

141.9(7) Persons licensed to practice as nursing home administrators shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

141.9(8) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 of condition(s) for waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 143.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

645—141.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

645—141.11(272C) Lapsed licenses. Rescinded IAB 8/17/05, effective 9/21/05.

645—141.12(155) Duplicate certificate or wallet card.

141.12(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

141.12(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—145.1(147,155).

141.12(3) If the board receives a completed application for duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—141.13(155) Reissued 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 645—145.1(147,155).

645—141.14(272C) License denial.

141.14(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

141.14(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

141.14(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—141.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

141.15(1) Submit a reactivation application on a form provided by the board.

141.15(2) Pay the reactivation fee that is due as specified in 645—Chapter 145.

141.15(3) Provide verification of current competence to practice as a nursing home administrator by satisfying the following criteria:

a. Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

(1) Licensee's name;

(2) Date of initial licensure;

(3) Current licensure status; and

(4) Any disciplinary action taken against the license; and

b. Verification of completion of 40 hours of continuing education within two years of the application for reactivation.

645—141.16(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 141.15(17A,147,272C) prior to practicing as a nursing home administrator in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 155, and 272C.

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CHAPTER 142
NURSING HOME ADMINISTRATION EDUCATION PROGRAMS

[For Continuing Education, see 645—Chapter 143]

Rescinded IAB 5/30/01, effective 7/4/01

CHAPTER 143
CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATION

[Prior to 8/24/88, see Nursing Home Administrators Board of Examiners [600], Ch 3]
[Prior to 9/13/95, see 645—Chapter 142]

645—143.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means the license is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of examiners for nursing home administrators.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a nursing home administrator in the state of Iowa.

"National Continuing Education Review Service (NCERS)" means the continuing education review service operated by the National Association of Boards of Examiners for Nursing Home Administrators, 808 17th Street NW, #200, Washington, DC 20006.

645—143.2(272C) Continuing education requirements.

143.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each even-numbered year and ending on December 31 of the next odd-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

143.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

143.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

143.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

143.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—143.3(155,272C) Standards.

143.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

143.3(2) *Specific criteria.* Licensees may obtain continuing education hours of credit by:

a. Participating in the continuing education programs approved by the National Continuing Education Review Service (NCERS).

b. Academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

c. Attendance at or participation in a program or course which meets the requirements in 143.3(1).

d. Making presentations; conducting research; producing publications; preparing new courses; participating in home study courses; attending electronically transmitted courses; and attending workshops, conferences, or symposiums.

e. Self-study coursework that meets the criteria set forth in these rules. Continuing education credit equivalent for self-study is as follows:

180 minutes of self-study work = 1 continuing education hour

The maximum number of hours for self-study, including television viewing, video or sound-recorded programs, correspondence work, or research, or by other similar means which is not directly sponsored by and supervised by an accredited postsecondary college or university or NCERS, is 8 hours.

645—143.4(155,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

143.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

143.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

143.4(3) For auditing purposes, all licensees must retain the information identified in subrule 143.4(2) for two years after the biennium has ended.

143.4(4) Information identified in subrule 143.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

143.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

143.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—143.5(155,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—143.6(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

143.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

143.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

143.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—143.7(155,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

143.7(1) Failure to cooperate with a board audit.

143.7(2) Failure to meet the continuing education requirement for licensure.

143.7(3) Falsification of information on the license renewal form.

143.7(4) Falsification of continuing education information.

645—143.8(272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

645—143.9(272C) Continuing education waiver for disability or illness. Rescinded IAB 8/17/05, effective 9/21/05.

645—143.10(272C) Reinstatement of inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

645—143.11(272C) Hearings. Rescinded IAB 8/17/05, effective 9/21/05.

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CHAPTER 144
DISCIPLINE FOR NURSING HOME ADMINISTRATORS
[Prior to 5/30/01, see 645—Chapter 141]

645—144.1(155) Definitions.

"Board" means the board of examiners for nursing home administrators.

"Licensee" means a person licensed to practice as a nursing home administrator in Iowa.

"Licensee discipline" means any sanction the board may impose upon a licensee.

645—144.2(155,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—144.3(155,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

144.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

144.2(2) Any falsification or misrepresentation contained in any report or document attesting to the facts, conditions and activities of the internship or work experience and submitted by the applicant, administrator/preceptor or other participants may be grounds for denial of license or for suspension or revocation of the nursing home administrator license in addition to the imposition of fines and any other penalties provided by law.

144.2(3) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other nursing home administrators in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by a nursing home administrator acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed nursing home administrator in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

144.2(4) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of nursing home administration or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

144.2(5) Use of untruthful or improbable statements in advertisements. The use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

144.2(6) Practice outside the scope of the profession.

144.2(7) Habitual intoxication or addiction to the use of drugs.

144.2(8) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

144.2(9) Falsification of client or patient records.

144.2(10) Acceptance of any fee or property by fraud or misrepresentation.

144.2(11) Misappropriation of resident funds or facility funds.

144.2(12) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including improper delegation of duties or supervision of employees or other individuals, whether or not injury results, or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

144.2(13) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice as a nursing home administrator. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

144.2(14) Violation of a regulation, rule or law of this state, another state, or the United States, which relates to the practice of nursing home administrators.

144.2(15) Revocation, suspension, or other disciplinary action taken by the professional licensing authority of this state, another state, territory, or country; or failure of the licensee to report such action within 30 days of the final action by the licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

144.2(16) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of nursing home administration in another state, district, territory or country.

144.2(17) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

144.2(18) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action which arises out of the practice of the nursing home administrator.

144.2(19) Engaging in any conduct that subverts or attempts to subvert a board investigation.

144.2(20) Failure to comply with a subpoena issued by the board, or failure to cooperate with an investigation of the board.

144.2(21) Failure to respond within 30 days to a communication of the board which was sent by registered or certified mail.

144.2(22) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

144.2(23) Failure to pay costs assessed in any disciplinary action.

144.2(24) Submission of a false report of continuing education.

144.2(25) Failure to report another licensee to the board for any suspected violations listed in these rules.

144.2(26) Knowingly aiding, assisting, or advising a person to unlawfully practice as a nursing home administrator.

144.2(27) Failure to report a change of name or address within 30 days after the occurrence.

144.2(28) Representing oneself as a licensed nursing home administrator when one's license has been suspended or revoked, or when one's license is on inactive status.

144.2(29) Permitting another person to use the licensee's license for any purpose.

144.2(30) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

144.2(31) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence. A licensee shall not disclose professional or personal information regarding recipients of service to unauthorized personnel unless required by law or to protect the public welfare.

d. Engaging in a professional conflict of interest.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

144.2(32) Repeated failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

144.2(33) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—144.3(155,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—144.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—144.5(155) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

144.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

144.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

144.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

144.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

144.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

144.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

144.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 155 and 272C.

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CHAPTER 145
FEES
[Prior to 5/30/01, see 645—Chapter 141]

645—145.1(147,155) License fees. All fees are nonrefundable.

145.1(1) Licensure fee for license to practice nursing home administration is $120.

145.1(2) Biennial license renewal fee for each license for each biennium is $60.

145.1(3) Late fee for failure to renew before expiration is $60.

145.1(4) Reactivation fee is $120.

145.1(5) Duplicate or reissued license certificate or wallet card fee is $20.

145.1(6) Verification of license fee is $20.

145.1(7) Returned check fee is $25.

145.1(8) Disciplinary hearing fee is a maximum of $75.

145.1(9) Provisional license fee is $120.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 155.

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CHAPTER 146
PETITIONS FOR RULE MAKING

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 147
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
[Prior to 9/13/95, see 645—Chapter 149]
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 148
DECLARATORY RULINGS
[Prior to 9/13/95, see 645—140.4(135E)]
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CHAPTER 149
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 9/13/95, effective 10/18/95; see 645—Chapter 147

CHAPTER 150
Reserved

CHAPTERS 150 and 151
Reserved

CHAPTERS 150 to 152
Reserved

CHAPTERS 150 to 153
Reserved

CHAPTERS 150 to 154
Reserved

CHAPTERS 150 to 155
Reserved

CHAPTERS 150 to 156
Reserved

CHAPTERS 150 to 157
Reserved

CHAPTERS 150 to 158
Reserved

CHAPTERS 150 to 159
Reserved

CHAPTER 160
OPHTHALMIC DISPENSERS

Rescinded IAB 2/3/93, effective 1/15/93

CHAPTER 161
Reserved

CHAPTERS 161 and 162
Reserved

CHAPTERS 161 to 163
Reserved

CHAPTERS 161 to 164
Reserved

CHAPTERS 161 to 165
Reserved

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OPTOMETRISTS

CHAPTER 179 ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF OPTOMETRY EXAMINERS
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CHAPTER 179
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF OPTOMETRY EXAMINERS

[Prior to 5/18/88, see 470—Chapters 143 and 144]
[Prior to 6/13/01, see 645—Chapter 180]

645—179.1(17A) Definitions.

"Board" means the board of optometry examiners.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice optometry.

"Licensee" means a person licensed to practice as an optometrist in the state of Iowa.

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

"Peer review" means evaluation of professional services rendered by a professional practitioner.

"Peer reviewer(s)" means one or more persons acting in a peer review capacity who have been appointed by the board for such purpose.

645—179.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 154 and 272C with regard to the practice of optometry. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

179.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

179.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

179.2(3) Imposing discipline on licensees as provided by statute or rule.

645—179.3(17A,147,272C) Organization of board and proceedings.

179.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

179.3(2) The members of the board shall include five members who are licensed to practice optometry and two members who are not licensed to practice optometry and who shall represent the general public.

179.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

179.3(4) The board shall hold at least one meeting annually.

179.3(5) A majority of the members of the board shall constitute a quorum.

179.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

179.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

179.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of optometry upon receipt of a complaint or upon the board's own initiative. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

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

h. Establish and register peer reviewers.

i. Refer complaints to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

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

645—179.4(17A) Official communications.

179.4(1) All official communications, including submissions and requests, may be addressed to the Board of Optometry Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

179.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

179.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—179.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

645—179.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

179.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

179.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

179.6(3) The person presiding at a meeting of the board or a committee may exclude a person from an open meeting for behavior that obstructs the meeting.

179.6(4) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 154 and 272C.

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◊ Two or more ARCs

[1] Effective date of 645—180.9(154) delayed 70 days by the Administrative Rules Review Committee at its meeting held February 8, 1993. [The 3/3/93 IAC Supplement also incorrectly showed delay on amendments to rules 180.1, 180.5, 180.10, 180.12, 180.14 and 180.100 (IAB 1/26/93, **ARC 3687A**). This was corrected in IAC Supp. 3/17/93.]

CHAPTER 180
LICENSURE OF OPTOMETRISTS
[Prior to 6/13/01, see 645—Chapter 180]

645—180.1(154) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program or activity" means a continuing education program or activity meeting the standards set forth in these rules.

"Board" means the board of optometry examiners.

"CELMO" means the Council on Endorsed Licensure Mobility for Optometrists.

"Diagnostically certified optometrist" means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry examiners to use cycloplegics, mydriatics and topical anesthetics as diagnostic agents topically applied to determine the condition of the human eye for proper optometric practice or referral for treatment to a person licensed under Iowa Code chapter 148 or 150A.

"DPA" means diagnostic pharmaceutical agents.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as an optometrist in the state of Iowa.

"Licensure by endorsement" means the issuance of an Iowa license to practice optometry to an applicant who is or has been licensed in another state.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of optometrists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"NBEO" means the National Board of Examiners in Optometry.

"Reactivate" or *"reactivation"* means the process as outlined in rule 180.11(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice optometry to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of optometry examiners to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Therapeutically certified optometrist" means an optometrist who is licensed to practice optometry in Iowa and who is certified by the board of optometry examiners to use diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of the conditions of the human eye and adnexa, with the exclusions cited in Iowa Code chapter 154.

"TPA" means therapeutic pharmaceutical agents.

645—180.2(154) Requirements for licensure.

180.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application form. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the Board of Optometry Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. An applicant shall submit the appropriate fees payable to the Board of Optometry Examiners. The fees are nonrefundable.

d. No application will be considered complete until official copies of academic transcripts sent directly to the board from an accredited school or college of optometry are received by the board and the applicant submits proof of satisfactory completion of all educational requirements contained in Iowa Code chapter 154.

e. An applicant shall pass all parts of the NBEO examination in effect at the time of application.

f. Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

g. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

h. An applicant shall provide an official verification regarding the status of the applicant's license from the board of examiners in each state in which the applicant is currently or was formerly licensed.

180.2(2) A licensee may change from a diagnostically certified optometrist to a therapeutically certified optometrist by taking 40 hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa and an additional 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases as defined by statute.

645—180.3(154) Licensure by endorsement. An applicant who has been a licensed optometrist under laws of another jurisdiction for three years or more shall file an application for licensure by endorsement with the board office. An applicant for licensure to practice optometry in Iowa may only apply to be a therapeutically certified optometrist. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

180.3(1) Submits to the board a completed application;

180.3(2) Pays the licensure fee;

180.3(3) Provides an official copy of the transcript sent directly from the school to the board office. The transcript shall show a doctor of optometry degree from an accredited school. In the case of foreign graduates, applicants shall provide evidence of adherence to the current requirements of the NBEO to sit for the examination;

180.3(4) Shows evidence of successful completion of the examination of the NBEO that was current at the time of initial licensure or successful completion of the examination that is currently offered by the NBEO;

180.3(5) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license;

180.3(6) Provides a statement disclosing and explaining the applicant's involvement in civil litigation related to the practice of optometry in any jurisdiction of the United States, other nations or territories; and

180.3(7) Provides proof of current CELMO certification. Applicants who provide proof of current CELMO certification satisfy the educational requirements for licensure by endorsement. If an applicant is not CELMO-certified, then the applicant must show evidence of the following:

a. The applicant shall supply evidence of completion of a course that has particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa, provided by an institution accredited by a regional or professional accreditation organization that is recognized or approved by the Council on Postsecondary Accreditation of the United States Department of Education; and

b. The applicant shall show evidence on the transcript of:

(1) Forty hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa; and

(2) An additional 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases.

c. If the transcript does not show evidence of 40 hours of didactic education; 60 hours of approved supervised clinical training in the examination, diagnosis and treatment of conditions of the human eye and adnexa; and 44 hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases, the applicant shall show satisfactory evidence of completion of a course that includes training in the above-listed areas.

d. Any transcript that shows graduation from an approved school of optometry after January 2, 1988, meets the requirement of 180.3(7)*"b."*

e. Any transcript that shows graduation from an approved school of optometry after January 2, 1986, meets the requirement of 180.3(7)*"b"*(1) of 40 hours of didactic education and 60 hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa. Applicants need to also show evidence of completion of the requirement in 180.3(7)*"b"*(2).

f. An applicant for licensure by endorsement shall provide proof of licensure and evidence of three years of active practice in another state, territory or district of the United States immediately preceding the date of application which has a similar scope of practice to that required in Iowa as determined by the board. When the scope of practice is different, the applicant shall make available to the board evidence of completion of additional hours of training related to the area of the deficiency as prescribed by the board. The applicant may be exempt from the requirement of three years of active practice if, during the above-mentioned three-year period, the applicant was:

(1) Teaching optometry;

(2) A military optometrist;

(3) A supervisory or administrative optometrist; or

(4) A researcher in optometry.

180.3(8) Applicants for licensure by endorsement who were issued their Iowa licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

645—180.4(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia, any state, territory, province or foreign country with equal or similar requirements for licensure of optometrists.

645—180.5(154) License renewal.

180.5(1) The biennial license renewal period for a license to practice optometry shall begin on July 1 of an even-numbered year and end on June 30 two years later. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

180.5(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

180.5(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—181.2(154) and the mandatory reporting requirements of subrule 180.5(4). A licensee whose license was reactivated during the current

renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

180.5(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of the licensee's employment responsibilities, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 181.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

180.5(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

180.5(6) A person licensed to practice optometry shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

180.5(7) 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 645—subrule 184.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

180.5(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an optometrist in Iowa until the license is reactivated. A licensee who practices as an optometrist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—180.6(272C) Exemptions for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—180.7(272C) Lapsed licenses. Rescinded IAB 8/3/05, effective 9/7/05.

645—180.8(147) Duplicate certificate or wallet card.

180.8(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

180.8(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—184.1(147,154).

180.8(3) If the board receives a completed application for duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—180.9(147) Reissued 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 645—184.1(147,154).

645—180.10(17A,147,272C) License denial.

180.10(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

180.10(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

180.10(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—180.11(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

180.11(1) Submit a reactivation application on a form provided by the board.

180.11(2) Pay the reactivation fee that is due as specified in 645—Chapter 184.

180.11(3) Provide verification of current competence to practice as an optometrist by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 30 hours of continuing education for a diagnostically certified optometrist or 50 hours for a therapeutically certified optometrist within two years of application for reactivation unless the applicant provides proof of current CELMO certification. Proof of current CELMO certification satisfies continuing education requirements for the purpose of reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 60 hours of continuing education for a diagnostically certified optometrist or 100 hours for a therapeutically certified optometrist within two years of application for reactivation unless the applicant provides proof of current CELMO certification. If the therapeutically certified optometrist provides proof of current CELMO certification, the applicant must also verify completion of an additional 50 hours of continuing education within two years of application for reactivation.

645—180.12(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 180.11(17A,147,272C) prior to practicing as an optometrist in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

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CHAPTER 181
CONTINUING EDUCATION FOR OPTOMETRISTS

645—181.1(154) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of optometry examiners.

"CELMO" means the Council on Endorsed Licensure Mobility for Optometrists.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as an optometrist in the state of Iowa.

645—181.2(154) Continuing education requirements.

181.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year.

a. Requirements for nontherapeutic licensees. Each biennium, each person who is licensed to practice as an optometrist in this state and who is not therapeutically certified shall be required to complete a minimum of 30 hours of continuing education approved by the board. Nontherapeutic licensees must comply with Iowa continuing education rules for license renewal and reinstatement by meeting the continuing education requirements in the state of practice.

b. Requirements for therapeutic licensees. Each biennium, each person who is licensed to practice as a therapeutic licensee in this state shall be required to complete a minimum of 50 hours of continuing education approved by the board.

181.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 50 hours of continuing education per biennium for each subsequent license renewal.

181.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

181.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

181.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—181.3(154,272C) Standards.

181.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to common subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Numbers of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

181.3(2) *Specific criteria.*

a. Continuing education hours of credit may be obtained by attending:

(1) The continuing education programs of the Iowa Optometric Association, the American Optometric Association, the American Academy of Optometry, and national regional optometric congresses, schools of optometry, all state optometric associations, and the department of ophthalmology of the school of medicine of the University of Iowa;

(2) Postgraduate study through an accredited school or college of optometry;

(3) Meetings or seminars that are approved and certified for optometric continuing education by the Association of Regulatory Boards of Optometry's Council on Optometric Practitioner Education Committee (COPE); or

(4) Beginning with the July 1, 2006, biennium, therapeutic licensees who provide proof of current CELMO certification meet continuing education requirements for the biennium.

b. The maximum number of hours in each category in each biennium is as follows:

(1) Ten hours of credit for local study group programs that meet the criteria.

(2) Ten hours of credit for correspondence courses, which include written and electronically transmitted material and have a posttest. Certification of the continuing education requirements and of passing the test must be given by the institution providing the continuing education, and that institution must be accredited by a regional or professional accreditation organization which is recognized or approved by the Council on Postsecondary Accreditation of the United States Department of Education.

(3) Six hours of credit for practice management courses.

(4) Two hours of credit for dependent adult abuse and child abuse identification.

(5) Four hours of credit for current certification in CPR, by the American Heart Association, the American Red Cross or an equivalent organization.

(6) Twenty hours of credit for postgraduate study courses.

c. Required continuing education hours. Beginning with the July 1, 2008, biennium, therapeutic licensees who provide proof of current CELMO certification meet continuing education requirements for the biennium. If the licensee does not have current proof of CELMO certification, then the following are required in order to meet the continuing education requirement in paragraph 181.2(1)*"b"*:

(1) Twenty hours required from COPE Category B (Ocular Disease and Management) and 20 hours required from COPE Category C (Related Systemic Disease); and

(2) Ten additional hours required from any of the COPE Categories of A (Clinical Optometry), B, C and D (Optometric Business Management). Hours obtained in Category D may not exceed 6 hours of the total continuing education hours requirement.

645—181.4(154,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

181.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

181.4(2) Beginning with the July 1, 2006, biennium, the licensee shall provide the following information to the board for auditing purposes or in lieu thereof provide proof of current CELMO certification:

a. Date and location of course, course title, course description, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

181.4(3) For auditing purposes, all licensees must retain the information identified in subrule 181.4(2) for two years after the biennium has ended.

181.4(4) Information identified in subrule 181.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

181.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

181.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—181.5(154,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—181.6(154,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

181.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

181.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

181.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—181.7(154,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

181.7(1) Failure to cooperate with a board audit.
181.7(2) Failure to meet the continuing education requirement for licensure.
181.7(3) Falsification of information on the license renewal form.
181.7(4) Falsification of continuing education information.

645—181.8(154,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—181.9(154,272C) Continuing education exemption for disability or illness. Rescinded IAB 8/3/05, effective 9/7/05.

645—181.10(154,272C) Reinstatement of inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—181.11(272C) Hearings. Rescinded IAB 8/3/05, effective 9/7/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154.

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CHAPTER 182
PRACTICE OF OPTOMETRISTS

[Prior to 8/7/02, see 645—179.4(154), 179.5(154,272C), 179.7(154) and 179.8(155A)]

645—182.1(154) Code of ethics. The board hereby adopts by reference the Code of Ethics of the American Optometric Association as published by the American Optometric Association, 243 North Lindbergh Boulevard, St. Louis, Missouri 63141, revised 1944.

645—182.2(154,272C) Record keeping. Optometrists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Records shall be permanent, timely, accurate, legible, and easily understandable.

182.2(1) Optometrists shall maintain optometry records for each patient. The records shall contain all of the following:

a. *Personal data.*

(1) Name, date of birth, address and, if a minor, name of parent or guardian; and

(2) Name and telephone number of person to contact in case of emergency.

b. *Optometry and medical history.* Optometry records shall include information from the patient or the patient's parent or guardian regarding the patient's optometric and medical history. The information shall include sufficient data to support the recommended treatment plan.

c. *Patient's reason for visit.* When a patient presents with a chief complaint, optometric records shall include the patient's stated visual health care reasons for visiting the optometrist.

d. *Clinical examination progress notes.* Optometric records shall include chronological dates and descriptions of the following:

(1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;

(2) Plan of intended treatment and treatment sequence;

(3) Services rendered and any treatment complications;

(4) All ancillary testing, if applicable;

(5) Vision tests completed and visual acuity;

(6) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and

(7) Name of optometrist who performs any treatment or service or who may have contact with a patient regarding the patient's optometric health.

e. *Informed consent.* Optometric records shall include documentation of informed consent for procedure(s) and treatment that have potential serious complications and known risks.

182.2(2) Retention of records. An optometrist shall maintain a patient's record(s) for a minimum of five years after the date of last examination, prescription, or treatment. Records for minors shall be maintained for, at minimum, one year after the patient reaches the age of majority (18) or five years after the date of last examination, prescription, or treatment, whichever is longer.

Proper safeguards shall be maintained to ensure the safety of records from destructive elements.

182.2(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, an optometrist shall keep either a duplicate hard-copy record or a back-up unalterable electronic record.

182.2(4) Correction of records. Notations shall be legible, written in ink, and contain no erasures or white-outs. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by an optometric health care worker.

182.2(5) Confidentiality and transfer of records. Optometrists shall preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or the patient's new optometrist, the optometrist shall furnish such optometry records or copies of the records as will be beneficial for the future treatment of that patient. The optometrist may include a summary of the record(s) with the record(s) or copy of the record(s). The optometrist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees. The optometrist may ask for a written request for the record(s).

182.2(6) Retirement or discontinuance of practice. A licensee, upon retirement, or upon discontinuation of the practice of optometry, or upon leaving a practice or moving from a community, shall notify all active patients in writing, or by publication once a week for three consecutive weeks in a newspaper of general circulation in the community, that the licensee intends to discontinue the practice of optometry in the community, and shall encourage patients to seek the services of another licensee. The licensee shall make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee. "Active patient" means a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the two-year period prior to retirement, discontinuation of the practice of optometry, or leaving a practice or moving from a community.

182.2(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed optometrist who is assuming a practice, provided that written notice is furnished to all patients.

645—182.3(154) Furnishing prescriptions. Each contact lens or ophthalmic spectacle lens/eyeglass prescription by a licensed optometrist must meet the requirements as listed below:

182.3(1) A contact lens prescription shall contain the following information:

a. Date of issuance;

b. Name and address of patient for whom the contact lens or lenses are prescribed;

c. Name, address, and signature of the practitioner;

d. All parameters required to duplicate properly the original contact lens;

e. A specific date of expiration, not to exceed 18 months, the quantity of lenses allowed and the number of refills allowed; and

f. At the option of the prescribing practitioner, the prescription may contain fitting and material guidelines and specific instructions for use by the patient.

182.3(2) Release of contact lens prescription.

a. After the contact lenses have been adequately adapted and the patient released from initial follow-up care by the prescribing practitioner, the prescribing practitioner shall, upon request of the patient, provide a copy of the contact lens prescription, at no cost, for the duplication of the original contact lens.

b. A practitioner choosing to issue an oral prescription shall furnish the same information required for the written prescription except for the written signature and address of the practitioner. An oral prescription may be released by an O.D. to any dispensing person who is a licensed professional with the O.D., M.D., D.O., or R.Ph. degree or a person under direct supervision of those licensed under Iowa Code chapter 148, 150, 150A, 154 or 155A.

c. The issuing of an oral prescription must be followed by a written copy to be kept by the dispenser of the contact lenses until the date of expiration.

182.3(3) An ophthalmic spectacle lens prescription shall contain the following information:

a. Date of issuance;

b. Name and address of the patient for whom the ophthalmic lens or lenses are prescribed;

c. Name, address, and signature of the practitioner issuing the prescription;

d. All parameters necessary to duplicate properly the ophthalmic lens prescription; and

e. A specific date of expiration not to exceed two years.

f. A dispenser of ophthalmic materials, in spectacle or eyeglass form, must keep a valid copy of the prescription on file for two years.

182.3(4) Release of ophthalmic lens prescription.

a. The ophthalmic lens prescription shall be furnished upon request at no additional charge to the patient.

b. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.

c. Spectacle lens prescriptions must be in written format, according to Iowa Code section 147.109(1).

645—182.4(155A) Prescription drug orders. Each prescription drug order furnished by a therapeutically certified optometrist in this state shall meet the following requirements:

182.4(1) Written prescription drug orders shall contain:

a. The date of issuance;

b. The name and address of the patient for whom the drug is dispensed;

c. The name, strength, and quantity of the drug, medicine, or device prescribed;

d. The directions for use of the drug, medicine, or device prescribed;

e. The name, address, and written signature of the practitioner issuing the prescription;

f. The federal drug enforcement administration number, if required under Iowa Code chapter 124; and

g. The title "Therapeutically Certified Optometrist" following the name of the practitioner issuing the prescription.

182.4(2) The practitioner issuing oral prescription drug orders shall furnish the same information required for a written prescription, except for the written signature and address of the practitioner.

These rules are intended to implement Iowa Code chapters 154 and 155A.

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CHAPTER 183
DISCIPLINE FOR OPTOMETRISTS

[Prior to 6/13/01, see 645—Ch 180]
[Prior to 8/7/02, see 645—Ch 182]

645—183.1(154) Definitions.

"Board" means the board of optometry examiners.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as an optometrist in Iowa.

645—183.2(154,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—183.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

183.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

183.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of optometry in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

183.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

183.2(4) Practice outside the scope of the profession.

183.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

183.2(6) Habitual intoxication or addiction to the use of drugs.

183.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

183.2(8) Falsification of client records.

183.2(9) Acceptance of any fee by fraud or misrepresentation.

183.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

183.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

183.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

183.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

183.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

183.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

183.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

183.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

183.2(18) Failure to comply with a subpoena issued by the board, or otherwise fail to cooperate with an investigation of the board.

183.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

183.2(20) Failure to pay costs assessed in any disciplinary action.

183.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

183.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

183.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice optometry.

183.2(24) Failure to report a change of name or address within 30 days after it occurs.

183.2(25) Representing oneself as an optometry practitioner when one's license has been suspended or revoked, or when one's license is on inactive status.

183.2(26) Permitting another person to use the licensee's license for any purposes.

183.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

183.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

183.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

183.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—183.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board, to be paid for by the licensee.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—183.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—183.5(154) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

183.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

183.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

183.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding

and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

183.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

183.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

183.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

183.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 154 and 272C.

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CHAPTER 184
FEES

[Prior to 6/13/01, see 645—Ch 180]
[Prior to 8/7/02, see 645—Ch 183]

645—184.1(147,154) License fees. All fees are nonrefundable.

184.1(1) Licensure fee for license to practice optometry, licensure by endorsement, or licensure by reciprocity is $300.

184.1(2) Biennial license renewal fee for each biennium is $144.

184.1(3) Late fee for failure to renew before expiration date is $60.

184.1(4) Reactivation fee is $204.

184.1(5) Duplicate or reissued license certificate or wallet card fee is $20.

184.1(6) Verification of license fee is $20.

184.1(7) Returned check fee is $25.

184.1(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

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CHAPTER 185
Reserved

CHAPTER 186
AGENCY PROCEDURE FOR RULE MAKING

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 187
DECLARATORY RULINGS
[Prior to 10/16/91, see 645—180.11(17A)]
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CHAPTER 188
PETITIONS FOR RULE MAKING
[Prior to 10/16/91, see 645—180.4(154)]
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CHAPTER 189
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

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CHAPTER 190
CHILD SUPPORT NONCOMPLIANCE

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CHAPTER 191
IMPAIRED PRACTITIONER REVIEW COMMITTEE

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CHAPTER 192
Reserved

CHAPTERS 192 and 193
Reserved

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PHYSICAL AND OCCUPATIONAL THERAPISTS

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CHAPTER 199
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF PHYSICAL AND OCCUPATIONAL THERAPY—PHYSICAL THERAPY

[Prior to 11/16/88, see Health Department[470], Ch 137]
[Prior to 12/24/03, see 645—Ch 200]

645—199.1(17A) Definitions.

"Board" means the board of physical and occupational therapy.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice physical therapy.

"Licensee" means a person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

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

645—199.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 148A and 272C with regard to the practice of physical therapy. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

199.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

199.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

199.2(3) Imposing discipline on licensees as provided by statute or rule.

645—199.3(17A,147,272C) Organization of board and proceedings.

199.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

199.3(2) The members of the board shall include three members who are licensed to practice physical therapy, two members who are licensed to practice occupational therapy, and two members who are not licensed to practice physical therapy or occupational therapy and shall represent the general public.

199.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

199.3(4) The board shall hold at least four meetings annually.

199.3(5) A majority of the members of the board shall constitute a quorum.

199.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

199.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

199.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of physical therapy upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licensees who are restricted by a board order.

h. Perform any other function authorized by a provision of law.

645—199.4(17A) Official communications.

199.4(1) All official communications, including submissions and requests, may be addressed to the Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

199.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

199.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—199.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

645—199.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

199.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for

two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

199.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

199.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

199.6(4) Cameras and recording devices may be used at open meetings, provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 148A and 272C.

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CHAPTER 200
LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

[Prior to 3/6/02, see 645—200.3(147) to 645—200.8(147), 645—200.11(272C), and 645—202.3(147) to 645—202.7(147)]
[Prior to 12/24/03, see 645—ch 201]

645—200.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Assistive personnel" means any person who carries out physical therapy and is not licensed as a physical therapist or physical therapist assistant. This definition does not include students as defined in Iowa Code section 148A.3(2).

"Board" means the board of physical and occupational therapy.

"Department" means the department of public health.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Impairment" means a mechanical, physiological or developmental loss or abnormality, a functional limitation, or a disability or other health- or movement-related condition.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

"License expiration date" means the fifteenth day of the birth month every two years after initial licensure.

"Licensure by endorsement" means the issuance of an Iowa license to practice physical therapy to an applicant who is or has been licensed in another state.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of physical therapists or physical therapist assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"On site" means:

1. To be continuously on site and present in the department or facility where assistive personnel are performing services;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

"Physical therapist" means a person licensed under this chapter to practice physical therapy.

"Physical therapist assistant" means a person licensed under this chapter to assist in the practice of physical therapy.

"Physical therapy" means that branch of science that deals with the evaluation and treatment of human capabilities and impairments, including:

1. Evaluation of individuals with impairments in order to determine a diagnosis, prognosis, and plan of therapeutic treatment and intervention, and to assess the ongoing effects of intervention;
2. Use of the effective properties of physical agents and modalities, including but not limited to mechanical and electrotherapeutic devices, heat, cold, air, light, water, electricity, and sound, to prevent, correct, minimize, or alleviate an impairment;
3. Use of therapeutic exercises to prevent, correct, minimize, or alleviate an impairment;
4. Use of rehabilitative procedures to prevent, correct, minimize, or alleviate an impairment, including but not limited to the following procedures:

- Manual therapy, including soft-tissue and joint mobilization and manipulation;

- Therapeutic massage;
- Prescription, application, and fabrication of assistive, adaptive, orthotic, prosthetic, and supportive devices and equipment;
- Airway clearance techniques;
- Integumentary protection and repair techniques; and
- Debridement and wound care;

5. Interpretation of performances, tests, and measurements;
6. The establishment and modification of physical therapy programs;
7. The establishment and modification of treatment planning;
8. The establishment and modification of consultive services;
9. The establishment and modification of instructions to the patient, including but not limited to functional training relating to movement and mobility;
10. Participation, administration and supervision attendant to physical therapy and educational programs and facilities.

"PT" means physical therapist.

"PTA" means physical therapist assistant.

"Reactivate" or *"reactivation"* means the process as outlined in rule 200.15(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—200.2(147) Requirements for licensure. The following criteria shall apply to licensure:

200.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

200.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

200.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Physical and Occupational Therapy. The fees are nonrefundable.

200.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of physical and occupational therapy have been received by the board. An applicant shall have successfully completed a physical therapy education program accredited by a national accreditation agency approved by the board.

200.2(5) Notification of eligibility for the examination shall be sent to the applicant by the board.

200.2(6) The candidate shall have the examination score sent directly from the testing service to the board.

200.2(7) Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

200.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—200.3(147) Requirements for practice prior to licensure. Rescinded IAB 12/19/07, effective 1/23/08.

645—200.4(147) Examination requirements for physical therapists and physical therapist assistants. The following criteria shall apply to the written examination(s):

200.4(1) The applicant shall take and pass the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board.

200.4(2) The applicant shall abide by the following criteria:

a. For examinations taken prior to July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score exceeding 1.5 standard deviations below the national average.

b. For examinations completed after July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score equal to or greater than the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.

200.4(3) Before the board may approve an applicant for testing beyond three attempts, an applicant shall reapply for licensure and shall demonstrate evidence satisfactory to the board of having successfully completed additional clinical training or coursework, or both.

200.4(4) The applicant shall be notified by the board in writing of examination results.

645—200.5(147) Educational qualifications.

200.5(1) The applicant must present proof of meeting the following requirements for licensure as a physical therapist or physical therapist assistant:

a. Educational requirements—physical therapists. Physical therapists shall graduate from a physical therapy program accredited by a national accreditation agency approved by the board.

(1) If the degree is granted on or before January 31, 2004, the degree must be equivalent to at least a baccalaureate degree. The baccalaureate program shall consist of a minimum of 60 hours of general education and 60 hours of professional education.

(2) If the degree is granted on or after February 1, 2004, the degree must be equivalent to a postbaccalaureate degree.

b. Educational requirements—physical therapist assistants. Physical therapist assistants shall graduate from a PTA program accredited by a national accreditation agency approved by the board.

200.5(2) Foreign-trained applicants shall:

a. Submit an English translation and an equivalency evaluation of their educational credentials through the following organization: Foreign Credentialing Commission on Physical Therapy, Inc., 124 West Street South, Third Floor, Alexandria, VA 22314; telephone (703)684-8406; Web site www.fccpt.org. The credentials of foreign-educated physical therapist licensure applicants should be evaluated using the version of the Federation of State Boards of Physical Therapy (FSBPT) Coursework Evaluation Tool (CWT) that covers the date the applicant graduated from the applicant's respective physical therapy education program. A credentialing agency should use the version for the CWT that coincides with the professional educational criteria that were in effect on the date the applicant graduated from the applicant's respective physical therapy education program. This same process should be used for first-time licensees and for those seeking licensure through endorsement. The professional curriculum must be equivalent to the Commission on Accreditation in Physical Therapy Education standards. An applicant shall bear the expense of the curriculum evaluation.

b. Submit certified proof of proficiency in the English language by achieving on the Test of English as a Foreign Language (IBT-TOEFL) a total score of at least 89 on the Internet-based TOEFL as well as accompanying minimum scores in the four test components as follows: 24 in writing; 26 in speaking; 21 in reading comprehension; and 18 in listening comprehension. This examination is administered by Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL examination. Applicants may be exempt from the TOEFL examination when the native language is English, physical therapy education was completed in a school approved by the Commission on Accreditation in Physical Therapy Education (CAPTE), language of instruction in

physical therapy was English, language of the textbooks was English, and the applicant's transcript was in English.

c. Submit an official statement from each country's or territory's board of examiners or other regulatory authority regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicants shall request such statements from all entities in which they are currently or formerly licensed.

d. Receive a final determination from the board regarding the application for licensure.

645—200.6(272C) Supervision requirements.

200.6(1) Physical therapist supervisor responsibilities. The supervisor shall:

a. Provide supervision to a PTA.

b. Provide on-site supervision or supervision by telecommunication as long as the physical therapy services are rendered in accordance with the minimum frequency standards set forth in subrule 200.6(4).

c. Assume responsibility for all delegated tasks and shall not delegate a service which exceeds the expertise of the PTA.

d. Provide evaluation and development of a treatment plan for use by the PTA.

e. Supervise not more than the equivalent of two full-time PTAs, not to exceed four part-time PTAs, who are providing physical therapy per calendar day, including supervision by telecommunication.

f. Rescinded IAB 12/19/07, effective 1/23/08.

g. Ensure that a PTA under the PT's supervision has a current license to practice as a PTA.

h. Rescinded IAB 12/19/07, effective 1/23/08.

i. Ensure that the signature of a PTA on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a PTA.

200.6(2) The following are functions that only a physical therapist may provide and cannot be delegated to a PTA:

a. Interpretation of referrals;

b. Initial physical therapy evaluation and reevaluations;

c. Identification, determination or modification of patient problems, goals, and care plans;

d. Final discharge evaluation and establishment of the discharge plan;

e. Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times;

f. Delegation of and instruction in the services to be rendered by the PTA or other assistive personnel including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures; and

g. Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

200.6(3) Supervision of other assistive personnel. PTs are responsible for patient care provided by assistive personnel under their supervision. Physical therapy aides and other assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

a. The supervising PT has physical participation in the patient's treatment or evaluation, or both, each treatment day;

b. The assistive personnel may provide independent patient care only while under the on-site supervision of the supervising PT;

c. Documentation made in physical therapy records by unlicensed assistive personnel shall be cosigned by the supervising PT; and

d. The PT provides periodic reevaluation of assistive personnel's performance in relation to the patient.

200.6(4) The PT must provide patient evaluation and participate in treatment based upon the health care admission or residency status of the patient being treated. Participation shall include direct client contact according to the following schedule:

Patient's Health Care Residency or Admission Status	Maximum of Physical Therapist Delegation (whichever comes first)
Hospital, acute care	3 visits or 2 consecutive calendar days
Hospital, non-CARF	3 visits or 2 consecutive calendar days
Hospital, CARF-accredited beds	4 visits or 4 consecutive calendar days
Skilled nursing	4 visits or 7 consecutive calendar days
Home health	4 visits or 9 consecutive calendar days
Nursing facility	9 visits or 9 consecutive calendar days
Iowa educational agency	4 visits or 29 consecutive calendar days
Other facility/admissions status	4 visits or 9 consecutive calendar days

Calendar days include weekends and holidays.

200.6(5) Physical therapist assistant responsibilities. The physical therapist assistant:

a. Shall provide only those services for which the PTA has the skills necessary and shall consult the supervising physical therapist if the procedures are believed not to be in the best interest of the patient;

b. Shall gather data relating to the patient's disability, but not interpret the data as it pertains to the plan of care;

c. Shall communicate any change, or lack of change, which occurs in the patient's condition and which may need the assessment of the PT;

d. Shall provide physical therapy services only under the supervision of the physical therapist;

e. Shall provide treatment only after evaluation and development of a treatment plan by the physical therapist;

f. Shall refer inquiries that require interpretation of patient information to the physical therapist;

g. May have on-site or immediate telecommunicative supervision as long as the physical therapy services are rendered in accordance with the minimum frequency standards set forth in subrule 200.6(4); and

h. May receive supervision from any number of physical therapists.

i. Shall record on every patient chart the name of the PTA's supervisor for each treatment session.

The signature of a PTA on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a PTA.

200.6(6) Other assistive personnel. Physical therapy aides and other assistive personnel may assist a PTA in providing patient care in the absence of a PT only if the PTA maintains in-sight supervision of the physical therapy aide or other assistive personnel and the PTA is primarily and significantly involved in that patient's care.

645—200.7(147) Licensure by endorsement.

200.7(1) An applicant who has been a licensed PT or PTA under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

a. Submits to the board a completed application;

b. Pays the licensure fee;

c. Shows evidence of licensure requirements that are similar to those required in Iowa;

d. Submits a copy of the scores from the appropriate professional examination to be sent directly from the examination service to the board;

e. Provides official copies of the academic transcripts sent directly from the school to the board; and

f. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

(1) Licensee's name;

(2) Date of initial licensure;

(3) Current licensure status; and

(4) Any disciplinary action taken against the license.

200.7(2) In addition to the requirements of 200.7(1), a physical therapist applicant shall:

a. Have completed 40 hours of board-approved continuing education during the immediately preceding two-year period; or

b. Have practiced as a licensed physical therapist for a minimum of 2,080 hours during the immediately preceding two-year period; or

c. Have served the equivalent of one year as a full-time faculty member teaching physical therapy in an accredited school of physical therapy for at least one of the immediately preceding two years; or

d. Have successfully passed the examination within a period of one year from the date of examination to the time application is completed for licensure.

200.7(3) In addition to the requirements of 200.7(1), a physical therapist assistant applicant shall:

a. Have completed 20 hours of board-approved continuing education during the immediately preceding two-year period; or

b. Have practiced as a licensed physical therapist assistant for a minimum of 2,080 hours during the immediately preceding two-year period; or

c. Have successfully passed the examination for physical therapist assistants within a period of one year from the date of examination to the time application for licensure is completed.

200.7(4) Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

200.7(5) An applicant for licensure under subrule 200.7(1) must include with this application a sworn statement of previous physical therapy practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant has practiced physical therapy at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period.

200.7(6) Foreign-trained applicants applying for licensure by endorsement shall also meet the requirements outlined in subrule 200.5(2).

645—200.8(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of physical therapists or physical therapist assistants.

645—200.9(147) License renewal.

200.9(1) The biennial license renewal period for a license to practice as a physical therapist or physical therapist assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month two years later. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

200.9(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

200.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—203.2(148A) and the mandatory reporting requirements of subrule 200.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

200.9(4) Mandatory reporter training requirements.

a. A licensee who in the scope of professional practice 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 of condition(s) for waiver of this requirement as identified in paragraph *"e."*

b. A licensee who in the scope of professional practice 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirements as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 203.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

200.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

200.9(6) Persons licensed to practice as physical therapists or physical therapist assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

200.9(7) Late renewal. The license shall become a late license 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 645—subrule 204.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

200.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a physical therapist or a physical therapist assistant in Iowa until the license is reactivated. A licensee who practices as a physical therapist or a physical therapist assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—200.10(272C) Exemptions for inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—200.11(272C) Lapsed licenses. Rescinded IAB 9/14/05, effective 10/19/05.

645—200.12(147) Duplicate certificate or wallet card.

200.12(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

200.12(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of a completed application for a duplicate license and payment of the fee as specified in rule 645—204.1(147,148A).

200.12(3) If the board receives the completed application for a duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—200.13(147) Reissued 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 645—204.1(147,148A).

645—200.14(17A,147,272C) License denial.

200.14(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

200.14(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

200.14(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—200.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

200.15(1) Submit a reactivation application on a form provided by the board.

200.15(2) Pay the reactivation fee that is due as specified in 645—Chapter 204.

200.15(3) Provide verification of current competence to practice physical therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 20 hours of continuing education for a physical therapy assistant and 40 hours of continuing education for a physical therapist within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education for a physical therapy assistant and 80 hours of continuing education for a physical therapist within two years of application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

645—200.16(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 200.15(17A,147,272C) prior to practicing physical therapy in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148A and 272C.

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◊ Two or more ARCs

CHAPTER 201
PRACTICE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

645—201.1(148A,272C) Code of ethics for physical therapists and physical therapist assistants.

201.1(1) Physical therapy. The practice of physical therapy shall minimally consist of:

a. Interpreting all referrals;

b. Evaluating each patient;

c. Identifying and documenting individual patient's problems and goals;

d. Establishing and documenting a plan of care;

e. Providing appropriate treatment;

f. Determining the appropriate portions of the treatment program to be delegated to assistive personnel;

g. Appropriately supervising individuals as described in rule 645—200.6(272C);

h. Providing timely patient reevaluation;

i. Maintaining timely and adequate patient records of all physical therapy activity and patient responses consistent with the standards found in rule 645—201.2(147).

201.1(2) A physical therapist shall:

a. Not practice outside the scope of the license;

b. Inform a referring practitioner when any requested treatment procedure is inadvisable or contraindicated and shall refuse to carry out such orders;

c. Not continue treatment beyond the point of possible benefit to the patient or treat a patient more frequently than necessary to obtain maximum therapeutic effect;

d. Not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee;

e. Not profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of physical therapy services;

f. Not obtain third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

(1) Reporting incorrect treatment dates for the purpose of obtaining payment;

(2) Reporting charges for services not rendered;

(3) Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

(4) Aiding a patient in fraudulently obtaining payment from a third-party payer;

g. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the physical therapist owns stock or has any other direct or indirect financial interest;

h. Not permit another person to use the therapist's license for any purpose;

i. Not verbally or physically abuse a patient or client;

j. Not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client;

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;

k. Adequately supervise personnel in accordance with the standards for supervision found in rule 645—200.6(272C);

l. Assist in identifying a professionally qualified licensed practitioner to perform the service, in the event that the physical therapist does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment.

201.1(3) Physical therapist assistants. A physical therapist assistant shall:

a. Not practice outside the scope of the license;

b. Not obtain third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

(1) Reporting incorrect treatment dates for the purpose of obtaining payment;

(2) Reporting charges for services not rendered;

(3) Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

(4) Aiding a patient in fraudulently obtaining payment from a third-party payer;

c. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the physical therapist assistant owns stock or has any other direct or indirect financial interest;

d. Not permit another person to use the physical therapist's or physical therapist assistant's license for any purpose;

e. Not verbally or physically abuse a patient or client;

f. Not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client; and

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;

g. Work only when supervised by a physical therapist and in accordance with rule 645—200.6(272C). If the available supervision does not meet the standards in rule 645—200.6(272C), the physical therapist assistant shall refuse to administer treatment;

h. Inform the delegating physical therapist when the physical therapist assistant does not possess the skills or knowledge to perform the delegated tasks, and refuse to perform the delegated tasks;

i. Sign the physical therapy treatment record to indicate that the physical therapy services were provided in accordance with the rules and regulations for practicing as a physical therapist or physical therapist assistant.

645—201.2(147) Record keeping.

201.2(1) A licensee shall maintain sufficient, timely, and accurate documentation in patient records. A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

201.2(2) A licensee who provides clinical services shall store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all patient records for a minimum of five years after the date of the patient's discharge, or, in the case of a minor, three years after the patient reaches the age of majority under state law or five years after the date of discharge, whichever is longer.

201.2(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

201.2(4) Correction of records.

a. *Hard-copy records.* Notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by the licensee.

b. *Electronic records.* If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

201.2(5) Confidentiality and transfer of records. Physical therapists and physical therapist assistants shall preserve the confidentiality of patient records. Upon receipt of a written release or authorization signed by the patient, the licensee shall furnish such physical therapy records, or copies of the records, as will be beneficial for the future treatment of that patient. A fee may be charged for duplication of

records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

201.2(6) Retirement or discontinuance of practice. If a licensee is the owner of a practice, the licensee shall notify in writing all active patients and shall make reasonable arrangements with those patients to transfer patient records, or copies of those records, to the succeeding licensee upon knowledge and agreement of the patient.

201.2(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed individual who is assuming a practice, provided that written notice is furnished to all patients.

These rules are intended to implement Iowa Code chapters 147, 148A and 272C.

[Filed 11/26/03, Notice 9/17/03—published 12/24/03, effective 1/28/04]

CHAPTER 202
DISCIPLINE FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

[Prior to 3/6/02, see 645—200.10(272C) and 645—202.8(272C)]

645—202.1(148A) Definitions.

"Board" means the board of physical and occupational therapy.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a physical therapist or a physical therapist assistant in Iowa.

645—202.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—202.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

202.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

202.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physical therapists or physical therapist assistants in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average physical therapist or physical therapist assistant acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed physical therapist or licensed physical therapist assistant in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

202.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of physical therapy or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

202.2(4) Practice outside the scope of the profession.

202.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

202.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

202.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

202.2(8) Falsification of patient records.

202.2(9) Acceptance of any fee by fraud or misrepresentation.

202.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

202.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice physical therapy. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

202.2(12) Violation of a regulation, rule or law of this state, another state, or the United States which relates to the practice of physical therapy, including, but not limited to, the code of ethics found in rule 645—201.1(148A,272C).

202.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure of the licensee to report in writing such action within 30 days of the final action by the licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

202.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of physical therapy in another state, district, territory or country.

202.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

202.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

202.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

202.2(18) Failure to comply with a subpoena issued by the board, or failure to cooperate with an investigation of the board.

202.2(19) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

202.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

202.2(21) Failure to pay costs assessed in any disciplinary action.

202.2(22) Submission of a false report of continuing education or failure to submit the required report of continuing education.

202.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

202.2(24) Knowingly aiding, assisting or advising a person to unlawfully practice physical therapy.

202.2(25) Failure to report a change of name or address within 30 days after it occurs.

202.2(26) Representing oneself as a licensed physical therapist or physical therapist assistant when one's license has been suspended or revoked, or when the license is on inactive status.

202.2(27) Permitting another person to use the licensee's license for any purpose.

202.2(28) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

202.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

202.2(30) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

202.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—202.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—202.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—202.5(148A) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

202.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

202.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an

alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

202.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

202.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

202.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

202.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

202.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 148A and 272C.

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CHAPTER 203
CONTINUING EDUCATION FOR PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

645—203.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of physical and occupational therapy.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously and that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

645—203.2(148A) Continuing education requirements.

203.2(1) The biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the birth month and ends two years later on the fifteenth day of the birth month.

a. Requirements for physical therapist licensees. Each biennium, each person who is licensed to practice as a physical therapist in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

b. Requirements for physical therapist assistant licensees. Each biennium, each person who is licensed to practice as a physical therapist assistant in this state shall be required to complete a minimum of 20 hours of continuing education approved by the board.

203.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for physical therapists and a minimum of 20 hours for physical therapist assistants each subsequent license renewal.

203.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

203.2(4) No hours of continuing education shall be carried over into the next biennium except for a new licensee. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

203.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—203.3(148A,272C) Standards.

203.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

203.3(2) *Specific criteria.* Licensees may obtain continuing education hours of credit by:

a. Presenting professional programs which meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for audit.

b. Providing official transcripts indicating successful completion of academic courses which apply to the field of physical therapy in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

c. Attending workshops, conferences, symposiums or electronically transmitted, live interactive conferences which relate directly to the professional competency of the licensee.

d. Authoring research or other activities the results of which are published in a recognized professional publication. The licensee shall receive five hours of credit per page.

e. Viewing videotaped presentations if the following criteria are met:

(1) There is a sponsoring group or agency;

(2) There is a facilitator or program official present;

(3) The program official may not be the only attendee; and

(4) The program meets all the criteria specified in this rule.

f. Participating in home study courses that have a certificate of completion and a postcourse test.

g. Participating in courses that have business-related topics: marketing, time management, government regulations, and other like topics.

h. Participating in courses that have personal skills topics: career burnout, communication skills, human relations, and other like topics.

i. Participating in courses that have general health topics: clinical research, CPR, child abuse reporting, and other like topics.

j. Having the following maximums per biennium:

(1) Twenty hours of credit for physical therapists and ten hours for physical therapist assistants for presenting professional programs.

(2) Twenty hours of credit for physical therapists and ten hours for physical therapist assistants for authoring research.

(3) Twenty hours of credit for physical therapists and ten hours for physical therapist assistants for viewing videotaped presentations and electronically transmitted material that have a postcourse test.

(4) Twenty hours of credit for physical therapists and ten hours for physical therapist assistants for business-related topics, personal skills topics and general health topics.

(5) Twenty hours of credit for physical therapists and ten hours for physical therapist assistants for home study courses.

k. Completing per biennium continuing education of a clinical nature at a minimum of twenty hours for physical therapists and ten hours for physical therapist assistants.

645—203.4(148A,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

203.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

203.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

203.4(3) For auditing purposes, all licensees must retain the information identified in subrule 203.4(2) for two years after the biennium has ended.

203.4(4) Information identified in subrule 203.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

203.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

203.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—203.5(148A,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—203.6(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

203.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

203.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

203.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—203.7(148A,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

203.7(1) Failure to cooperate with a board audit.

203.7(2) Failure to meet the continuing education requirement for licensure.

203.7(3) Falsification of information on the license renewal form.

203.7(4) Falsification of continuing education information.

645—203.8(272C) Continuing education exemption for disability or illness. Rescinded IAB 9/14/05, effective 10/19/05.

645—203.9(148A,272C) Reinstatement of inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—203.10(272C) Hearings. Rescinded IAB 9/14/05, effective 10/19/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 148A.

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◊ Two or more ARCs

CHAPTER 204
FEES

645—204.1(147,148A) License fees. All fees are nonrefundable.

204.1(1) Licensure fee for license to practice physical therapy or as a physical therapist assistant is $120.

204.1(2) Biennial license renewal fee for a physical therapist is $60.

204.1(3) Biennial license renewal fee for a physical therapist assistant is $60.

204.1(4) Late fee for failure to renew before expiration is $60.

204.1(5) Reactivation fee is $120.

204.1(6) Duplicate or reissued license certificate or wallet card fee is $20.

204.1(7) Verification of license fee is $20.

204.1(8) Returned check fee is $25.

204.1(9) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148A and 272C.

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CHAPTER 205
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF PHYSICAL AND OCCUPATIONAL THERAPY— OCCUPATIONAL THERAPY

[Prior to 3/6/02, see 645—201.1(148B) and 645—201.2(147,148B)]

645—205.1(17A) Definitions.

"Board" means the board of physical and occupational therapy.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice occupational therapy.

"Licensee" means a person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

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

645—205.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 148B and 272C with regard to the practice of occupational therapy. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

205.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

205.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

205.2(3) Imposing discipline on licensees as provided by statute or rule.

645—205.3(17A,147,272C) Organization of board and proceedings.

205.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

205.3(2) The members of the board shall include three members who are licensed to practice physical therapy, two members who are licensed to practice occupational therapy, and two members who are not licensed to practice physical therapy or occupational therapy and shall represent the general public.

205.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

205.3(4) The board shall hold at least four meetings annually.

205.3(5) A majority of the members of the board shall constitute a quorum.

205.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

205.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

205.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The

board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of occupational therapy upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licensees who are restricted by a board order.

h. Perform any other function authorized by a provision of law.

645—205.4(17A) Official communications.

205.4(1) All official communications, including submissions and requests, may be addressed to the Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

205.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

205.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—205.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

645—205.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

205.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

205.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

205.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

205.6(4) Cameras and recording devices may be used at open meetings, provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 148B and 272C.

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CHAPTER 206
LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

[Prior to 3/6/02, see 645—201.3(147,148B,272C) to 645—201.7(147) and 645—201.9(272C)]

645—206.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of physical and occupational therapy.

"Department" means the department of public health.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

"License expiration date" means the fifteenth day of the birth month every two years after initial licensure.

"Licensure by endorsement" means the issuance of an Iowa license to practice occupational therapy to an applicant who is or has been licensed in another state.

"Licensure examination" means the examination administered by the National Board for Certification in Occupational Therapy.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of occupational therapists or occupational therapy assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"NBCOT" means the National Board for Certification in Occupational Therapy.

"Occupational therapist" means a person licensed under this chapter to practice occupational therapy.

"Occupational therapy assistant" means a person licensed under this chapter to assist in the practice of occupational therapy.

"Occupational therapy screening" means a brief process which is directed by an occupational therapist in order for the occupational therapist to render a decision as to whether the individual warrants further, in-depth evaluation and which includes:

1. Assessment of the medical and social history of an individual;
2. Observations related by that individual's caregivers; or
3. Observations or nonstandardized tests, or both, administered to an individual by the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist.

Nothing in this definition shall be construed to prohibit licensed occupational therapists and occupational therapy assistants who work in preschools or school settings from providing short-term interventions, not to exceed four months, to children prior to an evaluation, in accordance with state and federal educational policy.

"On site" means:

1. To be continuously on site and present in the department or facility where the assistive personnel are performing services;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

"OT" means occupational therapist.

"OTA" means occupational therapy assistant.

"Reactivate" or *"reactivation"* means the process as outlined in rule 206.18(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice occupational therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—206.2(147) Requirements for licensure. The following criteria shall apply to licensure:

206.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

206.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

206.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Physical and Occupational Therapy. The fees are nonrefundable.

206.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board have been received by the board.

206.2(5) The applicant shall provide a notarized copy of the certificate or diploma indicating the degree awarded to the applicant, if the degree is not indicated on the official transcript.

206.2(6) The licensure examination score shall be sent directly from the examination service to the board to confirm a passing score on the examination.

206.2(7) Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

206.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—206.3(147) Limited permit to practice pending licensure. A limited permit holder who is applying for licensure in Iowa by taking the licensure examination for the first time and has never been licensed as an occupational therapist or occupational therapy assistant in any state, the District of Columbia, or another country must have completed the educational and experience requirements for licensure as an occupational therapist or occupational therapy assistant. The limited permit holder shall:

1. Make arrangements to take the examination and have the official results of the examination sent directly from the examination service to the board;

2. Apply for licensure on forms provided by the board. The applicant must include on the application form the name of the Iowa-licensed occupational therapist(s) who will provide supervision of the limited permit holder until the limited permit holder is licensed;

3. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed six months from the date the application was received in the board office;

4. Submit to the board the name of the OT providing supervision within seven days after a change in supervision occurs; and

5. If the applicant fails the national examination, the limited permit holder must cease practicing immediately.

645—206.4(147) Applicant occupational therapist and occupational therapy assistant. An applicant who has never been licensed in Iowa, but has taken the licensure examination and held licensure in another state, the District of Columbia, or another country may practice under these rules prior to licensure if the complete application for endorsement and fees are on file at the board office. The occupational therapist applicant and occupational therapy assistant applicant shall:

1. Apply for licensure on forms provided by the board. The applicant must include on the application form the name of the Iowa-licensed OT who will provide supervision of the applicant until the applicant is licensed;
2. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed three months from the date the application was received in the board office;
3. Submit to the board the name of the occupational therapist(s) providing supervision within seven days after a change in supervision occurs; and
4. The applicant shall not practice as an OT applicant or OTA applicant if the applicant has never passed the licensure examination.

645—206.5(147) Practice of occupational therapy limited permit holders and endorsement applicants prior to licensure.

206.5(1) Occupational therapist limited permit holders and endorsement applicants working prior to licensure may:

a. Evaluate clients, plan treatment programs, and provide periodic reevaluations only under supervision of a licensed OT who shall bear full responsibility for care provided under the OT's supervision; and

b. Perform the duties of the occupational therapist under the supervision of an Iowa-licensed occupational therapist, except for providing supervision to an occupational therapy assistant.

206.5(2) Occupational therapy assistants, limited permit holders and endorsement applicants working prior to licensure shall:

a. Follow the treatment plan written by the supervising OT outlining the elements that have been delegated; and

b. Perform occupational therapy procedures delegated by the supervising OT as required in subrule 206.8(4).

645—206.6(147) Examination requirements. The following criteria shall apply to the written examination(s):

206.6(1) The applicant for licensure as an occupational therapist shall have received a passing score on the licensure examination for occupational therapists. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy.

206.6(2) The applicant for licensure as an occupational therapy assistant shall have received a passing score on the licensure examination for occupational therapy assistants. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy.

645—206.7(147) Educational qualifications.

206.7(1) The applicant must present proof of meeting the following requirements for licensure as an occupational therapist or occupational therapy assistant:

a. *Occupational therapist.* The applicant for licensure as an occupational therapist shall have completed the requirements for a degree in occupational therapy in an occupational therapy program accredited by the Accreditation Council for Occupational Therapy Education of the American

Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

b. *Occupational therapy assistant.* The applicant for licensure as an occupational therapy assistant shall be a graduate of an educational program approved by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

206.7(2) Foreign-trained occupational therapists and occupational therapy assistants. To become eligible to take the licensure examination, internationally educated occupational therapists must meet NBCOT eligibility requirements and undergo prescreening based on the status of their occupational therapy educational programs.

645—206.8(272C) Supervision requirements.

206.8(1) Care rendered by unlicensed personnel shall not be documented or charged as occupational therapy unless direct in-sight supervision is provided by an OT or an OTA.

206.8(2) Occupational therapy screening shall be directed by an occupational therapist and shall not be delegated to an unlicensed person.

206.8(3) A licensed OTA, OTA limited permit holder or OTA applicant working prior to licensure shall be supervised by a licensed occupational therapist. The occupational therapist must be involved in the delivery of services during all aspects of service delivery, including screening, evaluation, intervention and outcome evaluation. The occupational therapist may delegate responsibilities to the occupational therapy assistant. The occupational therapist shall:

a. Ensure that the OTA has a current occupational therapy license and that the OTA limited permit holder or applicant working prior to licensure has a copy of the letter from the board verifying that a current application is on file;

b. Provide direct on-site and in-sight supervision for a minimum of four hours per month;

c. Complete a patient evaluation prior to treatment by the licensed OTA, OTA limited permit holder, or the OTA applicant working prior to licensure. The time spent evaluating the patient by the supervising OT shall not be considered time spent supervising;

d. Complete a written treatment plan outlining which elements have been delegated to the licensed OTA, OTA limited permit holder, or OTA applicant working prior to licensure;

e. Monitor patient progress;

f. Complete an evaluation of the treatment plan and write a discharge plan; and

g. Assign to the licensed OTA, OTA limited permit holder, or OTA applicant only those duties and responsibilities for which the assistant, limited permit holder, or applicant has been specifically trained and is qualified to perform.

206.8(4) Supervision of an OT limited permit holder or an OT applicant. An OT limited permit holder or an OT applicant working prior to licensure shall be supervised by a licensed OT. The supervisor shall:

a. Ensure that the OT limited permit holder or OT applicant working prior to licensure has a copy of the letter from the board verifying that a current application is on file;

b. Provide one-to-one supervision for a minimum of two hours per week.

The applicant who is practicing prior to licensure may perform the duties of the occupational therapist under the supervision of an Iowa-licensed occupational therapist, except for providing supervision to an occupational therapy assistant.

206.8(5) Occupational therapist limited permit holders and occupational therapist applicants working prior to licensure may evaluate clients, plan treatment programs, and provide periodic reevaluations only under supervision of a licensed occupational therapist who shall bear full responsibility for care provided under the occupational therapist's supervision.

645—206.9(147) Occupational therapy assistant responsibilities. An occupational therapy assistant shall:

1. Follow the treatment plan written by the supervising occupational therapist outlining which elements have been delegated;
2. Maintain a plan of supervision; and
3. Maintain documentation of supervision on a daily basis that shall be available for review upon request of the board.

645—206.10(147) Licensure by endorsement. An applicant who has been a licensed occupational therapist or occupational therapy assistant under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements in the jurisdiction in which the applicant has been licensed that are similar to those required in Iowa;
4. Submits official results from the appropriate professional examination sent directly from the examination service to the board;
5. Provides official copies of the academic transcripts sent directly from the school to the board;
6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if it provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license; and

7. Shows evidence of one of the following:

- Completion of 30 hours for an occupational therapist and 15 hours for an occupational therapy assistant of board-approved continuing education during the immediately preceding two-year period;
- The practice of occupational therapy for a minimum of 2,080 hours during the immediately preceding two-year period as a licensed occupational therapist or occupational therapy assistant;
- Serving as a full-time equivalent faculty member teaching occupational therapy in an accredited school of occupational therapy for at least one of the immediately preceding two years; or
- Successfully passing the examination within a period of one year from the date of examination to the time application is completed for licensure.

Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

645—206.11(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of occupational therapists or occupational therapy assistants.

645—206.12(147) License renewal.

206.12(1) The biennial license renewal period for a license to practice as an occupational therapist or occupational therapy assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month two years later. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

206.12(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

206.12(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—207.2(272C) and the mandatory reporting requirements of subrule 206.12(4). A licensee whose license was reactivated during the

current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

206.12(4) Mandatory reporter training requirements.

a. A licensee who in the scope of professional practice 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who in the scope of professional practice 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 207.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

206.12(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

206.12(6) Persons licensed to practice as occupational therapists or occupational therapy assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

206.12(7) Late renewal. The license shall become a late license 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 645—subrule 210.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

206.12(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an occupational therapist or occupational therapy assistant in Iowa until the license is reactivated. A licensee who practices as an occupational therapist or occupational therapy assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—206.13(272C) Exemptions for inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—206.14(272C) Lapsed licenses. Rescinded IAB 9/14/05, effective 10/19/05.

645—206.15(147) Duplicate certificate or wallet card.

206.15(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

206.15(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—210.1(147,148B).

206.15(3) If the board receives a completed application for duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—206.16(147) Reissued 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 645—210.1(147,148B).

645—206.17(17A,147,272C) License denial.

206.17(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

206.17(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

206.17(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—206.18(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

206.18(1) Submit a reactivation application on a form provided by the board.

206.18(2) Pay the reactivation fee that is due as specified in 645—Chapter 210.

206.18(3) Provide verification of current competence to practice occupational therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 15 hours of continuing education for an occupational therapy assistant and 30 hours of continuing education for an occupational therapist within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 30 hours of continuing education for an occupational therapy assistant and 60 hours of continuing education for an occupational therapist within two years of application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

645—206.19(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 206.18(17A,147,272C) prior to practicing occupational therapy in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148B and 272C.

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◊ Two or more ARCs

CHAPTER 207
CONTINUING EDUCATION FOR OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

645—207.1(148B) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of physical and occupational therapy.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously and that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

645—207.2(272C) Continuing education requirements.

207.2(1) The biennial continuing education compliance period shall extend for a two-year period that begins on the sixteenth day of the licensee's birth month and ends two years later on the fifteenth day of the birth month.

a. Requirements for occupational therapist licensees. Each biennium, each person who is licensed to practice as an occupational therapist in this state shall be required to complete a minimum of 30 hours of continuing education approved by the board.

b. Requirements for occupational therapy assistant licensees. Each biennium, each person who is licensed to practice as an occupational therapy assistant in this state shall be required to complete a minimum of 15 hours of continuing education approved by the board.

207.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for occupational therapists and 15 hours for occupational therapy assistants each subsequent license renewal.

207.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

207.2(4) With the exception of continuing education hours obtained by new licensees, no hours of continuing education shall be carried over into the next biennium. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

207.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—207.3(148B,272C) Standards.

207.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

207.3(2) *Specific criteria.*

a. Licensees may obtain continuing education hours of credit by:

(1) Presenting professional programs which meet the criteria listed in this rule. Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be maintained for an audit;

(2) Providing official transcripts indicating successful completion of academic courses which apply to the field of occupational therapy. Credit hour equivalents are:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

(3) Authoring research or other activities the results of which are published in a recognized professional publication. The licensee shall receive five hours of credit per page;

(4) Viewing videotaped presentations if the following criteria are met:

1. There is a sponsoring group or agency;
2. There is a facilitator or program official present;
3. The program official may not be the only attendee; and
4. The program meets all the criteria specified in this rule;

(5) Participating in home study courses that have a certificate of completion and a postcourse test;

(6) Attending courses/activities that have business-related topics: marketing, time management, government regulations, and other like topics;

(7) Attending courses/activities that have personal skills topics: career burnout, communication skills, human relations, and other like topics;

(8) Attending courses/activities that have general health topics: clinical research, CPR, child abuse reporting, and other like topics;

(9) Attending workshops, conferences and symposiums which relate directly to the professional competency of the licensee.

b. The maximum number of hours in each category in each biennium is as follows:

(1) Fifteen hours of credit for occupational therapists and eight hours of credit for occupational therapy assistants for presenting professional programs.

(2) Fifteen hours of credit for occupational therapists and eight hours of credit for occupational therapy assistants for participating in research.

(3) Fifteen hours of credit for occupational therapists and eight hours of credit for occupational therapy assistants for viewing videotaped presentations and electronically transmitted material that have a postcourse test.

(4) Fifteen hours of credit for occupational therapists and eight hours of credit for occupational therapy assistants for business-related topics, personal skills topics and general health topics.

(5) Fifteen hours of credit for occupational therapists and eight hours of credit for occupational therapy assistants for home study courses.

c. Each biennium, a minimum of 15 hours of continuing education for occupational therapists and a minimum of 8 hours for occupational therapy assistants shall be of a clinical nature.

645—207.4(148B,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

207.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

207.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

207.4(3) For auditing purposes, all licensees must retain the information identified in subrule 207.4(2) for two years after the biennium has ended.

207.4(4) Information identified in subrule 207.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

207.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

207.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—207.5(148B,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and meets all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—207.6(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

207.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

207.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

207.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—207.7(148B,272C) Grounds for disciplinary action. A board may take formal disciplinary action on the following grounds:

207.7(1) Failure to cooperate with a board audit.

207.7(2) Failure to meet the continuing education requirement for licensure.

207.7(3) Falsification of information on the license renewal form.

207.7(4) Falsification of continuing education information.

645—207.8(272C) Continuing education exemption for disability or illness. Rescinded IAB 9/14/05, effective 10/19/05.

645—207.9(272C) Reinstatement of inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—207.10(272C) Hearings. Rescinded IAB 9/14/05, effective 10/19/05.

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CHAPTER 208
PRACTICE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

645—208.1(148B,272C) Code of ethics for occupational therapists and occupational therapy assistants.

208.1(1) Occupational therapy. The practice of occupational therapy shall minimally consist of:

a. Interpreting all referrals;

b. Evaluating each patient;

c. Identifying and documenting individual patient's problems and goals;

d. Establishing and documenting a plan of care;

e. Providing appropriate treatment;

f. Determining the appropriate portions of the treatment program to be delegated to assistive personnel;

g. Appropriately supervising individuals as described in rule 645—206.8(272C);

h. Providing timely patient reevaluation;

i. Maintaining timely and adequate patient records of all occupational therapy activity and patient responses consistent with the standards found in rule 645—208.2(147).

208.1(2) An occupational therapist shall:

a. Not practice outside the scope of the license;

b. Inform a referring practitioner when any requested treatment procedure is inadvisable or contraindicated and shall refuse to carry out such orders;

c. Not continue treatment beyond the point of possible benefit to the patient or treat a patient more frequently than necessary to obtain maximum therapeutic effect;

d. Not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee;

e. Not profit by means of credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of occupational therapy services;

f. Not obtain third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

(1) Reporting incorrect treatment dates for the purpose of obtaining payment;

(2) Reporting charges for services not rendered;

(3) Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

(4) Aiding a patient in fraudulently obtaining payment from a third-party payer;

g. Not exercise undue influence on patients to purchase equipment, products, or supplies from a company in which the occupational therapist owns stock or has any other direct or indirect financial interest;

h. Not permit another person to use the therapist's license for any purpose;

i. Not verbally or physically abuse a patient or client;

j. Not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client;

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;

k. Adequately supervise personnel in accordance with the standards for supervision found in rule 645—206.8(272C);

l. Assist in identifying a professionally qualified licensed practitioner to perform the service when the occupational therapist does not possess the skill to evaluate a patient, plan the treatment program, or carry out the treatment.

208.1(3) Occupational therapy assistants. An occupational therapy assistant shall:

a. Not practice outside the scope of the license;

b. Not exercise undue influence on patients to purchase equipment, products or supplies from a company in which the occupational therapy assistant owns stock or has any other direct or indirect financial interest;

c. Not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee;

d. Not obtain third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

(1) Reporting incorrect treatment dates for the purpose of obtaining payment;

(2) Reporting charges for services not rendered;

(3) Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or

(4) Aiding a patient in fraudulently obtaining payment from a third-party payer;

e. Not permit another person to use the occupational therapist's or occupational therapy assistant's license for any purpose;

f. Not verbally or physically abuse a patient or client;

g. Not engage in sexual misconduct. Sexual misconduct includes the following:

(1) Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual, with a patient or client; and

(2) Making sexual advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of a sexual nature with a patient or client;

h. Work only when supervised by an occupational therapist and in accordance with rule 645—206.8(272C). If the available supervision does not meet the standards in rule 645—206.8(272C), the occupational therapy assistant shall refuse to administer treatment;

i. Inform the delegating occupational therapist when the occupational therapy assistant does not possess the skills or knowledge to perform the delegated tasks, and refuse to perform the delegated tasks;

j. Sign the occupational therapy treatment record to indicate that occupational therapy services were provided in accordance with the rules and regulations for practicing as an occupational therapist or occupational therapy assistant.

645—208.2(147) Record keeping.

208.2(1) A licensee shall maintain sufficient, timely, and accurate documentation in patient records. A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

208.2(2) A licensee who provides clinical services shall store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all patient records for a minimum of five years after the date of the patient's discharge, or in the case of a minor, three years after the patient reaches the age of majority under state law or five years after the date of discharge, whichever is longer.

208.2(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the licensee shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

208.2(4) Correction of records.

a. *Hard-copy records.* Notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by the licensee.

b. *Electronic records.* If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

208.2(5) Confidentiality and transfer of records. Occupational therapists and occupational therapy assistants shall preserve the confidentiality of patient records. Upon receipt of a written release or

authorization signed by the patient, the licensee shall furnish such occupational therapy records, or copies of the records, as will be beneficial for the future treatment of that patient. A fee may be charged for duplication of records, but a licensee may not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

208.2(6) Retirement or discontinuance of practice. If a licensee is the owner of a practice, the licensee shall notify in writing all active patients and shall make reasonable arrangements with those patients to transfer patient records, or copies of those records, to the succeeding licensee upon knowledge and agreement of the patient.

208.2(7) Nothing stated in these rules shall prohibit a licensee from conveying or transferring the licensee's patient records to another licensed individual who is assuming a practice, provided that written notice is furnished to all patients.

These rules are intended to implement Iowa Code chapters 147, 148B and 272C.

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CHAPTER 209
DISCIPLINE FOR OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

[Prior to 3/6/02, see 645—201.10(272C)]
[Prior to 12/24/03, see 645—Ch 208]

645—209.1(148B) Definitions.

"Board" means the board of physical and occupational therapy.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as an occupational therapist or an occupational therapy assistant in Iowa.

645—209.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—209.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

209.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

209.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other occupational therapists or occupational therapy assistants in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average occupational therapist or occupational therapy assistant acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of the licensed occupational therapist or licensed occupational therapy assistant in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

209.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of occupational therapy or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

209.2(4) Practice outside the scope of the profession.

209.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

209.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

209.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

209.2(8) Falsification of patient records.

209.2(9) Acceptance of any fee by fraud or misrepresentation.

209.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

209.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice occupational therapy. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

209.2(12) Violation of a regulation, rule or law of this state, another state, or the United States which relates to the practice of occupational therapy, including, but not limited to, the code of ethics found in rule 645—208.1(148B,272C).

209.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure of the licensee to report in writing such action within 30 days of the final action by the licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

209.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of occupational therapy in another state, district, territory or country.

209.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

209.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

209.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

209.2(18) Failure to comply with a subpoena issued by the board, or failure to cooperate with an investigation of the board.

209.2(19) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

209.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

209.2(21) Failure to pay costs assessed in any disciplinary action.

209.2(22) Submission of a false report of continuing education or failure to submit the required report of continuing education.

209.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

209.2(24) Knowingly aiding, assisting or advising a person to unlawfully practice occupational therapy.

209.2(25) Failure to report a change of name or address within 30 days after it occurs.

209.2(26) Representing oneself as a licensed occupational therapist or occupational therapy assistant when one's license has been suspended or revoked, or when the license is on inactive status.

209.2(27) Permitting another person to use the licensee's license for any purpose.

209.2(28) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

209.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

209.2(30) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

209.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—209.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—209.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—209.5(148B) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

209.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

209.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

209.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

209.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

209.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

209.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

209.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 148B and 272C.

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CHAPTER 210
FEES

[Prior to 3/6/02, see 645—201.8(147)]
[Prior to 12/24/03, see 645—Ch 209]

645—210.1(147,148B) License fees. All fees are nonrefundable.

210.1(1) Licensure fee for an OT or OTA license to practice occupational therapy is $120.

210.1(2) Biennial license renewal fee to practice occupational therapy is $60.

210.1(3) Biennial license renewal fee for an occupational therapy assistant is $60.

210.1(4) Late fee for failure to renew before expiration is $60.

210.1(5) Reactivation fee is $120.

210.1(6) Duplicate or reissued license certificate or wallet card fee is $20.

210.1(7) Verification of license fee is $20.

210.1(8) Returned check fee is $25.

210.1(9) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148B and 272C.

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CHAPTERS 211 to 218
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CHAPTER 219
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF PODIATRY EXAMINERS

[Prior to 5/18/88, see Health Department[470], Ch 139]
[Prior to 2/6/02, see 645—Chapter 220]

645—219.1(17A) Definitions.

"Board" means the board of podiatry examiners.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice podiatry.

"Licensee" means a person licensed to practice as a podiatrist in the state of Iowa.

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

"Peer review" means evaluation of professional services rendered by a professional practitioner.

"Peer reviewer(s)" means one or more persons acting in a peer review capacity who have been appointed by the board for such purpose.

645—219.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 149, and 272C with regard to the practice of podiatry. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

219.2(1) Licensing qualified applicants through examination, renewal, endorsement, and reciprocity.

219.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

219.2(3) Imposing discipline on licensees as provided by statute or rule.

645—219.3(17A,147,272C) Organization of board and proceedings.

219.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

219.3(2) The members of the board shall include five members who are licensed to practice podiatry and two members who are not licensed to practice podiatry and who shall represent the general public.

219.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

219.3(4) The board shall hold at least one annual meeting.

219.3(5) A majority of the members of the board shall constitute a quorum.

219.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

219.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

219.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of podiatry upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

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

h. Establish and register peer reviewers.

i. Refer complaints to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

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

645—219.4(17A) Official communications.

219.4(1) All official communications, including submissions and requests, may be addressed to the Board of Podiatry Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

219.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

219.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—219.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday to Friday of each week, except holidays.

645—219.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

219.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

219.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

219.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

219.6(4) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 149, and 272C.

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CHAPTER 220
LICENSURE OF PODIATRISTS

645—220.1(149) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of podiatry examiners.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a podiatrist in the state of Iowa.

"License expiration date" means June 30 of even-numbered years.

"Licensure by endorsement: means the issuance of an Iowa license to practice podiatry to an applicant who is or has been licensed in another state.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of podiatrists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"NBPME" means National Board of Podiatric Medical Examiners.

"Reactivate" or *"reactivation"* means the process as outlined in rule 220.15(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice podiatry to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of podiatry examiners to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—220.2(149) Requirements for licensure. The following criteria shall apply to licensure:

220.2(1) An applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Podiatry Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

220.2(2) An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

220.2(3) Each application shall be accompanied by the appropriate fees payable to the Board of Podiatry Examiners. The fees are nonrefundable.

220.2(4) No application will be considered complete until official copies of academic transcripts sent directly to the board of podiatry examiners from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association are received by the board.

220.2(5) Rescinded IAB 8/3/05, effective 9/7/05.

220.2(6) The candidate shall take the Part III PMLexis written examination required by the board pursuant to these rules.

220.2(7) Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

220.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Retained upon written request of the applicant. The applicant is responsible for requesting that the file be retained.

220.2(9) Applications shall be complete before the licensee sits for the examination.

220.2(10) An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed in another state and has practiced for the 24 months immediately prior to application may be exempted from passing Part I and Part II of the NBPME examination based on the applicant's credentials and the discretion of the board.

220.2(11) An applicant who graduated from a podiatric college on or after January 1, 1995, shall present documentation of successful completion of a minimum of one-year residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education.

220.2(12) Passing score reports for Part I and Part II of the NBPME examination shall be sent directly from the examination service to the board of podiatric examiners.

645—220.3(149) Written examinations. The following criteria shall apply to the written examination:

220.3(1) Registration materials for the examination shall be sent to the applicant after the application, transcript sent directly from the school to the board of podiatry examiners, licensure fee and the score report for Part I and Part II of the NBPME examination are received by the board.

220.3(2) The licensee shall submit the appropriate examination fee, if taking the NBPME Part III Examination (PMLexis) in Iowa, directly to the National Board of Podiatric Medical Examiners.

220.3(3) Rescinded IAB 8/3/05, effective 9/7/05.

220.3(4) A passing score as recommended by the administrators of the NBPME Part III Examination (PMLexis) will be required.

220.3(5) Rescinded IAB 8/3/05, effective 9/7/05.

645—220.4(149) Educational qualifications.

220.4(1) A new applicant for licensure to practice as a podiatrist shall present an official transcript verifying graduation from a college of podiatric medicine approved by the American Podiatric Medical Association's Council on Podiatric Medical Education.

220.4(2) Foreign-trained podiatrists shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or E-mail at info@ierf.org; or International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a podiatry program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—220.5(149) Title designations. A podiatrist may use the prefix "Doctor" but shall add after the person's name the word "Podiatrist" or "DPM."

645—220.6(147,149) Temporary license.

220.6(1) A temporary license may be issued for one year and, at the discretion of the board, may be annually renewed not to exceed two additional years.

220.6(2) Each applicant shall:

a. Submit a completed application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board;

b. Submit the appropriate fees payable to the Board of Podiatry Examiners. The fees are nonrefundable;

c. Have official copies of academic transcripts sent directly to the board of podiatry examiners from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association;

d. Rescinded IAB 8/3/05, effective 9/7/05.

e. Request that passing score reports of the NBPME examination, Part I and Part II, be sent directly to the board of podiatry examiners from the National Board of Podiatric Medical Examiners;

f. Furnish an affidavit by a licensed podiatrist, institution director, or dean of an approved podiatric college from this state, setting forth the facts supporting the need for issuance of said license, of which the following reasons shall qualify:

(1) Acceptance in a residency program approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association; or

(2) Participating as a faculty member of a podiatric college in Iowa;

g. Request verification of licensure be sent directly to the board of podiatry examiners from every state where the applicant was licensed.

220.6(3) An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed in another state and has practiced for the 24 months immediately prior to application may be exempted from passing Part I and Part II of the NBPME examination based on the applicant's credentials and the discretion of the board.

220.6(4) Rescinded IAB 8/3/05, effective 9/7/05.

220.6(5) The ultimate decision to issue a temporary license resides with the board, and a temporary license shall be surrendered if reason for issuance ceases to exist.

645—220.7(149) Licensure by endorsement. An applicant who has been a licensed podiatrist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office.

220.7(1) The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides to the board official copies of academic transcripts verifying graduation from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association; and
5. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

220.7(2) An applicant shall submit the passing score reports for Part I and Part II of the NBPME examination. An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed in another state, and has practiced for the 24 months immediately prior to application may be exempted from passing Part I and Part II of the NBPME examination based on the applicant's credentials and the discretion of the board.

220.7(3) An applicant who graduated from a podiatric college on or after January 1, 1995, must present documentation of successful completion of, at a minimum, a one-year residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education.

220.7(4) An applicant shall submit passing score reports for Part III of the NBPME examination. An applicant who passed the Part III NBPME examination (PMLexis) more than three years prior to the date of application in Iowa must submit verification of proof of podiatry practice for one of the last three years.

645—220.8(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia, any state, territory, province or foreign country with equal or similar requirements for licensure in podiatry.

645—220.9(149) License renewal.

220.9(1) The biennial license renewal period for a license to practice podiatry shall begin on July 1 of an even-numbered year and end on June 30 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

220.9(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

220.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—222.2(149,272C) and the mandatory reporting requirements of subrule 220.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

220.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 222.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

220.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

220.9(6) A person licensed to practice podiatry shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

220.9(7) 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 645—subrule 225.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

220.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a podiatrist in Iowa until the license is reactivated. A licensee who practices as a podiatrist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—220.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—220.11(272C) Lapsed licenses. Rescinded IAB 8/3/05, effective 9/7/05.

645—220.12(147) Duplicate certificate or wallet card.

220.12(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

220.12(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—225.1(147,149).

220.12(3) If the board receives a completed application for duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—220.13(147) Reissued 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 645—225.1(147,149).

645—220.14(17A,147,272C) License denial.

220.14(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

220.14(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

220.14(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—220.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

220.15(1) Submit a reactivation application on a form provided by the board.

220.15(2) Pay the reactivation fee that is due as specified in 645—Chapter 225.

220.15(3) Provide verification of current competence to practice as a podiatrist by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—220.16(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 220.15(17A,147,272C) prior to practicing as a podiatrist in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 149, and 272C.

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◊ Two or more ARCs

CHAPTER 221
MINIMUM TRAINING STANDARDS FOR PODIATRY ASSISTANTS ENGAGING IN PODIATRIC RADIOGRAPHY

645—221.1(136C,147,149) Definitions. As used in this chapter:

"Approved program or course of study" means didactic and clinical training the Iowa board of podiatry examiners has determined to be adequate to train students to meet the requirements specified in subrules 221.3(1) to 221.3(3).

"Clinical experience" means direct and personal participation of the student in radiographic procedures incidental to patient diagnostic problems.

"Clinical podiatric sponsor" means a person licensed under Iowa Code chapter 149 and supervising the student.

"Podiatric radiography" means the application of x-radiation to the human foot and ankle for diagnostic purposes only.

"Podiatry assistant" means an individual employed in a podiatry office who assists in podiatric radiography.

"Student" means a person enrolled in or participating in an approved program or course of study.

645—221.2(136C,147,149) General.

221.2(1) All applications for student status and examination must be made upon official forms supplied by the Board of Podiatry Examiners, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

221.2(2) Incomplete applications on file for two years will be destroyed. Application fees are not refundable.

221.2(3) A notarized copy of the official document of name change, if applicable, is required with initial student or certification application.

221.2(4) Each applicant shall submit with initial student or certification application satisfactory documentation evidencing graduation from high school or its equivalent and attainment of 18 years of age.

645—221.3(136C,147,149) Training requirements. No person shall be certified to operate radiation emitting equipment for purposes of podiatric radiography without having first successfully completed an approved program or course of study which includes the following:

221.3(1) Theoretical considerations underlying radiation hygiene and podiatric radiological practices including radiation health and safety, lower extremity on anatomy, physics, concepts, physiology, techniques, positioning, equipment maintenance with efficiencies to minimize radiation exposure and frequency of retakes. The program or course of study shall include at least 15 hours of didactic training.

221.3(2) Complete a radiographic clinical program sufficient to demonstrate proficiency to a podiatric sponsor. This would include equipment maintenance and review, exposings, processing, evaluating for quality, mounting and filing of radiographic projections/films usually involved in podiatric radiography. The program or course of study shall include at least 50 total exposures with direct supervision by a podiatrist or certified person to take podiatric X-rays. The program or course of study shall include at least 20 working days of clinical training in a podiatric office or clinic.

221.3(3) Submit a statement on a form supplied by the board office from a clinical podiatric sponsor certifying completion of and competency of subrule 221.3(2).

221.3(4) An applicant for certification in podiatric radiography shall be deemed eligible for certification upon compliance with the provisions of subrules 221.3(1) to 221.3(3) and passing the written examination outlined in rule 221.6(136C,147,149).

645—221.4(136C,147,149) Approval of programs. A program or course of study may be approved by the board if the following conditions are met:

221.4(1) The program constitutes an organized program of learning which contributes to the proficiency and skills of an individual operating radiation emitting equipment or otherwise engaging in podiatric radiography; and

221.4(2) The program is conducted by individuals having special education, training and experience by reason of which said individuals may be deemed qualified to conduct the program in podiatric radiography, and are licensed or certified to take foot/ankle X-rays; and

221.4(3) The program meets the requirements of subrules 221.3(1) to 221.3(3).

221.4(4) Application for approval of a program or course of study shall be made to the board.

221.4(5) The board may retroactively approve previously administered programs or courses of study given after July 1, 1990, if the program or course of study meets the requirements of subrules 221.3(1) to 221.3(3) and 221.4(1) to 221.4(4).

645—221.5(136C,147,149) Exemptions.

221.5(1) Students enrolled in an approved accredited podiatry or medical assistant program who, as part of their course of study under a licensed person's supervision, apply ionizing radiation for podiatric radiography.

221.5(2) Podiatry assistants under student status who are enrolled in a board-approved podiatric radiography program or course of study as a part of their program or course of study, apply ionizing radiation to a human being while under the direct supervision of a licensed podiatrist in a podiatry office or school, provided the course of study is completed in not more than 12 months from its inception. Prior to engaging in program or course of study, the podiatry assistant must make application for student status to the board on the form approved by the board.

221.5(3) Podiatry assistants who hold a permit to practice limited diagnostic radiography in extremities or foot by the bureau of environmental health.

221.5(4) Persons licensed as podiatrists under Iowa Code chapter 149.

645—221.6(136C,147,149) Examination and proficiency evaluation. Except as otherwise provided in this chapter, no person shall operate radiation emitting equipment in any podiatry office without first having also successfully passed a written examination with a score of 70 percent or greater given under standard, controlled conditions by the board of podiatry examiners and proctored by appropriate personnel. The examination will be given in June and December and at other times at the discretion of the board.

221.6(1) In the event a podiatry assistant under student status pursuant to subrule 221.5(2) fails twice to successfully complete the examination, a third examination may be taken so long as the third examination is taken within 60 days after expiration of the 12-month period of student status. In the event the podiatry assistant fails the third examination, student status shall be revoked and the podiatry assistant shall be deemed ineligible to participate in podiatric radiography under student status unless the student status is obtained pursuant to subrule 221.5(2).

221.6(2) A podiatry assistant who takes the examination for issuance of a renewal as defined in subrule 221.9(6) of a certificate is allowed to take the examination not more than two times. The board may require the podiatry assistant to take remedial training prior to being allowed to retake the examination. Podiatry assistants in this category may not participate in podiatric radiography before successful completion of the examination and issuance of a certificate or issuance of a renewal of an existing certificate.

221.6(3) A podiatry assistant who holds a permit to practice limited diagnostic radiography in extremities or foot by the bureau of environmental health may apply for and be granted a certificate in podiatric radiography without meeting the training requirements in rule 221.3(136C,147,149) or the exam requirements in rule 221.6(136C,147,149). A temporary permit issued by the bureau of environmental health does not qualify under this subrule.

221.6(4) Certification by endorsement of equivalency training. Any person who is the holder of a current certificate in podiatric radiography issued by another state, jurisdiction, agency or recognized professional registry may, upon presentation of the certificate to the board, be considered to meet the

requirements of subrules 221.3(1) to 221.3(3) provided that the board finds that the standards and procedures for certification in the state, jurisdiction, agency or recognized professional registry which issued the certificate afford protection to the public equivalent to that afforded by this chapter.

645—221.7(136C,147,149) Application for student status.

221.7(1) Applications for student status shall be made to the board on the form provided by the board prior to engaging in clinical training under a podiatrist.

221.7(2) The student application must include the following:

a. Verification of completion of high school or equivalent;

b. Fee of $25 for student status.

645—221.8(136C,147,149) Application for board certification. Applications for issuance of a certificate shall be made to the board on the form provided by the board and must be completely answered.

221.8(1) Applications must be filed with the board along with:

a. Verification of completion of an approved didactic course of study.

b. Signature of an Iowa-licensed podiatrist attesting to the reasonable clinical proficiency of the applicant having observed the applicant for a period of not less than 20 working days and that the applicant has logged 50 foot/ankle X-rays for a period of not less than 20 working days within the last 12-month period as stated in subrule 221.3(2).

c. Proof that the applicant has successfully completed the written examination administered by the board.

d. Signed verification as to the truth of the statements and that the applicant has read the requirements of these rules and understands the regulations pertaining to podiatric radiography.

e. The fee as specified in these rules.

f. Additional information the board may require relating to character, education and experience as may be necessary to pass upon the applicant's certification.

221.8(2) Any person who does not meet the requirements of subrule 221.8(1) may apply for student status as defined in subrule 221.5(2).

645—221.9(136C,147,149) Renewal requirements.

221.9(1) The biennial renewal period for a certificate to practice as a podiatry assistant shall extend from July 1 of each even-numbered year until June 30 of the next even-numbered year. Beginning July 1, 2000, the continuing education compliance period shall extend from July 1 of each even-numbered year until June 30 of the next even-numbered year.

An application and a continuing education report form for renewal of certificate to practice as a podiatry assistant shall be mailed to the licensee at least 60 days prior to the expiration of the certificate. Failure to receive the renewal application shall not relieve the certificate holder of the obligation to pay biennial renewal fees on or before the renewal date.

221.9(2) Beginning July 1, 2000, the continuing education compliance period will coincide with the renewal compliance period. The certificate holder shall submit to the board office 30 days before certificate expiration the application and continuing education report form with the renewal fee as specified in rule 221.10(136C). Individuals who were issued their initial certificate within six months of certificate renewal will not be required to renew their certificate until the next renewal two years later. The new certificate holder shall be exempt from meeting the continuing education requirement for the continuing education biennium in which the initial certificate is originally issued. Podiatry assistants will be required to report two hours of continuing education for the first renewal and every renewal thereafter.

Continuing education requirements can be satisfied by attending courses in diagnostic radiography conducted by teaching institutions approved by the bureau of environmental health or given by the American Podiatric Medical Association (APMA) or the Iowa Podiatric Medical Society (IPMS). Proof

of attendance at such courses of study shall be retained for four years by the podiatry assistant and submitted to the board as further proof of compliance at the request of the board.

221.9(3) Late renewal. If the renewal fee is received by the board within 30 days after the renewal expiration date, a penalty fee is charged. If renewal fee is received more than 30 days after the renewal expiration date, the certificate is lapsed. An application for reinstatement must be filed with the board with the renewal fee and the penalty fee as outlined in rule 221.10(136C). Individuals who fail to submit the renewal application and complete documentation of continuing education hours shall be required to pay a penalty fee and shall be subject to an audit of their continuing education report.

221.9(4) Podiatry assistants who have not fulfilled the requirements for certificate renewal or an exemption in the required time frame will have a lapsed certificate and shall not engage in the practice of podiatric radiography. The holder of a certificate who fails to renew within five years after its expiration may obtain a renewal certificate only by following the procedures for application and testing provided in these rules.

221.9(5) The board may require recertification, qualification and clinical evaluation of a podiatry assistant holding a certificate in podiatric radiography if the board, in its discretion, believes such action is necessary for the protection of the public.

645—221.10(136C) Certificate in podiatric radiography—fees.

221.10(1) The fee for application for a certificate in podiatric radiography or student status leading to certification is $25.

221.10(2) The fee for the podiatric radiography exam is $10.

221.10(3) The fee for renewal of a certificate is $10.

221.10(4) The fee for renewal if the applicant has failed to renew the certificate within 30 days after expiration is $35.

221.10(5) Fee for a returned check is $15.

645—221.11(136C,147,149) Responsibilities of certificate holder.

221.11(1) The podiatry assistant holding a certificate issued by the board shall conspicuously display the certificate in the office of employment.

221.11(2) The podiatry assistant holding a certificate issued by the board shall notify the office of the board of any address change within 60 days.

645—221.12(136C,147,149) Enforcement.

221.12(1) Any individual except a licensed podiatrist, a certified podiatric radiography assistant, or a limited diagnostic radiologic technologist certified in extremities or foot by the bureau of environmental health who participates in podiatric radiography in violation of this chapter or Iowa Code chapter 136C shall be subject to the criminal and civil penalties set forth in Iowa Code sections 136C.4 and 136C.5.

221.12(2) Any licensed podiatrist who permits a person to engage in podiatric radiography contrary to this chapter of Iowa Code chapter 136C shall be subject to discipline by the board pursuant to rule 645—220.212(272C).

These rules are intended to implement Iowa Code section 136C.3 and chapters 147 and 149.

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CHAPTER 222
CONTINUING EDUCATION FOR PODIATRISTS

645—222.1(149,272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of podiatry examiners.

"Continuing education" means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and include a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a podiatrist in the state of Iowa.

645—222.2(149,272C) Continuing education requirements.

222.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of each even-numbered year and ending on June 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a podiatrist in this state shall be required to complete a minimum of 40 hours of continuing education.

222.2(2) Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

222.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

222.2(4) No hours of continuing education shall be carried over into the next biennium.

222.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—222.3(149,272C) Standards.

222.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

222.3(2) *Specific criteria.*

a. Continuing education hours of credit may be obtained by completing the following programs/activities of a podiatric scientific nature and sponsored by an accredited college of podiatric medicine or the American Podiatric Medical Association or a regional or state affiliate or nonprofit hospital that are:

(1) Educational activities in which participants and faculty are present at the same time and attendance can be verified. Such activities include lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences;

(2) Scientifically oriented material or risk management activities.

b. If the podiatrist utilizes conscious sedation, the podiatrist shall obtain a minimum of one hour of continuing education in the area of conscious sedation or other related topics;

c. Combined maximum per biennium of 20 hours for the following continuing education source areas shall not exceed:

(1) Ten hours of credit for viewing videotaped presentations if the following criteria are met:

1. There is an approved sponsoring group or agency;
2. There is a facilitator or program official present;
3. The program official is not the only attendee; and
4. The program meets all the criteria in 645—222.3(149,272C).

(2) Ten hours of credit for computer-assisted instructional courses or programs pertaining to patient care and the practice of podiatric medicine and surgery. These courses and programs must be approved by the American Podiatric Medical Association or its affiliates and have a certificate of completion that includes the following information:

1. Date course/program was completed;
2. Title of course/program;
3. Number of course/program contact hours; and
4. Official signature or verification of course/program sponsor.

(3) Five hours of credit for reading journal articles pertaining to patient care and the practice of podiatric medicine and surgery. The licensee must pass a required posttest and be provided with a certificate of completion.

d. No office management courses will be accepted by the board.

e. Rescinded IAB 8/3/05, effective 9/7/05.

f. Continuing education hours of credit equivalents for academic coursework per biennium are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

g. Credit is given only for actual hours attended.

645—222.4(149,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

222.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

222.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

222.4(3) For auditing purposes, all licensees must retain the information identified in subrule 222.4(2) for two years after the biennium has ended.

222.4(4) Information identified in subrule 222.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

222.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

222.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—222.5(149,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and meets all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—222.6(272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

222.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

222.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

222.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—222.7(149,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

222.7(1) Failure to cooperate with a board audit.

222.7(2) Failure to meet the continuing education requirement for licensure.

222.7(3) Falsification of information on the license renewal form.

222.7(4) Falsification of continuing education information.

645—222.8(272C) Continuing education exemption for disability or illness. Rescinded IAB 8/3/05, effective 9/7/05.

645—222.9(272C) Reinstatement of inactive practitioners. Rescinded IAB 8/3/05, effective 9/7/05.

645—222.10(272C) Hearings. Rescinded IAB 8/3/05, effective 9/7/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 149.

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◊ Two or more ARCs

CHAPTER 223
PRACTICE OF PODIATRY

[Prior to 8/7/02, see rules 645—219.3(514F), 645—219.4(139A)]

645—223.1(149) Definitions. For the purposes of these rules, the following definitions shall apply:

"Ambulatory surgical center" or *"ASC"* means an ambulatory surgical center that has in effect an agreement with the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services, in accordance with 42 CFR Part 416.

"Conscious sedation" means a depressed level of consciousness produced by the administration of pharmacological substances that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

645—223.2(149) Requirements for administering conscious sedation. A licensed podiatrist who holds a permanent license in good standing may use conscious sedation for podiatric patients on an outpatient basis in a hospital or ASC after the podiatrist has submitted to the board office an attestation on a form approved by the board.

223.2(1) The attestation shall include:

a. Evidence of successful completion within the past five years of a formal anesthesiology rotation in a residency program approved by the Council on Podiatric Medical Education (CPME); or

b. For a podiatrist who does not meet the requirements of paragraph *"a,"* an attestation with evidence that the podiatrist is authorized by the governing body of a hospital or ASC to use conscious sedation. This attestation must be received by the board prior to January 1, 2005.

223.2(2) The podiatrist shall provide verification of current certification in Basic Cardiac Life Support (BCLS) or Advanced Cardiac Life Support (ACLS).

223.2(3) A podiatrist who has an attestation on file and continues to use conscious sedation shall meet the requirements of 645—Chapter 222 at the time of license renewal. A minimum of one hour of continuing education in the area of conscious sedation or related topics shall be required beginning with the renewal cycle of July 1, 2004, to June 30, 2006. Continuing education credit in the area of conscious sedation may be applied toward the 40 hours of continuing education required for renewal of the license. In addition, the podiatrist shall maintain current certification in BCLS or ACLS.

223.2(4) A podiatrist shall only utilize conscious sedation in a hospital or ASC when the podiatrist has been granted clinical privileges by the governing body of the hospital or ASC in accordance with approved policies and procedures of the hospital or ASC.

223.2(5) It is a violation of the standard of care for a podiatrist to use conscious sedation agents that result in a deep sedation or general anesthetic state.

223.2(6) Reporting of adverse occurrences related to conscious sedation. A licensed podiatrist who has an attestation on file with the board must submit a report to the board within 30 days of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during or as a result of conscious sedation. The report shall include the following:

a. Description of podiatric procedures;

b. Description of preoperative physical condition of patient;

c. List of drugs and dosage administered;

d. Description, in detail, of techniques utilized in administering the drugs;

e. Description of adverse occurrence, including:

(1) Symptoms of any complications including, but not limited to, onset and type of symptoms;

(2) Treatment instituted;

(3) Response of the patient to treatment;

f. Description of the patient's condition on termination of any procedures undertaken;

g. If a patient is transferred, a statement providing where and to whom; and

h. Name of the registered nurse who is trained to administer conscious sedation and who assisted in the procedure.

223.2(7) Failure to report. Failure to comply with subrule 223.2(6) when the adverse occurrence is related to the use of conscious sedation may result in the podiatrist's loss of authorization to administer conscious sedation or in other sanctions provided by law.

223.2(8) Record keeping. The patient's chart must include:

a. Preoperative and postoperative vital signs;

b. Drugs administered;

c. Dosage administered;

d. Anesthesia time in minutes;

e. Monitors used;

f. Intermittent vital signs recorded during procedures and until the patient is fully alert and oriented with stable vital signs;

g. Name of the person to whom the patient was discharged; and

h. Name of the registered nurse who is trained to administer conscious sedation and who assisted in the procedure.

223.2(9) Failure to comply with these rules is grounds for discipline.

645—223.3(139A) Preventing HIV and HBV transmission. Any licensed podiatrist shall comply with the recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, or with the recommendations of the expert review panel established pursuant to Iowa Code section 139A.22(3) and applicable hospital protocols established pursuant to Iowa Code section 139A.22(1). Failure to comply will be grounds for disciplinary action.

645—223.4(149) Unlicensed graduate of a podiatric college. An unlicensed graduate of a podiatric college may function in the licensed podiatrist's office only as a podiatric assistant. The licensed podiatrist shall have full responsibility and liability for the unlicensed person.

223.4(1) Treatments, charting, and notations completed by the unlicensed graduate must be initialed by that person and countersigned by the licensed podiatrist.

223.4(2) An unlicensed graduate shall not:

a. Be referred to as "doctor" during professional contact with patients.

b. Treat patients in the office without a licensed podiatrist present.

c. Perform surgical work without direct supervision of a licensed podiatrist.

d. Diagnose or prescribe medicine.

e. Take independent actions regarding diagnosis, treatment or prescriptions.

f. Visit nursing homes or make house calls without the presence of the licensed podiatrist.

g. Bill for any services.

These rules are intended to implement Iowa Code chapters 139A, 149 and 514F.

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CHAPTER 224
DISCIPLINE FOR PODIATRISTS
[Prior to 2/6/02, see 645—Chapter 220]

645—224.1(149) Definitions.

"Board" means the board of podiatry examiners.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a podiatrist in Iowa.

645—224.2(149,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—224.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

224.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

224.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a podiatrist in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

224.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

224.2(4) Practice outside the scope of the profession.

224.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

224.2(6) Habitual intoxication or addiction to the use of drugs.

224.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

224.2(8) Indiscriminately prescribing, administering or dispensing any drug for other than a lawful purpose.

a. Self-prescribing or self-dispensing controlled substances.

b. Prescribing or dispensing controlled substances to members of the licensee's immediate family for an extended period of time.

(1) Prescribing or dispensing controlled substances to members of the licensee's immediate family is allowable for an acute condition or on an emergency basis when the physician conducts an examination, establishes a medical record, and maintains proper documentation.

(2) Immediate family includes spouse or life partner, natural or adopted children, grandparent, parent, sibling, or grandchild of the physician; and natural or adopted children, grandparent, parent, sibling, or grandchild of the physician's spouse or life partner.

c. Prescribing or dispensing controlled substances outside the scope of the practice of podiatry.

224.2(9) Falsification of client records.

224.2(10) Acceptance of any fee by fraud or misrepresentation.

224.2(11) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

224.2(12) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

224.2(13) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

224.2(14) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

224.2(15) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

224.2(16) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

224.2(17) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

224.2(18) Engaging in any conduct that subverts or attempts to subvert a board investigation.

224.2(19) Failure to comply with a subpoena issued by the board, or otherwise fail to cooperate with an investigation of the board.

224.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

224.2(21) Failure to pay costs assessed in any disciplinary action.

224.2(22) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

224.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

224.2(24) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a podiatrist.

224.2(25) Failure to report a change of name or address within 30 days after it occurs.

224.2(26) Representing oneself as a podiatrist when one's license has been suspended or revoked, or when one's license is on inactive status.

224.2(27) Permitting another person to use the licensee's license for any purpose.

224.2(28) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

224.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

224.2(30) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

224.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—224.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—224.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—224.5(149) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

224.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

224.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

224.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11 on judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

224.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

224.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

224.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

224.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 149 and 272C.

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CHAPTER 225
FEES
[Prior to 2/6/02, see 645—Chapter 220]

645—225.1(147,149) License fees. All fees are nonrefundable.

225.1(1) Licensure fee for license to practice podiatry, licensure by endorsement, licensure by reciprocity or temporary license is $120.

225.1(2) Biennial license renewal fee is $168 for each biennium.

225.1(3) Late fee for failure to renew before expiration is $60.

225.1(4) Reactivation fee is $228.

225.1(5) Duplicate or reissued license certificate or wallet card fee is $20.

225.1(6) Verification of license fee is $20.

225.1(7) Returned check fee is $25.

225.1(8) Disciplinary hearing fee is a maximum of $75.

225.1(9) Temporary license renewal fee is $84 per year.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 149 and 272C.

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CHAPTER 226
CHILD SUPPORT NONCOMPLIANCE

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CHAPTER 227
PETITIONS FOR RULE MAKING

Rescinded IAB 7/28/99, effective 9/1/99

CHAPTER 228
AGENCY PROCEDURE FOR RULE MAKING

Rescinded IAB 7/28/99, effective 9/1/99

CHAPTER 229
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 7/28/99, effective 9/1/99

CHAPTER 230
DECLARATORY RULINGS

Rescinded IAB 7/28/99, effective 9/1/99

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PSYCHOLOGISTS

CHAPTER 239
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF PSYCHOLOGY EXAMINERS

[Prior to 8/24/88, see Health Department[470], Ch 140]
[Prior to 7/11/01, see 645—Chapter 240]

Rescinded IAB 9/24/08, effective 10/29/08

CHAPTER 240 LICENSURE OF PSYCHOLOGISTS
CHAPTER 241 CONTINUING EDUCATION FOR PSYCHOLOGISTS
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CHAPTER 240
LICENSURE OF PSYCHOLOGISTS

645—240.1(154B) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of psychology.

"Certified health service provider in psychology" means a person who works in a clinical setting, is licensed to practice psychology and who has a doctoral degree in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a psychologist or health service provider in psychology in the state of Iowa.

"License expiration date" means June 30 of even-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice psychology to an applicant who is or has been licensed in another state.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of psychologists who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"National examination" means the Examination for Professional Practice in Psychology (EPPP).

"Organized health service training program" means a training program designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose is ensuring breadth and quality of training.

"Reactivate" or *"reactivation"* means the process as outlined in rule 240.18(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice psychology to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of psychology to license persons who have the same or similar qualifications to those required in Iowa.

"Recognized health service setting" means a setting in which the delivery of direct preventive, assessment, and therapeutic intervention services are provided to individuals whose growth, adjustment or functioning is actually impaired or is demonstrably at high risk of impairment. The delivery of the aforementioned services includes, but is not limited to, the diagnosis or evaluation and treatment of mental illness and nervous disorders, excluding those mental illnesses and nervous disorders which are established as primarily of biological etiology with the exception of the treatment of the psychological and behavioral aspects of those mental illnesses and nervous disorders.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Supervisor" means a licensed psychologist who meets the qualifications stated in these rules.

"Testing service" means Professional Examination Service (PES).

645—240.2(154B) Requirements for licensure.

240.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

c. Each application shall be accompanied by the appropriate fees payable to the Board of Psychology. The fees are nonrefundable.

d. No application will be considered by the board until:

(1) Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board;

(2) Satisfactory evidence of the candidate's qualifications has been supplied in writing on the prescribed forms by the candidate's supervisors; and

(3) Rescinded IAB 9/24/08, effective 10/29/08.

(4) Rescinded IAB 9/4/02, effective 10/9/02.

e. An applicant shall successfully pass the national examination.

f. The applicant shall have the national examination score sent directly from the testing service to the board.

g. Rescinded IAB 9/24/08, effective 10/29/08.

h. Incomplete applications that have been on file in the board office for more than two years shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

240.2(2) and **240.2(3)** Rescinded IAB 9/4/02, effective 10/9/02.

645—240.3(154B) Educational qualifications. A new applicant for licensure to practice as a psychologist shall possess a doctoral degree in psychology.

240.3(1) The degree in psychology shall be granted by an institution accredited by the North Central Association of Colleges and Secondary Schools or an equivalent accrediting association or entity in other regions of the United States.

240.3(2) Rescinded IAB 9/24/08, effective 10/29/08.

240.3(3) At the time of an applicant's graduation:

a. The program from which the doctoral degree in psychology is granted must be:

(1) Accredited by the American Psychological Association; or

(2) Accredited by the Canadian Psychological Association; or

(3) Designated by the Association of State and Provincial Psychology Boards (ASPPB)/National Register Designation Project as a doctoral program in psychology; or

b. The applicant must hold a specialty diploma by examination from the American Board of Professional Psychology.

240.3(4) Foreign-trained psychologists shall:

a. Provide an equivalency evaluation of their educational credentials by the National Register of Health Service Providers in Psychology, 1120 G Street NW, Suite 330, Washington, D.C. 20005, telephone (202)783-7663, Web site www.nationalregister.org, or by an evaluation service with membership in the National Association of Credentials Evaluation Services, Inc., at www.naces.org. A certified translation of documents submitted in a language other than English shall be provided. The candidate shall bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in 240.3(3).

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a psychology program in the country in which the applicant was educated.

c. Submit evidence of meeting all other requirements for licensure stated in these rules.

d. Receive a final determination from the board regarding the application for licensure.

645—240.4(154B) Examination requirements. An applicant must pass the national examination to be eligible for licensure in Iowa.

240.4(1) To be eligible to take the national examination, the applicant shall:

a. Meet all requirements of subrule 240.2(1), paragraphs *"a"* to *"c"*; and

b. Provide official copies of academic transcripts sent directly from the school to the board of psychology.

240.4(2) Notification of an applicant's eligibility for the examination shall be sent by the board office to the testing service.

240.4(3) The EPPP passing score shall be utilized as the Iowa passing score.

240.4(4) The board of psychology shall mail examination results to the applicant.

240.4(5) Rescinded IAB 9/24/08, effective 10/29/08.

645—240.5(154B) Title designations.

240.5(1) Applicants for licensure who have met educational requirements but have not yet passed the EPPP may be designated "psychology associate" or "associate in psychology." The title "psychology associate" or "associate in psychology" shall not be used except in the person's employment and supervision that meet the requirements of subrule 240.6(2).

240.5(2) Applicants for licensure who have passed the EPPP and who are fulfilling the experience requirements specified herein for licensure may be designated "psychology resident" or "resident in psychology." The designation of "resident" shall not be used except in the employment and supervised experience that meet the requirements of subrule 240.6(2).

240.5(3) Applicants for licensure who are engaged in organized health service training programs as specified in rule 645—240.7(154B) shall use one of the titles specified in paragraph 240.7(2)*"i."*

240.5(4) Persons licensed in another state who are in the process of seeking licensure in Iowa and who are being supervised until obtaining an Iowa license may use the designation "Licensed Psychologist, (name of state)" for a period of up to one year from the date of application.

645—240.6(154B) Supervised professional experience.

240.6(1) The supervised professional experience shall:

a. Be at least one year or a minimum of 1500 hours of supervised professional experience;

b. Apply the principles of psychology;

c. Be supervised by a licensed psychologist as specified in subrule 240.6(2) or rule 240.9(154B);

d. Be performed competently as attested to by the supervisor;

e. Have the fees and receipt of payment schedule remain the sole domain of the employing agency or supervising psychologist.

240.6(2) Requirements.

a. To meet the requirements of the supervised professional experience, the supervisee must:

(1) Meet a minimum of one hour per week, face to face and individually with the supervisor;

(2) Have training that is appropriate to the functions to be performed;

(3) Work in the same physical setting as the supervisor unless otherwise approved by the board;

(4) Offer work in the name of the supervising psychologist;

(5) Begin the experience after all academic requirements for the doctoral degree are met and when all degree requirements are verified in writing;

(6) Not apply professional employment that occurs prior to meeting the doctoral academic requirements to the supervised professional experience;

(7) Compute part-time employment on a prorated basis for the supervised professional experience; and

(8) Have the background, training, and experience that is appropriate to the functions performed.

b. To meet the requirements of the supervised professional experience, the supervisor must:

(1) Be a licensed psychologist as specified in rule 240.2(154B) or 240.9(154B);

(2) Complete the supervision form provided by the board;

(3) Meet a minimum of one hour per week, face to face and individually with the supervisee;

(4) Provide training that is appropriate to the functions to be performed;

(5) Work in the same physical setting as the supervisee unless otherwise approved by the board;

(6) Have work offered in the name of the supervising psychologist;

(7) Have no more than three full-time persons associated with the supervisor as listed on the supervisor report form obtained from the board;

(8) Not provide group supervision as part of this experience;

(9) Not supervise any psychological practice or permit the supervisor's supervisee to engage in any psychological practice which the supervisor cannot perform competently; and

(10) Be responsible for determining competency of the work performed by the supervisee and the designation of the title of the supervisee.

240.6(3) Employment experience which is offered to satisfy one provision of the law may not be simultaneously offered to satisfy the educational provisions of the law. For example, employment experiences which are part of the required preparation for the doctoral degree will be applicable only to the doctoral degree requirements and may not be simultaneously offered to satisfy the supervised professional experience requirement.

240.6(4) Professional employment experience acquired by the applicant between the time all requirements were fulfilled for the doctoral degree and the time of the actual conferral of the degree may be credited toward the professional employment experience requirements for licensing, provided that the date of completion of all degree requirements is verified in writing by an appropriate academic official. Verification must come directly to the board from the academic official.

240.6(5) Persons providing psychological services who are not licensed by the board of psychology shall be under the direct and continuing administrative and professional direction of a psychologist licensed by the board.

645—240.7(154B) Certified health service provider in psychology.

240.7(1) *Requirements for the health service provider in psychology.* The applicant shall:

a. Verify at least two years of clinical experience in a recognized health service setting or meet the standards of the National Register of Health Service Providers in Psychology. Two years of clinical experience means two years of supervised experience in health service in psychology, of which at least one year is in an organized health service training program as defined in subrule 240.7(2) and one year is postdoctoral.

b. Complete a board-approved application and submit supporting documentation. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Psychology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

c. Submit with the application the health service provider fee payable to the Board of Psychology. The fee is nonrefundable.

d. Renew the certificate biennially at the same time as the psychology license renewal fees are due.

240.7(2) *Requirements of the health service training program.* The organized health service training program shall:

a. Have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and who holds an active license from the board of psychology in the state in which the program exists.

b. Have two or more psychologists on the staff as supervisors, at least one of whom holds an active license as a psychologist from the board of psychology in the state in which the program exists.

c. Have supervision which is provided by a staff member of the organized health service training program or by an affiliate of the organized health service training program who carries clinical responsibility for the cases being supervised. At least half of the internship supervision shall be provided by one or more psychologists.

d. Provide training in a range of assessment and treatment activities conducted directly with patients seeking psychological services.

e. Have a minimum of 375 hours of trainees' time in direct patient contact.

f. Include a minimum of two hours per week (regardless of whether the internship is completed in one year or two) of regularly scheduled, formal, face-to-face individual supervision with the specific intent of dealing with psychological services rendered directly by the intern. There must also be at least two additional hours per week in learning activities such as case conferences involving a case in which the intern is actively involved; seminars dealing with clinical issues; cotherapy with a staff person including discussion; group supervision; additional individual supervision.

g. Have training that is at the postclerkship, postpracticum, and postexternship level.

h. Have a minimum of two interns at the internship level of training during any period of training.

i. Designate for internship-level trainees titles such as "intern," "resident," "fellow," or other designation of trainee status.

j. Have a written statement or brochure which describes the goals and content of the internship, states clear expectations for quantity and quality of trainees' work and is made available to prospective interns.

k. Provide a minimum of 1800 hours of training experience that shall be completed within 24 consecutive months and no less than 12 months.

645—240.8(154B) Exemption to licensure. Psychologists residing outside the state of Iowa and intending to practice in Iowa under the provisions of Iowa Code section 154B.3(5) shall file a summary of intent to practice and provide verification of the license from the other jurisdiction. The summary shall be submitted to and approved by the board prior to practice in Iowa. The exemption shall be valid for 10 consecutive business days or not to exceed 15 business days in any 90-day period.

The summary and supporting documentation shall be accompanied by a check or money order for the processing fee for exemption to licensure pursuant to 645—Chapter 243. The fee is nonrefundable and shall be submitted payable to the Board of Psychology.

645—240.9(154B) Psychologists' supervision of unlicensed persons in a practice setting. The supervising psychologist shall:

1. Be vested with administrative control over the functioning of assistants in order to maintain ultimate responsibility for the welfare of every client. When the employer is a person other than the supervising psychologist, the supervising psychologist must have direct input into administrative matters.

2. Have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work shall be monitored through such means as will ensure that full legal and professional responsibility can be accepted by the supervisor for all services rendered. Supervisors shall also be available for emergency consultation and intervention.

3. Provide work assignments that shall be commensurate with the skills of the supervisee. All procedures shall be planned in consultation with the supervisor.

4. Work in the same physical setting as the supervisee, unless other individual arrangements are approved by the board of psychology.

5. Make public announcement of services and fees; contact with laypersons or the professional community shall be offered only by or in the name of the supervising psychologist. Titles of unlicensed persons must clearly indicate their supervised status.

6. Provide specific information to clients when an unlicensed person delivers services to those clients, including disclosure of the unlicensed person's status and information regarding the person's qualifications and functions.

7. Inform clients of the possibility of periodic meetings with the supervising psychologist at the client's, the supervisee's or the supervisor's request.

8. Provide for setting and receipt of payment that shall remain the sole domain of the employing agency or supervising psychologist.

9. Establish and maintain a level of supervisory contact consistent with established professional standards, and be fully accountable in the event that professional, ethical or legal issues are raised.

10. Provide a detailed job description in which functions are designated at varying levels of difficulty, requiring increasing levels of training, skill and experience. This job description shall be made available to representatives of the board and service recipients upon request.

11. Be responsible for the planning, course, and outcome of the work. The conduct of supervision shall ensure the professional, ethical, and legal protection of the client and of the unlicensed persons.

12. Maintain an ongoing record of supervision which details the types of activities in which the unlicensed person is engaged, the level of competence in each, and the type and outcome of all procedures.

13. Countersign all written reports and communications as "Reviewed and Approved" by the supervising psychologist.

645—240.10(147) Licensure by endorsement. An applicant who has been a licensed psychologist at the doctoral level under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

240.10(1) Submits to the board a completed application.

240.10(2) Pays the licensure fee.

240.10(3) Provides one of the following: the official EPPP score sent directly to the board from the Association of State and Provincial Psychology Boards, or verification of the EPPP score sent directly from the state of initial licensure. The passing score is established by the Association of State and Provincial Psychology Boards.

240.10(4) Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

240.10(5) Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

a. Provides:

(1) Official copies of academic transcripts that have been sent directly from the school; and

(2) Satisfactory evidence of the applicant's qualifications in writing on the prescribed forms by the applicant's supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision; or

b. Has an official copy of one of the following certifications sent directly to the board from the certifying organization.

(1) Current Certification of Professional Qualification that was originally issued by the Association of State and Provincial Psychology Boards on or after January 1, 2002.

(2) Current credentialing at the doctoral level as a Health Service Provider in Psychology by the National Register of Health Service Providers in Psychology.

(3) Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

240.10(6) Rescinded IAB 9/24/08, effective 10/29/08.

645—240.11(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure in psychology.

645—240.12(147) License renewal.

240.12(1) The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years and end on June 30 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

240.12(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

240.12(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—241.2(272C) and the mandatory reporting requirements of subrule 240.12(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

240.12(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension

of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 241.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

240.12(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

240.12(6) A person licensed to practice as a psychologist shall keep the person's license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

240.12(7) 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 645—subrule 243.1(3).

a. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

b. No continuing education shall be required.

240.12(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a psychologist or health service provider in psychology in Iowa until the license is reactivated. A licensee who practices as a psychologist or health service provider in psychology in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—240.13(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—240.14(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—240.15(147) Duplicate certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—240.16(147) Reissued certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—240.17(17A,147,272C) License denial. Rescinded IAB 9/24/08, effective 10/29/08.

645—240.18(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

240.18(1) Submit a reactivation application on a form provided by the board.

240.18(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

240.18(3) Provide verification of current competence to practice as a psychologist or health service provider in psychology by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—240.19(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 240.18(17A,147,272C) prior to practicing as a psychologist or health service provider in psychology in this state.

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

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◊ Two or more ARCs

CHAPTER 241
CONTINUING EDUCATION FOR PSYCHOLOGISTS

645—241.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of psychology.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a psychologist in the state of Iowa.

"Practice of psychology" means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes, but is not limited to, counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

645—241.2(272C) Continuing education requirements.

241.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-numbered years. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

241.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal.

241.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

241.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

241.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—241.3(154B,272C) Standards.

241.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

241.3(2) *Specific criteria.*

a. For the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management.

c. A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 645—subrule 240.12(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(4) Conducting scholarly research or other activities that integrally relate to the practice of psychology, the results of which are published in a recognized professional publication.

(5) Preparing new courses that have received approval from the board.

(6) Completing home study courses for which a certificate of completion is issued.

(7) Completing electronically transmitted courses for which a certificate of completion is issued.

(8) Attending workshops, conferences, or symposiums that meet the criteria in rule 645—241.3(154B,272C).

d. A combined maximum of 20 hours of credit per biennium may be used for scholarly research and preparation of new courses.

645—241.4(154B,272C) Audit of continuing education report. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.5(154B,272C) Automatic exemption. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.6(154B,272C) Continuing education exemption for disability or illness. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.7(154B,272C) Grounds for disciplinary action. Rescinded IAB 9/24/08, effective 10/29/08.

645—241.8(272C) Continuing education waiver for disability or illness. Rescinded IAB 8/31/05, effective 10/5/05.

645—241.9(272C) Reinstatement of inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—241.10(272C) Hearings. Rescinded IAB 8/31/05, effective 10/5/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154B.

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◊ Two or more ARCs

CHAPTER 242
DISCIPLINE FOR PSYCHOLOGISTS
[Prior to 7/11/01, see 645—Chapter 240]

645—242.1(154B) Definitions.

"Board" means the board of psychology.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice psychology in Iowa.

645—242.2(147,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—242.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

242.2(1) Failure to comply with the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, as published in the December 2002 edition of American Psychologist, hereby adopted by reference. Copies of the Ethical Principles of Psychologists and Code of Conduct may be obtained from the American Psychological Association's Web site at http://www.apa.org.

242.2(2) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

242.2(3) Professional incompetence. Professional incompetence includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other psychologists in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average psychologist acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed psychologist in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and component manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

242.2(4) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of psychology or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

242.2(5) Practice outside the scope of the profession.

242.2(6) Use of untruthful or improbable statements in advertisements.

242.2(7) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

242.2(8) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

242.2(9) Falsification, alteration or destruction of client or patient records with the intent to deceive.

242.2(10) Acceptance of any fee by fraud or misrepresentation.

242.2(11) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

242.2(12) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice psychology. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

242.2(13) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of psychology.

242.2(14) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

242.2(15) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of psychology in another state, district, territory or country.

242.2(16) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

242.2(17) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

242.2(18) Engaging in any conduct that subverts or attempts to subvert a board investigation.

242.2(19) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

242.2(20) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

242.2(21) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

242.2(22) Failure to pay costs assessed in any disciplinary action.

242.2(23) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

242.2(24) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

242.2(25) Knowingly aiding, assisting, or advising a person to unlawfully practice psychology.

242.2(26) Failure to report a change of name or address within 30 days after it occurs. Name and address changes may be reported on the form provided by the board at: www.idph.state.ia.us/licensure.

242.2(27) Representing oneself as a licensed psychologist when one's license has been suspended or revoked, or when one's license is on inactive status.

242.2(28) Permitting another person to use the licensee's license for any purpose.

242.2(29) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license to practice psychology.

242.2(30) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a patient or client.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

242.2(31) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

242.2(32) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—242.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—242.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—242.5(154B) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

242.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

242.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an

alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

242.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

242.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

242.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

242.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

242.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 154B and 272C.

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CHAPTER 243
FEES
Rescinded IAB 9/24/08, effective 10/29/08

CHAPTER 249
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTERS 250 to 259
Reserved

RESPIRATORY CARE PRACTITIONERS

CHAPTER 260 ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF RESPIRATORY CARE
CHAPTER 261 LICENSURE OF RESPIRATORY CARE PRACTITIONERS
CHAPTER 262 CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS
CHAPTER 263 DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS
CHAPTER 264 FEES
CHAPTER 265 PRACTICE OF RESPIRATORY CARE PRACTITIONERS

CHAPTER 260
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF RESPIRATORY CARE

645—260.1(17A) Definitions.

"Board" means the board of respiratory care.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice respiratory care.

"Licensee" means a person licensed to practice respiratory care.

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

645—260.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 152B and 272C with regard to the practice of respiratory care. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

260.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

260.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

260.2(3) Imposing discipline on licensees as provided by statute or rule.

645—260.3(17A,147,272C) Organization of board and proceedings.

260.3(1) The board is composed of five members appointed by the governor and confirmed by the senate.

260.3(2) The members of the board shall include one licensed physician with training in respiratory care, three respiratory care practitioners who have practiced respiratory care for a minimum of six years immediately preceding their appointment to the board and who are recommended by the Iowa Society of Respiratory Care, and one member not licensed to practice medicine or respiratory care who shall represent the general public.

260.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

260.3(4) The board shall hold at least one meeting annually.

260.3(5) A majority of the members of the board shall constitute a quorum.

260.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

260.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

260.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of respiratory care upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

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

h. Perform any other function authorized by a provision of law.

645—260.4(17A) Official communications.

260.4(1) All official communications, including submissions and requests, may be addressed to the Board of Respiratory Care, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

260.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

260.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—260.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

645—260.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

260.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

260.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

260.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

260.6(4) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 152B and 272C.

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CHAPTER 261
LICENSURE OF RESPIRATORY CARE PRACTITIONERS
[Prior to 4/17/02, see 645—Chapter 260]

645—261.1(152B) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of respiratory care.

"CoARC" means the Committee on Accreditation of Respiratory Care.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Licensee" means any person licensed to practice as a respiratory care practitioner in the state of Iowa.

"License expiration date" means March 31 of even-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice respiratory care to an applicant who is or has been licensed in another state.

"NBRC" means the National Board of Respiratory Care.

"Reactivate" or *"reactivation"* means the process as outlined in rule 261.14(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice respiratory care to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of respiratory care to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—261.2(152B) Requirements for licensure.

261.2(1) The following criteria shall apply to licensure:

a. The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Respiratory Care, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board until properly completed.

c. Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Respiratory Care. The fees are nonrefundable.

d. No application will be considered by the board until:

(1) Rescinded IAB 6/8/05, effective 7/13/05.

(2) The applicant satisfactorily completes the certification or registration examination for respiratory therapists administered by the National Board for Respiratory Care.

e. Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

261.2(2) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

645—261.3(152B) Educational qualifications.

261.3(1) The applicant shall have successfully completed a respiratory care education program from an accredited school/program for training respiratory therapists.

261.3(2) Foreign-trained respiratory care practitioners shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—261.4(152B) Examination requirements. The examination required by the board shall be the National Board of Respiratory Care Examination or the State Clinical Examination administered by the NBRC.

261.4(1) The applicant shall apply directly to the National Board of Respiratory Care.

261.4(2) Results of the examination must be received by the board of respiratory care by one of the following methods:

a. Scores sent directly from the examination service to the board of respiratory care;

b. A notarized certificate shall be submitted showing proof of the successful completion of the examination for respiratory therapists or respiratory therapy technicians administered by the National Board of Respiratory Care; or

c. A notarized copy of the scores or an electronic Web-based confirmation by the department showing proof of successful completion.

645—261.5(152B) Students.

261.5(1) A student enrolled in an approved respiratory care training program who is employed in an organized health care system may render services defined in Iowa Code sections 152B.2 and 152B.3 under the direct and immediate supervision of a respiratory care practitioner for the duration of the respiratory care practitioner program, not to exceed the duration of the respiratory care program.

261.5(2) Direct and immediate supervision of a respiratory care student means that the licensed respiratory care practitioner shall:

a. Be continuously on site and present in the department or facility where the student is performing care;

b. Be immediately available to assist the person being supervised in the care being performed; and

c. Be responsible for care provided by students.

645—261.6(152B) Licensure by endorsement. An applicant who has been a licensed respiratory care practitioner under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Rescinded IAB 6/8/05, effective 7/13/05.
5. Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board;
6. Provides the examination scores:

- Scores shall be sent directly from the examination service to the board of respiratory care; or
- A notarized certificate shall be submitted showing proof of the successful completion of the examination for respiratory therapists or respiratory therapy technicians administered by the National Board for Respiratory Care; and

7. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

645—261.7(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of respiratory care practitioners.

645—261.8(152B) License renewal.

261.8(1) The biennial license renewal period for a license to practice respiratory care shall begin on April 1 of an even-numbered year and end on March 31 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

261.8(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

261.8(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—262.2(152B,272C) and the mandatory reporting requirements of subrule 261.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

261.8(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 262.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

261.8(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

261.8(6) A person licensed to practice as a respiratory care practitioner shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

261.8(7) 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 645—subrule 264.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

261.8(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice respiratory care in Iowa until the license is reactivated. A licensee who practices respiratory care in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—261.9(272C) Exemptions for inactive practitioners. Rescinded IAB 6/8/05, effective 7/13/05.

645—261.10(272C) Lapsed licenses. Rescinded IAB 6/8/05, effective 7/13/05.

645—261.11(147) Duplicate certificate or wallet card.

261.11(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall only be issued under such circumstances.

261.11(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—264.1(147,152B).

261.11(3) If the board receives a completed application for a duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—261.12(147) Reissued 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 645—264.1(147,152B).

645—261.13(17A,147,272C) License denial.

261.13(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

261.13(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

261.13(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—261.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

261.14(1) Submit a reactivation application on a form provided by the board.

261.14(2) Pay the reactivation fee that is due as specified in 645—Chapter 264.

261.14(3) Provide verification of current competence to practice respiratory care by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 24 hours of continuing education that conforms to standards defined in 645—262.3(152B,272C) within 24 months immediately preceding submission of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 48 hours of continuing education that conforms to standards defined in 645—262.3(152B,272C) within 24 months immediately preceding submission of the application for reactivation.

645—261.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 261.14(17A,147,272C) prior to practicing respiratory care in this state.

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

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CHAPTER 262
CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS

[Prior to 4/17/02, see 645—Chapter 261]

645—262.1(152B,272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of respiratory care.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Electronically transmitted" means a program/activity that is videotaped, presented on the Iowa Communications Network (ICN), computer-based or other electronically based means that includes a posttest.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a respiratory care practitioner in the state of Iowa.

645—262.2(152B,272C) Continuing education requirements.

262.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on April 1 of each even-numbered year and ending on March 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 24 hours of continuing education approved by the board.

262.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal.

262.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

262.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

262.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—262.3(152B,272C) Standards.

262.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

262.3(2) *Specific criteria.* Continuing education hours of credit may be obtained by:

a. Programs/activities that shall be of a clinical nature related to the practice of respiratory care. Clinical nature subject matter is described as basic clinical processes that include information beyond the basic licensure requirements applicable to the normal development and use of the clinical respiratory care practitioner. Any communication course must involve the actual application to the practice of the respiratory care practitioner.

b. Program presenters who will receive one hour of credit for each hour of presentation for the first offering of the continuing education program/activity.

c. Academic coursework that meets the criteria set forth in the rules and is accompanied by an official transcript indicating successful completion of the course. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

d. All courses offered by the American Association of Respiratory Care (AARC) continuing education programs/activities.

e. Attendance at or participation in a program or course which is offered or sponsored by an approved continuing education sponsor.

f. Maximums per biennium are as follows:

(1) No more than ten hours of approved independent study for continuing education requirements in a given continuing education compliance period.

(2) The following are approved for continuing education credit on a one-time basis per biennium and require a certificate of attendance or verification:

CERTIFICATIONS:

Advanced Cardiac Life Support	up to 12 hours
Basic Cardiac Life Support—Instructor	up to 8 hours
Basic Cardiac Life Support	up to 6 hours
Neonatal Resuscitation	up to 9 hours
Pediatric Advanced Life Support	up to 14 hours
Mandatory Reporting	up to 4 hours

RECERTIFICATIONS:

Advanced Cardiac Life Support	up to 4 hours
Basic Cardiac Life Support	up to 2 hours
Neonatal Resuscitation	up to 3 hours
Pediatric Advanced Life Support	up to 3 hours

g. Unacceptable subject matter includes marketing, personal development, time management, human relations, collective bargaining and tours.

645—262.4(152B,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

262.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

262.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Number of contact hours for program attended; and

b. Individual certificate of completion issued by the sponsor to the licensee or evidence of successful completion of the course from the course sponsor that includes date, location, title and contact hours.

262.4(3) For auditing purposes, all licensees must retain the information identified in 262.4(2) for two years after the biennium has ended.

262.4(4) Information identified in 262.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

262.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to complete and submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The licensee may be granted 120 days from the date of mailing of notice of deficiency to the address of record at the board office to submit evidence of additional continuing education completed during the biennium or to complete additional continuing education as required and submit evidence of that continuing education to the board office.

262.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—262.5(152B,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—262.6(152B,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

262.6(1) Failure to cooperate with a board audit.

262.6(2) Failure to meet the continuing education requirement for licensure.

262.6(3) Falsification of information on the license renewal form.

262.6(4) Falsification of continuing education information.

645—262.7(152B,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver to a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify

status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

262.7(1) The board may grant an extension of time to fulfill the continuing education requirement.

262.7(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

262.7(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

These rules are intended to implement Iowa Code section 272C.2 and chapter 152B.

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CHAPTER 263
DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS

[Prior to 4/17/02, see rule 645—260.11(152B,272C)]

645—263.1(152B) Definitions.

"Board" means the board of respiratory care.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a respiratory care practitioner in Iowa.

645—263.2(152B,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—263.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

263.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state, which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

263.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a respiratory care practitioner in this state.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

263.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

263.2(4) Practice outside the scope of the profession.

263.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to:

a. An action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

b. Inflated or unjustified expectations of favorable results.

c. Self-laudatory claims that imply that the respiratory care practitioner is skilled in a field or specialty of practice for which the practitioner is not qualified.

d. Extravagant claims or proclaiming extraordinary skills not recognized by the respiratory care profession.

263.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

263.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

263.2(8) Falsification of client records.

263.2(9) Acceptance of any fee by fraud or misrepresentation.

263.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

263.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

263.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

263.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

263.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

263.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

263.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

263.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

263.2(18) Failure to comply with a subpoena issued by the board, or otherwise fail to cooperate with an investigation of the board.

263.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

263.2(20) Failure to pay costs assessed in any disciplinary action.

263.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

263.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

263.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a respiratory care practitioner.

263.2(24) Failure to report a change of name or address within 30 days after it occurs.

263.2(25) Representing oneself as a respiratory care practitioner when one's license has been suspended or revoked, or when one's license is on inactive status.

263.2(26) Permitting another person to use the licensee's license for any purpose.

263.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

263.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient, client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

263.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

263.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—263.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—263.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—263.5(152B) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

263.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

263.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

263.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe in order to maintain the licensee's confidentiality.

263.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

263.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

263.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

263.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

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

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CHAPTER 264
FEES

[Prior to 4/17/02, see rule 645—260.9(152B)]

645—264.1(147,152B) License fees. All fees are nonrefundable.

264.1(1) Initial or endorsement licensure fee to practice respiratory care is $120.

264.1(2) Biennial license renewal fee for each biennium is $60.

264.1(3) Late fee for failure to renew before expiration is $60.

264.1(4) Reactivation fee is $120.

264.1(5) Duplicate or reissued license certificate or wallet card fee is $20.

264.1(6) Verification of license fee is $20.

264.1(7) Returned check fee is $25.

264.1(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152B and 272C.

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CHAPTER 265
PRACTICE OF RESPIRATORY CARE PRACTITIONERS

645—265.1(152B,272C) Code of ethics.

265.1(1) The respiratory care practitioner shall practice acceptable methods of treatment and shall not practice beyond the competence or exceed the authority vested in the practitioner by physicians.

265.1(2) The respiratory care practitioner shall continually strive to increase and improve knowledge and skill and shall render to each patient the full measure of the practitioner's ability. All services shall be provided with respect for the dignity of the patient, regardless of the patient's social or economic status or personal attributes or the nature of the patient's health problems.

265.1(3) The respiratory care practitioner shall be responsible for the competent and efficient performance of assigned duties and shall expose incompetent, illegal or unethical conduct of members of the profession.

265.1(4) The respiratory care practitioner shall hold in confidence all privileged information concerning the patient and refer all inquiries regarding the patient to the patient's physician.

265.1(5) The respiratory care practitioner shall not accept gratuities and shall guard against conflict of interest.

265.1(6) The respiratory care practitioner shall uphold the dignity and honor of the profession and abide by its ethical principles.

265.1(7) The respiratory care practitioner shall have knowledge of existing state and federal laws governing the practice of respiratory therapy and shall comply with those laws.

265.1(8) The respiratory care practitioner shall cooperate with other health care professionals and participate in activities to promote community, state, and national efforts to meet the health needs of the public.

645—265.2(152B,272C) Intravenous administration. Starting an intravenous line or administering intravenous medications is not considered a competency within the scope of a licensed respiratory care practitioner. However, this rule does not preclude a licensed respiratory care practitioner from performing intravenous administration under the auspices of the employing agency if formal training is acquired and documented.

645—265.3(152B,272C) Polysomnography testing. Rescinded IAB 8/15/07, effective 9/19/07.

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

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CHAPTER 269
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTERS 270 to 278
Reserved

SOCIAL WORKERS

CHAPTER 279 ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF SOCIAL WORK EXAMINERS
CHAPTER 280 LICENSURE OF SOCIAL WORKERS
CHAPTER 281 CONTINUING EDUCATION FOR SOCIAL WORKERS
CHAPTER 282 PRACTICE OF SOCIAL WORKERS
CHAPTER 283 DISCIPLINE FOR SOCIAL WORKERS
CHAPTER 284 FEES

CHAPTER 279
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF SOCIAL WORK EXAMINERS

[Prior to 5/18/88, see Health Department[470], Ch 161]
[Prior to 9/19/01, see 645—Chapter 280]

645—279.1(17A) Definitions.

"Board" means the board of social work examiners.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice social work.

"Licensee" means a person licensed to practice social work.

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

"Peer review" means evaluation of professional services rendered by a professional practitioner.

"Peer reviewer(s)" means one or more persons acting in a peer review capacity who have been appointed by the board for such purpose.

645—279.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, 154C and 272C with regard to the practice of social work. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

279.2(1) Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

279.2(2) Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

279.2(3) Imposing discipline on licensees as provided by statute or rule.

645—279.3(17A,147,272C) Organization of board and proceedings.

279.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

279.3(2) The members of the board shall include five members who are licensed to practice social work, with at least one from each of the three levels of licensure described in Iowa Code section 154C.3, subsection 1, two employed by a licensee under Iowa Code chapter 237, and two who are not licensed social workers and who shall represent the general public.

279.3(3) The board shall elect a chairperson, vice chairperson, and secretary from its membership at the first meeting after April 30 of each year.

279.3(4) The board shall hold at least four meetings annually.

279.3(5) A majority of the members of the board shall constitute a quorum.

279.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

279.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

279.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statutes or rules that relate to the practice of social work upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

g. Monitor licensees who are restricted by a board order.

h. Establish and register peer reviewers.

i. Refer a complaint to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

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

645—279.4(17A) Official communications.

279.4(1) All official communications, including submissions and requests, may be addressed to the Board of Social Work Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

279.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

279.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—279.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

645—279.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

279.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

279.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

279.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

279.6(4) Cameras and recording devices may be used at open meetings, provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 154C and 272C.

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CHAPTER 280
LICENSURE OF SOCIAL WORKERS

645—280.1(154C) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"ASWB" means the Association of Social Work Boards.

"Board" means the board of social work examiners.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"LBSW" means licensed bachelor social worker.

"Licensee" means any person licensed to practice as a social worker in the state of Iowa.

"License expiration date" means December 31 of even-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice social work to an applicant who is or has been licensed in another state.

"LISW" means licensed independent social worker.

"LMSW" means licensed master social worker.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of social workers who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"Private practice" means social work practice conducted only by an LISW who is either self-employed or a member of a partnership or of a group practice providing diagnosis and treatment of mental and emotional disorders or conditions. In this context, "group practice" means an association of professionals in which an LISW is independently engaged in the practice of social work and has ongoing control of the clinical, financial, administrative, and professional arrangements between the LISW and the clients/patients of the LISW.

"Reactivate" or *"reactivation"* means the process as outlined in rule 280.14(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice social work to an applicant who is currently licensed in another state and that state's board of examiners has a mutual written agreement with the Iowa board of social work examiners to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—280.2(154C) Social work services subject to regulation. Social work services provided to an individual in this state through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and shall be subject to regulation in Iowa.

645—280.3(154C) Requirements for licensure. The following criteria shall apply to licensure:

280.3(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Social Work Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

280.3(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

280.3(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Social Work Examiners. The fees are nonrefundable.

280.3(4) No application shall be considered by the board until official copies of academic transcripts have been received by the board except as provided in 280.4(6).

280.3(5) The applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a social worker, sent directly from the state(s) to the Iowa board of social work examiners office.

280.3(6) The candidate shall take the examination(s) required by the board pursuant to these rules.

280.3(7) An applicant for a license as an independent social worker shall have met the requirements for supervision pursuant to 280.6(154C).

280.3(8) Each social worker who seeks to attain licensure as an independent social worker shall have been granted a master's or doctoral degree in social work and practiced at that level.

280.3(9) Notification of licensure shall be sent to the licensee by regular mail.

280.3(10) Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

280.3(11) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

280.3(12) In lieu of the requirements in subrules 280.3(4) and 280.3(5), the board will accept the ASWB Social Work Registry verification of academic transcripts and verification of licensure in other states.

645—280.4(154C) Written examination.

280.4(1) The applicant is required to take and pass the ASWB examination at the appropriate level as follows:

a. Bachelor level social worker—the basic level examination.

b. Master level social worker—the intermediate level examination.

c. Independent level social worker—the clinical level examination.

280.4(2) The electronic examination shall be scheduled with ASWB.

280.4(3) Application for any required examination will be denied or deferred by the board if the applicant lacks the required education or practice experience.

280.4(4) The applicant and the board shall be notified of the ASWB examination results, and the applicant may receive the results at the time of the examination. The board will accept only official results from the ASWB examination service that are sent directly from the examination service to the board.

280.4(5) The ASWB passing score will be utilized as the Iowa passing score.

280.4(6) An applicant may sit for the examination if the applicant meets the requirements stated in 645—280.3(154C). Upon written request of the applicant, the board may authorize a student to sit for the examination prior to the receipt of the official transcript if the student is in the last semester of an approved master of social work program. The student shall submit an application for licensure at the master's level and the fee, and, in lieu of a transcript, the student shall request that the school submit a letter directly to the board office. The letter shall state that the student is currently enrolled in a master of social work program and the student's expected date of graduation. Upon completion of degree requirements, the applicant shall have the transcript showing the date of the degree sent directly from the school to the board office at the Board of Social Work Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

280.4(7) In lieu of the requirements in subrule 280.4(4), the board will accept the ASWB Social Work Registry verification of the ASWB examination results.

645—280.5(154C) Educational qualifications.

280.5(1) Bachelor level social worker. An applicant for a license as a bachelor level social worker shall present evidence satisfactory to the board that the applicant possesses a bachelor's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation.

280.5(2) Master level social worker. An applicant for a license as a master level social worker shall present evidence satisfactory to the board that the applicant:

a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or

b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.5(3) Independent level social worker. An applicant for a license as an independent level social worker shall present evidence satisfactory to the board that the applicant:

a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or

b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.5(4) Foreign-trained social workers shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310) 258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, 1725 Duke Street, Suite 500, Alexandria, Virginia 22314-3457, telephone (703)683-8080, Web site http://www.cswe.org. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a social work program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—280.6(154C) Supervised professional practice for the LISW.

280.6(1) The supervised professional practice shall:

a. Be the equivalent of two years of full-time post-master's social work degree practice at the master's level performing psychosocial assessment, diagnosis and treatment; or

b. Be 4,000 hours of post-master's social work degree experience at the master's level performing psychosocial assessment, diagnosis and treatment over a minimum two-year and maximum six-year period;

c. Have at least 110 hours of supervision which shall be equitably distributed throughout a minimum of a two-year period; and

d. Be obtained in the following manner:

(1) Face-to-face meetings between the supervisor and the supervisee unless the board has granted an exception allowing for an alternate form of supervision, upon written request of the applicant.

(2) Group supervision obtained using the following criteria:

1. No more than 60 hours of the 110 hours of supervision may be provided in group supervision;
2. Group supervision may be composed of no more than six supervisees per group.

280.6(2) The board maintains the authority to grant waivers relevant to the time parameters of the supervised professional practice upon written request of the applicant.

280.6(3) To meet the requirements of the supervised professional practice, the supervisor must:

a. Be an Iowa-licensed independent social worker as specified in rule 280.3(154C). An individual licensed in another state and providing supervision for an Iowa LISW candidate must be licensed at a level equivalent to Iowa's LISW level.

b. Have a minimum of 2,000 hours of practice earned over a period of two years of practice beyond receipt of a license to practice independent social work in Iowa or the equivalent license from another state.

c. Establish and maintain a plan throughout the supervisory period. Such a plan must be kept by the supervisor for a period of two years and must be submitted to the board upon its request for audit within 30 days from receipt of the request. The plan for supervision shall include:

(1) The name, license number, date of licensure, address and telephone number of supervisor;

(2) The name, license number, address and telephone number of supervisee;

(3) The beginning date of clinical work experience under supervision and estimated date of completion;

(4) A plan for direct supervision hours, including frequency of supervisor/supervisee's face-to-face meetings;

(5) A plan for any group supervision;

(6) The goals and objectives for the clinical work experience; and

(7) The signatures of the supervisor and supervisee, and the dates of signatures.

d. Be responsible for supervision within the following content areas:

(1) Practice skills;

(2) Practice management skills;

(3) Skills required for continuing competence;

(4) Development of professional identity; and

(5) Ethical practice.

e. Be accountable for the following areas of supervision:

(1) Area of social work practice;

(2) Agency providing services;

(3) Legal and regulatory requirements;

(4) Ethical standards of the profession; and

(5) Acceptance of professional responsibility for the social work services provided by the supervisee.

f. Complete a supervision report sheet at the end of the supervised professional experience. This sheet shall be answered in full and signed by both the supervisor and supervisee. This report shall be submitted to the board for review and approval prior to the board's approval of the supervisee to sit for the clinical-level examination.

g. Exceptions to this rule shall be made on an individual basis. Requests for alternative supervisors must be submitted in writing, and the board must approve the supervisor prior to commencement of the supervision.

280.6(4) To meet the requirements of the supervised professional practice, the supervisee shall:

a. Obtain a written release of information for protection of client confidentiality pursuant to 645—Chapter 282, if the supervisor and supervisee are not employed by the same agency.

b. Have the following documentation for supervision of independent practice:

(1) The plan for supervision that was created at the beginning of the period of supervision and that was maintained by the supervisor. If there has been a change of supervisors, the LISW candidate has the responsibility to have a termination evaluation completed by that supervisor and to have the copy submitted to the next supervisor. All termination evaluations shall be available to the board upon request. The supervision provided by all qualified supervisors who have a plan of supervision with the applicant can be counted toward meeting the criteria for supervision.

(2) At the end of supervision, the supervisee shall have any and all supervisors complete a supervision report sheet provided by the board of social work examiners. This report shall be answered in full and signed by both the supervisor and supervisee. This report shall be submitted to the board

for review and approval prior to the board's approval of the supervisee to sit for the clinical-level examination.

645—280.7(154C) Licensure by endorsement. An applicant who has been a licensed social worker under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides official copies of the academic transcripts;
5. Provides official copies of the examination score sent directly from the ASWB; and
6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

In lieu of the requirements in numbered paragraphs "4," "5," and "6" of this rule, the board will accept the ASWB Social Work Registry verification of academic transcripts, examination scores, and licensure in other states.

645—280.8(154C) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia, any state, territory, province or foreign country with equal or similar requirements for licensure of social workers.

645—280.9(154C) License renewal.

280.9(1) The biennial license renewal period for a license to practice social work shall begin on January 1 of odd-numbered years and end on December 31 of the next even-numbered year. Every licensee shall renew on a biennial basis. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

280.9(2) Renewal procedures.

a. A licensee seeking renewal shall:

(1) Meet the continuing education requirements of rule 645—281.2(154C,272C) and the mandatory reporting requirements of subrule 280.9(3). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

(2) Submit the completed renewal application and renewal fee before the license expiration date.

b. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

c. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

d. Persons licensed to practice social work shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

e. Failure to receive the notice of renewal shall not relieve the licensee of the responsibility for submitting the required materials and the renewal fee to the board office 30 days before license expiration.

f. A pending application for a higher level of licensure does not relieve the social worker of the renewal or reactivation requirements. A social worker applying for a higher level shall renew the license that is held at the current level at the time of the renewal.

g. A social worker whose Iowa license is inactive, delinquent, closed, retired, voluntarily surrendered, suspended, or revoked cannot advance to a higher level until the license is again active.

280.9(3) Mandatory reporting of child abuse and dependent adult abuse.

a. 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 waiver of this requirement as identified in paragraph *"f."*

b. A licensee who regularly examines, attends, counsels or treats dependent 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 waiver of this requirement as identified in paragraph *"f."*

c. A licensee who regularly examines, attends, counsels or treats both dependent adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting in dependent adults and children or condition(s) for waiver of this requirement as identified in paragraph *"f."*

d. Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.

e. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

f. 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 645—Chapter 281.

g. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

280.9(4) Late renewal. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

280.9(5) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a social worker in Iowa until the license is reactivated. A licensee who practices as a social worker in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

280.9(6) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

645—280.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—280.11(272C) Lapsed licenses. Rescinded IAB 8/31/05, effective 10/5/05.

645—280.12(272C) Duplicate certificate or wallet card.

280.12(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or duplicate certificate shall only be issued for such circumstances.

280.12(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application and receipt of the fee as specified in rule 645—284.1(147,154C).

280.12(3) If the board receives the completed application, stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required to issue a duplicate wallet card or duplicate certificate.

645—280.13(17A,147,272C) License denial.

280.13(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

280.13(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

280.13(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—280.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

280.14(1) Submit a reactivation application on a form provided by the board.

280.14(2) Pay the reactivation fee that is due as specified in 645—Chapter 284.

280.14(3) Provide verification of current competence to practice social work by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 27 hours of continuing education within two years of application for reactivation; and

(3) Verification of taking and passing the ASWB examination at the appropriate level as follows:

1. Bachelor level social worker – the bachelor's level examination; or
2. Master level social worker - the master's level examination; or
3. Independent level social worker - the clinical level examination.

645—280.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 280.14(17A,147,272C) prior to practicing social work in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154C and 272C.

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1 Effective date of rules 161.212 to 161.217 delayed 70 days by the Administrative Rules Review Committee.

2 Effective date of 280.100(154C) is July 1, 1993.

3 Effective date of **ARC 9102A** delayed 70 days by the Administrative Rules Review Committee at its meeting held July 13, 1999; delay lifted at the meeting held August 3, 1999, effective August 4, 1999.

CHAPTER 281
CONTINUING EDUCATION FOR SOCIAL WORKERS

645—281.1(154C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of social work examiners.

"Continuing education" means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a social worker in the state of Iowa.

645—281.2(154C) Continuing education requirements.

281.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. (To implement this rule change, the continuing education period for the December 31, 2000, renewal will run from July 1, 1998, to December 31, 2000.) Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 27 hours of continuing education approved by the board.

281.2(2) Requirements of new licensees. Those persons licensed for the first time during the license renewal period shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

281.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

281.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

281.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

281.2(6) The licensee shall maintain a personal file with all documentation of the continuing education credits obtained.

645—281.3(154C,272C) Standards.

281.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters.

d. Fulfills stated program goals, objectives, or both;

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor; and

f. Contains one of the following content areas:

(1) Human behavior.

1. Theories and concepts of the development of human behavior in the life cycle of individuals, families and the social environment;

2. Community and organizational theories;

3. Normal, abnormal and addictive behaviors;

4. Abuse and neglect; and

5. Effects of culture, race, ethnicity, sexual orientation and gender.

(2) Assessment and treatment.

1. Psychosocial assessment/interview;

2. Utilization of the DSM-IV TR;

3. Theoretical approaches and models of practice—individual, couple, and family therapy and group psychotherapy;

4. Establishing treatment goals and monitoring progress;

5. Techniques of social work practice; and

6. Interdisciplinary consultation and collaboration.

(3) Social work research, program evaluation, or practice evaluation.

(4) Management, administration, and social policy.

1. Organizational policies and procedures;

2. Advocacy and prevention in social work practice;

3. Management of social work staff and other personnel; and

4. Management of social work programs.

(5) Theories and concepts of social work education.

(6) Social work ethics as they pertain to the rules of conduct.

(7) An area, as demonstrated by the licensee, that directly relates to the licensee's individual practice as a social worker. The licensee shall submit for consideration by the board a specific explanation of how the program relates to the licensee's individual practice setting as a social worker.

281.3(2) *Specific criteria.* Continuing education hours of credit can be obtained by completing:

a. A minimum of three hours per biennium in social work ethics.

b. A maximum of 12 hours per biennium for independent study courses.

c. Academic coursework that meets the criteria set forth in the rules. Continuing education equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

d. Self-study courses that have a mentor and prior approval as defined in the rules and are accompanied by a brief paper authored by the licensee demonstrating application of the learning objectives to practice issues.

e. Programs designed for the purpose of enhancing the licensee's administrative, management or other clinical skills.

f. Activities/programs that are sponsored/approved by:

(1) ASWB Approved Continuing Education (ACE) Program; or

(2) National Association of Social Workers (NASW) Continuing Education Unit (CEU) Approval Program.

g. Pro-bono/volunteer work that meets the following criteria:

(1) A licensee may earn a maximum of 3 of the required 27 hours of continuing education for credit during one biennium by performing pro-bono/volunteer services for indigent, underserved populations, or in areas of critical need within the state of Iowa. Such services must be approved in advance by the board.

(2) A licensee shall make application for prior approval of pro-bono/volunteer services by sending a letter to the board indicating that the following requirements will be met:

1. The site for these services is identified including information about the clients, the services that will be offered, how they will be performed and the learning objectives.

2. A contract will be established between licensee and client(s), and each party will be aware that the services are being provided without charge.

3. The services will be subject to all the legal responsibilities and obligations related to the licensee's profession.

4. The licensee will keep records and files of these client services pursuant to the rules of 645—Chapter 282.

5. A representative from the site for pro-bono/volunteer services must provide a letter stating that these services are to be performed by the licensee.

6. Upon review, the licensee will receive a letter from the board indicating prior approval for these pro-bono/volunteer services that will be done for continuing education credit.

7. Following completion of such services:

- The licensee must provide the board a letter stating that the services were performed as planned.
- The representative on the site must provide a letter indicating such completion.

h. Instruction of a course at an approved college, university or graduate school of social work. A licensee may receive credit on a one-time basis not to exceed three hours of continuing education credit per biennium.

i. Instruction/presentation/moderation of continuing education programs. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium, for programs at which the licensee is actually in attendance for the complete program provided the licensee receives a certificate of attendance in compliance with this rule.

j. Authorship of papers, publications or books and preparation of presentations and exhibits. A presentation must be made before a professional audience. Presentations may receive credit on a one-time basis for the article, publication, book or the preparation of a presentation or exhibit, not to exceed three hours of continuing education credit per biennium.

645—281.4(154C,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

281.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

281.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

281.4(3) For auditing purposes, all licensees must retain the information identified in subrule 281.4(2) for two years after the biennium has ended.

281.4(4) Information identified in subrule 281.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

281.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines

that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

281.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—281.5(154C,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—281.6(154C,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

281.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

281.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

281.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—281.7(154C,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

281.7(1) Failure to cooperate with a board audit.

281.7(2) Failure to meet the continuing education requirement for licensure.

281.7(3) Falsification of information on the license renewal form.

281.7(4) Falsification of continuing education information.

645—281.8(154C,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—281.9(154C,272C) Continuing education waiver for disability or illness. Rescinded IAB 8/31/05, effective 10/5/05.

645—281.10(154C,272C) Reinstatement of inactive practitioners. Rescinded IAB 8/31/05, effective 10/5/05.

645—281.11(272C) Hearings. Rescinded IAB 8/31/05, effective 10/5/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154C.

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CHAPTER 282
PRACTICE OF SOCIAL WORKERS

645—282.1(154C) Definitions.

"Client" means the individual, couple, family, or group to whom a licensee provides direct social work services.

"Clinical services" means services provided by an LMSW or LISW which involve the professional application of social work theory and methods in diagnosing, assessing, treating, and preventing psychosocial disabilities or impairments, including emotional and mental disorders.

"Counseling" means a method used by licensees to assist clients in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

"Psychosocial therapy" means a specialized, formal interaction between an LMSW or LISW and a client in which a therapeutic relationship is established and maintained to assist the client in overcoming or abating specific emotional, mental, or social problems and achieving specified goals for well-being. Psychosocial therapy is a form of psychotherapy which emphasizes the interface between the client and the client's environment. Therapy is a planned, structured program based on a diagnosis and is directed to accomplish measurable goals and objectives specified in the client's individual treatment plan.

645—282.2(154C) Rules of conduct.

282.2(1) *Informed consent.*

a. A licensee shall provide services to clients only in the context of a professional relationship based, when appropriate, on valid written informed consent. A licensee shall use clear and understandable language to inform clients of the proposed services, purpose of the services, risks related to the services, limits to services because of the requirements of a third-party payer, relevant costs, reasonable alternatives, a client's right to refuse or withdraw consent, and the time frame covered by the consent.

b. If a client is not literate or has difficulty understanding the primary language used in the practice setting, a licensee shall attempt to ensure the client's comprehension. This may include providing the client with a detailed verbal explanation or arranging for a qualified interpreter or translator whenever possible.

c. If a client lacks the capacity to provide informed consent, a licensee shall protect the client's interests by seeking permission from an appropriate third party and shall inform the client consistent with the client's level of understanding. In such instances, a licensee shall seek to ensure that the third party acts in a manner consistent with the client's wishes and interests. A licensee shall take reasonable steps to enhance the client's ability to give informed consent.

d. If a client is receiving services involuntarily, a licensee shall provide information about the nature and extent of services and about the extent of the client's right to refuse services.

e. The provision of social work services to an individual in this state through any electronic means, including the Internet, telephone, or the Iowa Communications Network or any fiberoptic media, regardless of the location of the licensee, shall constitute the practice of social work in the state of Iowa and shall be subject to regulation in accordance with Iowa Code chapters 147 and 154C and the administrative rules of the board. A licensee who provides services via electronic media shall inform recipients of the limitations and risks associated with such services.

f. A licensee shall obtain a client's informed consent before audiotaping or videotaping the client or permitting a third party to observe services provided to the client.

282.2(2) *Competence.*

a. A licensee shall provide services and represent oneself as competent only within the boundaries of the licensee's education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.

b. A licensee shall provide services in substantive areas or use intervention techniques or approaches that are new only after engaging in appropriate study, training, consultation, and supervision from people who are competent in those areas, interventions, or techniques.

c. When generally recognized standards do not exist with respect to an emerging area of practice, a licensee shall exercise careful judgment and take responsible steps, including appropriate education, research, training, consultation and supervision, to ensure competence and to protect clients from harm.

282.2(3) *Supervision.*

a. A licensee shall exercise appropriate supervision over persons who practice under the supervision of the licensee.

b. A licensee who provides supervision or consultation shall have the necessary knowledge and skill to supervise or consult appropriately and shall do so only within the licensee's areas of knowledge and competence.

c. A licensee who provides supervision or consultation is responsible for setting clear, appropriate, and culturally sensitive boundaries.

d. A licensee shall not engage in any dual or multiple relationships with supervisees if there is a risk of exploitation of or potential harm to the supervisee.

e. A licensee shall not engage in sexual activities or sexual contact with a supervisee, student, trainee, or other colleague over whom the licensee exercises professional or supervisory authority.

f. A licensee shall not employ, assign, or supervise an individual in the performance of services that require a license if the individual has not received a license to perform the services or if the individual has a suspended, revoked, lapsed, or inactive license.

g. A licensee shall not practice without receiving supervision, as needed, given the licensee's level of practice, experience, and need.

282.2(4) *Privacy and confidentiality.*

a. A licensee shall not disclose or be compelled to disclose client information unless required by law, except under the following limited circumstances:

(1) If the information reveals the contemplation or commission of a crime. This includes situations in which the licensee determines that disclosure is necessary to prevent serious, foreseeable, and imminent harm to the client or another specific identifiable person.

(2) If the client waives the privilege by bringing criminal, civil, or administrative charges or action against a licensee.

(3) With the written informed consent of the client that explains to whom the client information will be disclosed or released and the purpose and time frame for the release of information. If the client is deceased or unable to provide informed consent, a licensee shall obtain written consent from the client's personal representative, another person authorized to sue, or the beneficiary of an insurance policy on the client's life, health, or physical condition.

(4) To testify in a court or administrative hearing concerning matters pertaining to the welfare of children.

(5) To seek collaboration or consultation with professional colleagues or administrative superiors on behalf of the client.

(6) Pursuant to a validly issued subpoena or court order.

In the event of a disclosure of information under any of the circumstances stated above, the licensee shall disclose the least amount of confidential information necessary and shall reveal only that information that is directly relevant to the purpose for which the disclosure is made.

b. Before the disclosure is made, a licensee shall inform a client, to the extent possible, about the disclosure of confidential information and the potential consequences of the disclosure. This requirement applies whether a licensee discloses confidential information on the basis of client consent or other legal basis.

c. A licensee shall discuss with clients and other interested parties the nature of confidentiality and limitations of a client's right to confidentiality. A licensee shall review with clients the circumstances under which confidential information may be requested and when disclosure of confidential information

may be legally required. This discussion should occur as soon as possible in the professional relationship and as needed throughout the course of the relationship.

d. When a licensee provides counseling or psychosocial therapy services to families, couples, or groups, the licensee shall seek agreement among the parties involved concerning each individual's right to confidentiality and obligation to preserve the confidentiality of information shared by others. A licensee shall inform participants in family, couples, or group counseling or psychosocial therapy that the licensee cannot guarantee that all participants will honor such agreements.

e. A licensee shall inform clients involved in family, couples, marital, or group counseling or psychosocial therapy of the licensee's, the licensee's employer's, and agency's policy concerning the licensee's disclosure of confidential information among the parties involved in the counseling or therapy.

f. A licensee shall not disclose confidential information to third-party payers unless a client has authorized such disclosure. A licensee shall inform the client of the nature of the client information to be disclosed or released to the third-party payer.

g. A licensee shall not discuss confidential information in any setting unless privacy can be ensured. A licensee shall not discuss confidential information in public or semipublic areas such as hallways, waiting rooms, elevators, and restaurants.

h. A licensee shall protect the confidentiality of clients during legal proceedings to the extent permitted by law.

i. A licensee shall protect the confidentiality of clients when the licensee is responding to requests from members of the media.

j. A licensee shall protect the confidentiality of clients' written and electronic records and other sensitive information. A licensee shall take reasonable steps to ensure that client records are stored in a secure location and that client records are not available to others who are not authorized to have access.

k. A licensee shall take precautions to ensure and maintain the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones, telephone answering machines, and other electronic or computer technology.

l. A licensee shall transfer or dispose of client records in a manner that protects client confidentiality and is consistent with federal and state statutes, rules and regulations and the guidelines of the licensee's employer or agency, if applicable.

m. A licensee shall take reasonable precautions to protect client confidentiality in the event of the licensee's termination of practice, incapacitation, or death.

n. A licensee shall not disclose identifying information when discussing a client for teaching or training purposes or in public presentations unless the client has consented to disclosure of confidential information.

o. A licensee shall not disclose identifying information when discussing a client with consultants unless the client has consented to disclosure of confidential information or there is a compelling need for such disclosure.

p. Consistent with the preceding standards, a licensee shall protect the confidentiality of deceased clients.

282.2(5) *Record keeping.*

a. A licensee shall maintain sufficient, timely, and accurate documentation in client records. A licensee's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

b. A licensee who provides clinical services in any employment setting, including private practice, shall maintain timely records that include subjective and objective data, assessment or diagnosis, a treatment plan, and any revisions to the assessment, diagnosis, or plan made during the course of treatment.

c. A licensee who provides clinical services shall store records in accordance with state and federal statutes, rules, and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee shall store all client records for a minimum of seven years following the termination of services to ensure reasonable future access.

282.2(6) *Access to records.* A licensee who provides clinical services shall:

a. Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request and the rationale for withholding some or all of a record should be documented in the client's records.

b. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

282.2(7) *Billing and fees.*

a. A licensee shall bill only for services which have been provided.

b. A licensee shall not accept goods or services from the client or a third party in exchange for the licensee's services.

c. A licensee shall not solicit a private fee or other remuneration for providing services to clients who are entitled to such available services through the licensee's employer or agency.

d. A licensee shall not accept, give, offer or solicit a fee, commission, rebate, fee split, or other form of consideration for the referral of a client.

e. A licensee shall not permit any person to share in the fees for professional services, other than a partner, employee, an associate in a professional firm, or a consultant to the licensee.

f. A licensee who provides clinical services shall, when appropriate:

(1) Establish and maintain billing practices that accurately reflect the nature and extent of services provided.

(2) Inform the client of the fee at the initial session or meeting with the client. A licensee shall provide a written payment arrangement to a client at the commencement of the professional relationship.

(3) Ensure that the fees are fair, reasonable, and commensurate with the services performed.

282.2(8) *Dual relationships and conflicts of interest.*

a. "Dual relationship" means that a licensee develops or assumes a secondary role with a client, including but not limited to a social relationship or business association. For purposes of these rules, "dual relationship" does not include a sexual relationship. Standards governing sexual relationships are found in subrule 282.2(9).

(1) Current clients. A licensee shall not engage in a dual relationship with a client.

(2) Former clients. A licensee shall not engage in a dual relationship with a client within five years of the termination of the client relationship. A licensee shall not engage in a dual relationship with a former client, regardless of the length of time elapsed since termination of the client relationship, when there is a risk of exploitation or potential harm to a client or former client.

(3) Unavoidable dual relationships with current and former clients. If a dual relationship with a current or former client is unavoidable, the licensee shall take steps to protect the client and shall be responsible for setting clear, appropriate, and culturally sensitive boundaries. The burden shall be on the licensee to show that the dual relationship was unavoidable. In determining whether a dual relationship was unavoidable, the board shall consider the size of the community, the nature of the relationship, and the risk of exploitation or harm to a client or former client.

b. Conflicts of interest.

(1) A licensee shall avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment.

(2) A licensee shall not continue in a professional relationship with a client when the licensee has become emotionally involved with the client to the extent that objectivity is no longer possible in providing the required professional services.

(3) A licensee shall inform the client when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the client's interests primary and protects the client's interests to the greatest extent possible. In some cases, protecting the client's interests may require termination of the professional relationship with proper referral of the client.

(4) A licensee shall not take unfair advantage of any professional relationship or exploit others to further the licensee's personal, religious, political, or business interests.

(5) A licensee who provides services to two or more people who have a relationship with each other shall clarify with all parties, when appropriate and in a manner consistent with the confidentiality standards of subrule 282.2(4), which individuals will be considered clients and the nature of the licensee's professional obligations to the various individuals who are receiving services. A licensee who anticipates a conflict of interest among the individuals receiving services or who anticipates having to perform in potentially conflicting roles shall clarify, when appropriate and in a manner consistent with the confidentiality standards at subrule 282.2(4), the licensee's role with the parties involved and take appropriate action to minimize any conflict of interest.

282.2(9) *Sexual relationships.*

a. Current clients. A licensee shall not engage in sexual activities or sexual contact with a client, regardless of whether such contact is consensual or nonconsensual.

b. Former clients. A licensee shall not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A licensee shall not engage in sexual activities or sexual contact with a former client, regardless of the length of time elapsed since termination of the client relationship, if the client has a history of physical, emotional, or sexual abuse or if the client has ever been diagnosed with any form of psychosis or personality disorder or if the client is likely to remain in need of therapy due to the intensity or chronicity of a problem.

c. A licensee shall not engage in sexual activities or sexual contact with a client's or former client's spouse or significant other.

d. A licensee shall not engage in sexual activities or sexual contact with a client's or former client's relative within the second degree of consanguinity (client's parent, grandparent, child, grandchild, or sibling) when there is a risk of exploitation or potential harm to a client or former client.

e. A licensee shall not provide clinical services to an individual with whom the licensee has had prior sexual contact.

282.2(10) *Physical contact.* A licensee shall not engage in physical contact with a client when there is a possibility of psychological harm to the client as a result of the contact. A licensee who engages in appropriate physical contact with a client is responsible for setting clear, appropriate, and culturally and age-sensitive boundaries which govern such contact.

282.2(11) *Termination of services.*

a. A licensee shall terminate services to a client when such service is no longer required or no longer serves the client's needs or interests.

b. A licensee shall take reasonable steps to avoid abandoning clients who are still in need of services. A licensee shall assist in making appropriate arrangements for continuation of services when necessary.

c. A licensee shall not terminate services to pursue a social, financial, business, romantic, or sexual relationship with a client.

d. A licensee who anticipates the termination or interruption of services to a client shall notify the client promptly and seek the transfer, referral, or continuation of services in relation to the client's needs and preferences.

e. A licensee who is leaving an employment setting shall inform clients, to the extent possible given the nature of the termination of the employment relationship, of appropriate options for the continuation of services and of the benefits and risks of the options.

f. If the employer who terminates a licensee is also a licensee, the employer shall provide notice to clients or allow the licensee the opportunity to provide notice to clients to ensure appropriate case closure or continuation or transfer of services if continued treatment is necessary.

g. A licensee who provides clinical services shall comply with the following additional standards regarding termination of the client relationship:

(1) Termination of a client relationship shall be documented in the client record. Absent written documentation of termination, the professional relationship shall be considered ongoing.

(2) A licensee who practices in a fee-for-service setting may terminate services to a client who is not paying an overdue balance only if the financial contractual arrangements have been made clear to the client, if the client does not pose an imminent danger to self or others, and if the clinical and other consequences of the current nonpayment have been addressed and discussed with the client. Prior to terminating services under this subrule, a licensee shall make reasonable efforts to collect the unpaid fees and shall make appropriate referrals for the client.

282.2(12) *Misrepresentations, disclosure.* A licensee shall not:

a. Knowingly make a materially false statement, or fail to disclose a relevant material fact, in a letter of reference, application, referral, report or other document.

b. Knowingly allow another person to use the licensee's license or credentials.

c. Knowingly aid or abet a person who is misrepresenting the person's professional credentials or competencies.

d. Impersonate another person or misrepresent an organizational affiliation in one's professional practice.

e. Further the application or make a recommendation for professional licensure of another person who is known by the licensee to be unqualified in respect to character, education, experience, or other relevant attribute.

f. Fail to notify the appropriate licensing authority of any human services professional who is practicing or teaching in violation of the laws or rules governing that person's professional discipline.

g. Engage in professional activities, including advertising, that involve dishonesty, fraud, deceit, or misrepresentation.

h. Advertise services in a false or misleading manner or fail to indicate in the advertisement the name, the highest relevant degree and licensure status of the provider of services.

i. Fail to distinguish, or purposely mislead the reader or listener in public announcements, addresses, letters and reports as to whether the statements are made as a private individual or whether they are made on behalf of an employer or organization.

j. Engage in direct solicitation of potential clients for pecuniary gain in a manner or in circumstances which constitute overreacting, undue influence, misrepresentation or invasion of privacy.

k. Fail to inform each client of any financial interests that might accrue to the licensee for referral to any other person or organization or for the use of tests, books, or apparatus.

l. Fail to inform each client that the client may be entitled to the same services from a public agency, if the licensee is employed by that public agency and also offers services privately.

m. Make claims of professional superiority which cannot be substantiated by the licensee.

n. Guarantee that satisfaction or a cure will result from the performance of professional services.

o. Claim or use any secret or special method of treatment or techniques which the licensee refuses to divulge to professional colleagues.

p. Take credit for work not personally performed whether by giving inaccurate information or failing to give accurate information.

q. Offer social work services or use the designation of licensed bachelor social worker, licensed master social worker, or licensed independent social worker; or use the designations LBSW, LMSW, or LISW or any other designation indicating licensure status; or hold oneself out as practicing at a certain level of licensure unless the licensee is duly licensed as such.

r. Permit another person to use the licensee's license for any purpose.

s. Practice outside the scope of a license.

282.2(13) *Impairments.*

a. A licensee shall not:

(1) Practice in a professional relationship while intoxicated or under the influence of alcohol or drugs not prescribed by a licensed physician.

(2) Practice in a professional relationship while experiencing a mental or physical impairment that adversely affects the ability of the licensee to perform professional duties in a competent and safe manner.

(3) Practice in a professional relationship if involuntarily committed for treatment of mental illness, drug addiction, or alcoholism.

b. A licensee who self-reports an impairment or suspected impairment to the board may be eligible for confidential monitoring by the impaired practitioner review committee. The licensee shall be provided the Impaired Practitioner Report form to initiate the process. Standards governing the impaired practitioner review committee may be found in 645—Chapter 16.

282.2(14) *Research.* If engaged in research, a licensee shall:

a. Consider carefully the possible consequences for human beings participating in the research.

b. Protect each participant from unwarranted physical and mental harm.

c. Ensure that the consent of the participant is voluntary and informed and that each participant executes a signed informed consent form which details the nature of the research and any known possible consequences.

d. Treat information obtained as confidential.

e. Not knowingly report distorted, erroneous, or misleading information.

282.2(15) *Organization relationships and business practices.* A licensee shall not:

a. Solicit the clients of colleagues or assume professional responsibility for clients of another agency or colleague without appropriate communication with that agency or colleague.

b. Abandon an agency, organization, institution, or group practice without reasonable notice or under circumstances which seriously impair the delivery of professional care to clients.

c. Deliberately falsify client records.

d. Fail to submit required reports and documents in a timely fashion to the extent that the well-being of the client is adversely affected.

e. Delegate professional responsibilities to a person when the licensee knows, or has reason to know, that the person is not qualified by training, education, experience, or classification to perform the requested duties.

282.2(16) *Discrimination and sexual harassment.*

a. A licensee shall not practice, condone, or facilitate discrimination against a client, student, or supervisee on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.

b. A licensee shall not sexually harass a client, student, or supervisee. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

282.2(17) *General.* A licensee shall not:

a. Practice without receiving supervision as needed, given the licensee's level of practice, experience, and need.

b. Practice a professional discipline without an appropriate license or after expiration of the required license.

c. Physically or verbally abuse a client or colleague.

d. Obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority; or sell, prescribe, give away, or administer controlled substances.

282.2(18) *Relationship between the board's rules of conduct and the National Association of Social Workers (NASW) Code of Ethics.* The NASW Code of Ethics is one resource for practitioners with respect to practice and ethical issues, and selected sections from the NASW Code of Ethics have been incorporated into the rules of conduct. A licensee's professional conduct is governed by the board's rules of conduct, and a licensee may be disciplined for violation of these rules.

These rules are intended to implement Iowa Code chapters 21, 147, 154C, and 272C.

[Filed 8/14/03, Notice 6/11/03—published 9/3/03, effective 10/8/03]

CHAPTER 283
DISCIPLINE FOR SOCIAL WORKERS

[Prior to 9/19/01, see 645—Chapter 280]
[Prior to 9/3/03, see 645—Chapter 282]

645—283.1(154B) Definitions.

"Board" means the board of social work examiners.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice social work.

645—283.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—283.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

283.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to:

a. An intentional perversion of the truth in making application for a license to practice in this state;

b. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

c. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

283.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other social workers in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average social worker acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of licensed social workers in this state.

283.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of social work or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

283.2(4) Practice outside the scope of the profession.

283.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

283.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

283.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

283.2(8) Falsification of client records.

283.2(9) Acceptance of any fee by fraud or misrepresentation.

283.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the licensee's ability to safely and skillfully practice the profession.

283.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice social work. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

283.2(12) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of social work, including, but not limited to, the rules of conduct found in 645—282.2(154C).

283.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report such action in writing within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

283.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of social work in another state, district, territory or country.

283.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

283.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

283.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

283.2(18) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

283.2(19) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

283.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

283.2(21) Failure to pay costs assessed in any disciplinary action.

283.2(22) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

283.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

283.2(24) Knowingly aiding, assisting or advising a person to unlawfully practice social work.

283.2(25) Failure to report a change of name or address within 30 days after it occurs.

283.2(26) Representing oneself as a licensed social worker when one's license has been suspended or revoked, or when one's license is on inactive status.

283.2(27) Permitting another person to use the licensee's license for any purpose.

283.2(28) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

283.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a client or coworker.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

283.2(30) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

283.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—283.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—283.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—283.5(154C) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

283.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the license sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

283.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an

alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

283.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

283.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

283.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

283.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

283.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147, 154C and 272C.

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CHAPTER 284
FEES

[Prior to 9/19/01, see 645—Chapter 280]
[Prior to 9/3/03, see 645—Chapter 283]

645—284.1(147,154C) License fees. All fees are nonrefundable.

284.1(1) Licensure fee for license to practice social work is $120.

284.1(2) Biennial license renewal fee for a license at the bachelor's level is $72; for the master's level, $120; and independent level, $144.

284.1(3) Late fee for failure to renew before expiration is $60.

284.1(4) Reactivation fee for the bachelor's level is $132; for the master's level, $180; and independent level, $204.

284.1(5) Duplicate or reissued license certificate or wallet card fee is $20.

284.1(6) Verification of license fee is $20.

284.1(7) Returned check fee is $25.

284.1(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154C and 272C.

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CHAPTER 285
IMPAIRED PRACTITIONER REVIEW COMMITTEE

Rescinded IAB 6/16/99, effective 7/21/99*

CHAPTER 289
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/16/99, effective 7/21/99*

CHAPTERS 290 to 298
Reserved

*Effective date of **ARC 9102A** delayed 70 days by the Administrative Rules Review Committee at its meeting held July 13, 1999; delay lifted at the meeting held August 3, 1999, effective August 4, 1999.

*Effective date of **ARC 9102A** delayed 70 days by the Administrative Rules Review Committee at its meeting held July 13, 1999; delay lifted at the meeting held August 3, 1999, effective August 4, 1999.

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 299 ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY EXAMINERS
CHAPTER 300 LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 301 RESERVED
CHAPTER 302 RESERVED
CHAPTER 303 CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 304 DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS
CHAPTER 305 FEES

CHAPTER 299
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY EXAMINERS

[Prior to 8/24/88, see Health Department[470] Ch 155]
[Prior to 9/19/01, see 645—Chapter 300]

645—299.1(17A,147) Definitions.

"Board" means the board of speech pathology and audiology examiners.

"Board office" means the office of the administrative staff.

"Department" means the department of public health.

"Disciplinary proceeding" means any proceeding under the authority of the board pursuant to which licensee discipline may be imposed.

"License" means a license to practice as a speech pathologist or audiologist.

"Licensee" means a person licensed to practice as a speech pathologist or audiologist in the state of Iowa.

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

645—299.2(17A) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A, 147, and 272C with regard to the practice of speech pathology and audiology. The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of the licensure board. Responsibilities include, but are not limited to:

1. Licensing qualified applicants by examination, renewal, endorsement, and reciprocity to practice speech pathology or audiology.
2. Developing and administering a program of continuing education to ensure continued competency of individuals licensed by the board.
3. Imposing discipline on licensees as provided by statute or rule.

645—299.3(17A,272C) Organization of board and proceedings.

299.3(1) The board is composed of seven members appointed by the governor and confirmed by the senate.

299.3(2) The members of the board shall include five members licensed to practice speech pathology or audiology, at least two of whom shall be licensed to practice speech pathology and at least two of whom shall be licensed to practice audiology, and two members who are not licensed to practice speech pathology or audiology and who shall represent the general public.

299.3(3) The board shall elect a chairperson, vice chairperson and secretary from its membership at the first meeting after April 30 of each year.

299.3(4) The board shall hold at least four meetings annually.

299.3(5) A majority of the members of the board shall constitute a quorum.

299.3(6) Board meetings shall be governed in accordance with Iowa Code chapter 21, and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.

299.3(7) The professional licensure division shall furnish the board with the necessary facilities and employees to perform the duties required by this chapter, but shall be reimbursed for all costs incurred from funds appropriated to the board.

299.3(8) The board has the authority to:

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

b. Establish fees.

c. Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

d. Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

e. Investigate alleged violations of statues or rules that relate to the practice of speech pathology and audiology upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

f. Initiate and impose licensee discipline.

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

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

645—299.4(17A) Official communication.

299.4(1) All official communication, including submissions and requests, may be addressed to the Board of Speech Pathology and Audiology Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

299.4(2) Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

299.4(3) Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

645—299.5(17A) Office hours. The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

645—299.6(21) Public meetings. Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office.

299.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and will be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

299.6(2) Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgement and an opportunity to speak will be at the discretion of the chairperson.

299.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

299.6(4) Cameras and recording devices may be used at open meetings, provided the cameras or recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

645—299.7(147) Hearing tests supervised by a physician. For those persons conducting hearing tests under the direct supervision of a licensed physician and surgeon or licensed osteopathic physician and surgeon and functioning under Iowa Code section 147.152(1), "direct supervision" means the physician must order the hearing test performed on each individual patient and maintain control over the reading of the results. The person working under direct supervision of a physician must be able to show that the person did so at the direction of the physician and did nothing more than perform the hearing test. Direct supervision by a physician means the person conducting the hearing test does so in the usual location in which the physician performs medical services and sees patients. The physician must be readily available to respond to a request by a patient or the person conducting the hearing test.

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

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CHAPTER 300
LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—300.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"ASHA" means the American Speech-Language Hearing Association.

"Assistant" means a person who works under the supervision of an Iowa-licensed speech pathologist or audiologist, does not meet the requirements to be licensed as a speech pathologist or audiologist, and meets the minimum requirements set forth in these rules.

"Audiologist" means a person who engages in the application of principles, methods and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination and use of appropriate amplification.

"Board" means the board of speech pathology and audiology examiners.

"Full-time" means a minimum of 30 hours per week.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may included licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a speech pathologist or audiologist in the state of Iowa.

"License expiration date" means December 31 of odd-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice speech pathology or audiology to an applicant who is or has been licensed in another state.

"Reactivate" or *"reactivation"* means the process as outlined in rule 300.17(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice speech pathology or audiology to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of speech pathology and audiology examiners to license persons that have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Speech pathologist" means a person who engages in the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, fluency, voice, or language for the purpose of nonmedically evaluating, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

645—300.2(147) Speech pathology and audiology services subject to regulation. The provision of speech pathology or audiology services in Iowa through telephonic, electronic, or other means, regardless of the location of the speech/language pathologist or audiologist, shall constitute the practice of speech pathology or audiology and shall require Iowa licensure.

645—300.3(147) Requirements for licensure. The following criteria shall apply to licensure:

300.3(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from

the board office. All applications shall be sent to Board of Speech Pathology and Audiology Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

300.3(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

300.3(3) Each application shall be accompanied by the appropriate fees payable to the Board of Speech Pathology and Audiology Examiners. The fees are nonrefundable.

300.3(4) The application shall include:

a. Official copies of the American Speech-Language Hearing Association (ASHA) certificate of clinical competence; or

b. Submission of the following:

(1) Official copies of academic transcripts sent directly from the school to the board showing proof of possession of a master's degree in speech pathology or a master's or doctoral degree in audiology or the equivalent of one of these degrees and official verification of completion of not less than 300 hours of supervised clinical training;

(2) Verification of nine months of full-time clinical experience, or equivalent, completed after the master's degree, under the supervision of a licensed speech pathologist or audiologist or as a part of the doctoral degree; and

(3) Results of the National Teacher Examination.

300.3(5) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

300.3(6) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

645—300.4(147) Educational qualifications.

300.4(1) The applicant shall possess the following:

a. A master's degree or its equivalent from an accredited school, college or university with a major in speech pathology; or

b. A master's or doctoral degree or the equivalent from an accredited school, college or university with a major in audiology.

300.4(2) Foreign-trained speech pathologists and audiologists shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a speech pathology or audiology program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—300.5(147) Examination requirements. The examination required by the board shall be the National Teacher Examination in speech pathology or audiology. This examination is administered by the Educational Testing Service. The applicant should contact the nearest accredited college or university for the time and place of the examination.

300.5(1) The applicant has full responsibility for making arrangements to take the National Teacher Examination in speech pathology or audiology and for bearing all expenses associated with taking the

examination. The applicant also has the responsibility for having the examination scores sent directly to the board from the Educational Testing Service.

300.5(2) The board shall determine the qualifying scores for both the speech pathology and audiology examinations.

645—300.6(147) Temporary clinical license. A temporary clinical license for the purpose of obtaining clinical experience as a prerequisite for licensure is valid for one year and may be renewed one time.

300.6(1) An applicant must submit the following to the board:

a. Evidence of supervision by a speech pathologist or audiologist with an active, current Iowa license in good standing;

b. An official application form provided by the board of speech pathology and audiology examiners;

c. Official copies of transcripts sent directly from the school to the board showing proof of possession of a master's degree or its equivalent;

d. Official verification of completion of not less than 300 hours of supervised clinical training in an accredited college or university; and

e. The temporary clinical license fee.

300.6(2) The plan for supervised clinical experience must be approved by the board before the applicant starts practice and shall:

a. Include at least nine months of full-time clinical experience, or equivalent;

b. Include supervision by an Iowa-licensed speech pathologist or audiologist, as appropriate;

c. Be kept by the supervisor for two years from the last date of the clinical experience; and

d. Include a completed supervised clinical experience report form that shall be submitted to the board of speech pathology and audiology examiners upon the applicant's successful completion of the nine months of full-time clinical experience. The applicant may then apply for licensure.

645—300.7(147) Temporary permit.

300.7(1) A nonresident may apply to the board for a temporary permit to practice speech pathology or audiology:

a. For a period not to exceed three months;

b. By submitting a letter to support the need for such a permit;

c. By submitting documents to show that the applicant has substantially the same qualifications as required for licensure in Iowa;

d. By submitting the documentation prior to the date the applicant intends to begin practice; and

e. By submitting the temporary permit fee.

300.7(2) The applicant shall receive a final determination from the board regarding the application for a temporary permit.

645—300.8(147) Use of assistants. A licensee shall, in the delivery of professional services, utilize assistants only to the extent provided in these rules.

300.8(1) *Duties.*

a. *Speech pathology assistant I.* A speech pathology assistant I works with an individual for whom significant improvement is expected within a reasonable amount of time.

b. *Speech pathology assistant II.* A speech pathology assistant II works with an individual for whom maintenance of present level of communication is the goal; or for whom, based on the history and diagnosis, only slow improvement is expected.

c. *Audiology assistant I.* An audiology assistant I is more broadly trained and may be given a variety of duties depending upon the individual's training.

d. *Audiology assistant II.* An audiology assistant II is trained specifically for a single task for screening.

300.8(2) *Minimum requirements.*

a. A speech pathology assistant I or II or audiology assistant I must satisfy the following minimum requirements:

(1) Reach the age of majority;

(2) Complete a high school education, or its equivalent; and

(3) Complete one of the following:

1. A three-semester-hour (or four-quarter-hour) course in introductory speech and language pathology for speech pathology assistants or in audiology for audiology assistants from an accredited educational institution and 15 hours of instruction in the specific tasks which the assistant will be performing; or

2. A minimum training period comprised of 75 clock hours on instruction and practicum experience.

b. An audiology assistant II must satisfy the following requirements:

(1) Reach the age of majority.

(2) Complete a high school education, or its equivalent.

(3) Complete a minimum of 15 clock hours of instruction and practicum experience in the specific task which the assistant will be performing.

300.8(3) *Utilization.* Utilization of a speech pathology or audiology assistant requires that a plan be developed by the licensee desiring to utilize that assistant, consisting of the following information:

a. Documentation that the assistant meets minimum requirements;

b. A written plan of the activities and supervision that must be kept by the licensee supervising the assistant. This supervision must include direct on-site observation for a minimum of 20 percent of the assistant's direct patient care for level I speech pathology and level I audiology assistants and 10 percent for level II speech pathology assistants. Level II audiology assistants must be supervised 10 percent of the time. At least half of that time must be direct on-site observation with the other portion provided as time interpreting results;

c. A listing of the facilities where the assistant will be utilized; and

d. A statement, signed by the licensee and the assistant, that the rules pertaining to assistants have been read by both.

300.8(4) *Maximum number of assistants.* A licensee may not utilize more than three assistants unless a plan of supervision is filed and approved by the board.

300.8(5) *Supervisor responsibilities.* A licensee who utilizes an assistant shall have the following responsibilities:

a. To be legally responsible for the actions of the assistant in that assistant's performance of assigned duties with a client;

b. To make all professional decisions relating to the management of a client;

c. To ensure that the assistant is assigned only those duties and responsibilities for which the assistant has been specifically trained and is qualified to perform;

d. To ensure compliance of the assistant(s) under supervision with the provisions of these rules by providing periodic direct observation and supervision of the activities of the assistant; and

e. To submit to the board of speech pathology and audiology upon request a copy of the plan of activities and supervision for each assistant and documentation of the dates each assistant was utilized by the licensee.

645—300.9(147) Licensure by endorsement. An applicant who has been a licensed speech pathologist or audiologist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;

2. Pays the licensure fee;

3. Shows evidence of an ASHA certificate or at least nine months of full-time clinical experience or its equivalent;

4. Shows evidence that the National Teacher Examination scores have been sent directly from the examination service to the board;

5. Provides official copies of the academic transcripts; and

6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

645—300.10(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of speech pathologists and audiologists.

645—300.11(147) License renewal.

300.11(1) The biennial license renewal period for a license to practice speech pathology or audiology shall begin on January 1 of an even-numbered year and end on December 31 of the next odd-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

300.11(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

300.11(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—303.2(147) and the mandatory reporting requirements of subrule 300.11(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

c. An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

300.11(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirements as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 303.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

300.11(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

300.11(6) A person licensed to practice as a speech pathologist or audiologist shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

300.11(7) 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 645—subrule 305.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

300.11(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a speech pathologist or audiologist in Iowa until the license is reactivated. A licensee who practices as a speech pathologist or audiologist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—300.12(272C) Exemptions for inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—300.13(272C) Lapsed licenses. Rescinded IAB 9/14/05, effective 10/19/05.

645—300.14(147) Duplicate certificate or wallet card.

300.14(1) A duplicate card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or duplicate certificate shall only be issued for such circumstances.

300.14(2) A duplicate wallet card or certificate shall be issued upon receipt of a completed application from the licensee and receipt of the fee as specified in rule 645—305.1(147).

300.14(3) If the board receives a completed application which states that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or certificate.

645—300.15(147) Reissued 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 645—305.1(147).

645—300.16(17A,147,272C) License denial.

300.16(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

300.16(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days

following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

300.16(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—300.17(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

300.17(1) Submit a reactivation application on a form provided by the board.

300.17(2) Pay the reactivation fee that is due as specified in 645—Chapter 305.

300.17(3) Provide verification of current competence to practice speech pathology and audiology by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 30 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 60 hours of continuing education within two years of application for reactivation; or

(3) Verification of passing the National Teacher Examination (NTE) for Speech Pathology or Audiology within the last two years prior to application for reactivation.

645—300.18(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 300.17(17A,147,272C) prior to practicing speech pathology and audiology in this state.

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

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◊ Two or more ARCs

CHAPTER 301
DISCIPLINARY PROCEDURES FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

[Prior to 9/9/87, see Health Department[470], Ch 156]

Rescinded IAB 5/29/02, effective 7/3/02

CHAPTER 302
SPEECH PATHOLOGY AND AUDIOLOGY ASSISTANTS

[Prior to 8/24/88, see Health Department[470] Ch 157]

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CHAPTER 303
CONTINUING EDUCATION FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—303.1(147) Definitions. For the purpose of these rules, the following definitions shall apply:

"AAA" means the American Association of Audiology.

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"ASHA" means the American Speech-Language Hearing Association.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of speech pathology and audiology examiners.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice speech pathology or audiology or both in the state of Iowa.

645—303.2(147) Continuing education requirements.

303.2(1) The biennial continuing education compliance period shall extend for a two-year period between January 1 of each even-numbered year and December 31 of each odd-numbered year. Each biennium, each person who is licensed to practice as a speech pathology or audiology licensee in this state shall be required to complete a minimum of 30 hours of continuing education approved by the board. A person holding licensure in both speech pathology and audiology must meet the requirements for each profession.

303.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

303.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

303.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

303.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—303.3(147,272C) Standards.

303.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

303.3(2) *Specific criteria.*

a. Subject matters that integrally relate to the practice of speech pathology or audiology or both that will be considered for approval are:

(1) Basic communication processes. Information (beyond the basic licensure requirements) applicable to the normal development and use of speech, language, and hearing, i.e., anatomic and physiologic bases for the normal development and use of speech, language, and hearing; physical bases and processes of the production and perception of speech, language, and hearing; linguistic and psycholinguistic variables related to normal development and use of speech, language, and hearing; and technological, biomedical, engineering, and instrumentation information which would enable expansion of knowledge in the basic communication processes. Any computer course used for continuing education must involve the actual application to the communicatively impaired population.

(2) Professional areas. Information pertaining to disorders of speech, language, and hearing, i.e., various types of disorders of communication, their manifestations, classification and causes; evaluation skills, including procedures, techniques, and instrumentation for assessment; and management procedures and principles in habilitation and rehabilitation of communication disorders. The board shall accept dysphagia courses provided by qualified instructors.

(3) Related areas. Study pertaining to the understanding of human behavior, both normal and abnormal, as well as services available from related professions which apply to the contemporary practice of speech-language pathology/audiology, e.g., theories of learning and behavior; services available from related professions that also deal with persons who have disorders of communication; information from these professions about the sensory, physical, emotional, social or intellectual states of child or adult; and other areas such as general principles of program management, professional ethics, clinical supervision, counseling and interviewing.

Unacceptable subject matter includes personal development, human relations, collective bargaining, and tours. While desirable, these subjects are not applicable to the licensees' skill, knowledge and competence as expressed in Iowa Code section 272C.2, paragraph *"g."* Such courses will receive no credit toward the minimum 30 hours required for license renewal.

b. A licensee may elect to take the National Teacher Examination in speech pathology or audiology in lieu of earning continuing education credits. The licensee shall have the results of the examination sent to the board by the agency administering the examination.

c. Independent study.

(1) The maximum number of hours for independent study is 16 hours.

(2) Criteria for presentations are as follows:

1. A maximum of 10 hours of the maximum 16 hours of independent study credit will be given for presenting professional programs that meet the criteria as listed in rule 303.3(147,272C).

2. Two hours of credit will be awarded for each hour of new presentation material.

3. A course schedule or brochure must be maintained for audit.

d. A combined total of six hours per biennium may be used for the following activities:

(1) Government regulations;

(2) CPR, child abuse and dependent adult abuse; and

(3) A maximum of two hours may be used for business-related topics.

e. An applicant shall provide official transcripts indicating successful completion of academic courses which apply to the field of speech pathology and audiology in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

645—303.4(147,272C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

303.4(1) The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

303.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

303.4(3) For auditing purposes, all licensees must retain the information identified in subrule 303.4(2) for two years after the biennium has ended.

303.4(4) Information identified in subrule 303.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

303.4(5) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

303.4(6) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

645—303.5(147,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

645—303.6(147,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified

of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

303.6(1) The board may grant an extension of time to fulfill the continuing education requirement.

303.6(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

303.6(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

645—303.7(147,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

303.7(1) Failure to cooperate with a board audit.

303.7(2) Failure to meet the continuing education requirement for licensure.

303.7(3) Falsification of information on the license renewal form.

303.7(4) Falsification of continuing education information.

645—303.8(147,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—303.9(147,272C) Continuing education waiver for disability or illness. Rescinded IAB 9/14/05, effective 10/19/05.

645—303.10(147,272C) Reinstatement of inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—303.11(272C) Hearings. Rescinded IAB 9/14/05, effective 10/19/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 147.

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◊ Two or more ARCs

CHAPTER 304
DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

[Prior to 9/9/87, see Health Department [470], Ch 156]
[Prior to 9/19/01, see 645—Chapter 301]

645—304.1(147) Definitions.

"Board" means the board of speech pathology and audiology examiners.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a speech pathologist or audiologist in Iowa.

645—304.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—304.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

304.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, the following:

a. An intentional perversion of the truth in making application for a license to practice in this state;

b. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

c. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

304.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other speech pathologists or audiologists in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average speech pathologist or audiologist acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed speech pathologist or audiologist in this state.

304.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

304.2(4) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

304.2(5) Practice outside the scope of the profession.

304.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

304.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

304.2(8) Falsification of client records.

304.2(9) Acceptance of any fee by fraud or misrepresentation includes, but is not limited to, billing for services which were not rendered or charging fees which are inconsistent with any prior agreements reached with the clients.

304.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation

of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

304.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

304.2(12) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of speech pathology or audiology.

304.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

304.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of speech pathology or audiology in another state, district, territory or country.

304.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

304.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

304.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

304.2(18) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

304.2(19) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

304.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

304.2(21) Failure to pay costs assessed in any disciplinary action.

304.2(22) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

304.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

304.2(24) Knowingly aiding, assisting, or advising a person to unlawfully practice speech pathology or audiology.

304.2(25) Failure to report a change of name or address within 30 days after it occurs.

304.2(26) Representing oneself as a licensed speech pathologist or audiologist when one's license has been suspended or revoked, or when one's license is on inactive status.

304.2(27) Permitting another person to use the licensee's license for any purpose.

304.2(28) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

304.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a client or coworker.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

304.2(30) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

304.2(31) Violation of the following code of ethics:

a. Claims of expected clinical results shall be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.

b. Records shall be adequately maintained for the period of time required by applicable state and federal laws.

c. Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.

d. Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.

e. Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, or age.

f. Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances shall be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.

g. Licensees who dispense products to persons served professionally shall provide clients with freedom of choice for the source of services and products.

h. Failure to comply with current Food and Drug Administration regulations 21 CFR §801.420, "Hearing aid devices; professional and patient labeling," and 21 CFR §801.421, "Hearing aid devices, conditions for sale."

304.2(32) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—304.3(272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—304.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and

7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—304.5(147) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

304.5(1) *Content of order.* A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

304.5(2) *Alternatives.* Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

304.5(3) *Objection to order.* A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

304.5(4) *Closed hearing.* Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

304.5(5) *Order and reports confidential.* An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

304.5(6) *Admissibility.* In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

304.5(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

These rules are intended to implement Iowa Code chapters 147 and 272C.

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CHAPTER 305
FEES

645—305.1(147) License fees. All fees are nonrefundable.

305.1(1) Licensure fee for license to practice speech pathology or audiology, temporary clinical license, licensure by endorsement, or licensure by reciprocity is $120.

305.1(2) Biennial license renewal fee for each biennium is $96.

305.1(3) Late fee for failure to renew before expiration is $60.

305.1(4) Reactivation fee is $156.

305.1(5) Duplicate or reissued license certificate or wallet card fee is $20.

305.1(6) Verification of license fee is $20.

305.1(7) Returned check fee is $25.

305.1(8) Disciplinary hearing fee is a maximum of $75.

305.1(9) Temporary clinical license renewal fee is $60.

305.1(10) Temporary permit fee is $30.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

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CHAPTER 306
CHILD SUPPORT NONCOMPLIANCE

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CHAPTER 307
IMPAIRED PRACTITIONER REVIEW COMMITTEE

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 308
Reserved

CHAPTER 309
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 310
Reserved

CHAPTERS 310 and 311
Reserved

CHAPTERS 310 to 312
Reserved

CHAPTERS 310 to 313
Reserved

CHAPTERS 310 to 314
Reserved

CHAPTERS 310 to 315
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CHAPTERS 310 to 316
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CHAPTERS 310 to 317
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CHAPTERS 310 to 318
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CHAPTERS 310 to 319
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CHAPTERS 310 to 320
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CHAPTERS 310 to 321
Reserved

CHAPTERS 310 to 322
Reserved

CHAPTERS 310 to 323
Reserved

CHAPTERS 310 to 324
Reserved

PHYSICIAN ASSISTANTS

CHAPTER 325
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF PHYSICIAN ASSISTANTS
Rescinded IAB 8/13/08, effective 9/17/08

CHAPTER 326 LICENSURE OF PHYSICIAN ASSISTANTS
CHAPTER 327 PRACTICE OF PHYSICIAN ASSISTANTS
CHAPTER 328 CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS
CHAPTER 329 DISCIPLINE FOR PHYSICIAN ASSISTANTS

CHAPTER 326
LICENSURE OF PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.2(148C) to 645—325.5(148C) and 645—325.16(148C)]

645—326.1(148C) Definitions.

"Active license" means a license that is current and has not expired.

"Approved program" means a program for the education of physician assistants which has been accredited by the American Medical Association's Committee on Allied Health Education and Accreditation, by its successor, the Commission on Accreditation of Allied Health Education Programs, or by its successor, the Accreditation Review Commission on Education for the Physician Assistant, or its successor.

"Board" means the board of physician assistants.

"CME" means continuing medical education.

"Department" means the department of public health.

"Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means a person licensed by the board as a physician assistant to provide medical services under the supervision of one or more physicians.

"Licensure by endorsement" means the issuance of an Iowa license to practice as a physician assistant to an applicant who is or has been licensed in another state.

"Locum tenens" means the temporary substitution of one licensed physician assistant for another.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of physician assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"NCCPA" means the National Commission on Certification of Physician Assistants.

"Physician" means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy. A physician supervising a physician assistant practicing in a federal facility or under federal authority shall not be required to obtain licensure beyond licensure requirements mandated by the federal government for supervising physicians.

"Physician assistant" means a person licensed as a physician assistant by the board.

"Reactivate" or *"reactivation"* means the process as outlined in rule 326.19(17A,147,272C) by which an inactive license is restored to active status.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Remote medical site" means a medical clinic for ambulatory patients which is away from the main practice location of a supervising physician and in which a supervising physician is present less than 50 percent of the time the site is open. "Remote medical site" will not apply to nursing homes, patient homes,

hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided (e.g., diet center, free clinic, site for athletic physicals, jail facility).

"Supervising physician" means a physician who supervises the medical services provided by the physician assistant and who accepts ultimate responsibility for the medical care provided by the physician/physician assistant team.

"Supervision" means that a supervising physician retains ultimate responsibility for patient care, although a physician need not be physically present at each activity of the physician assistant or be specifically consulted before each delegated task is performed. Supervision shall not be construed as requiring the personal presence of a supervising physician at the place where such services are rendered except insofar as the personal presence is expressly required by these rules or by Iowa Code chapter 148C.

"Supply prescription drugs" means to deliver to a patient or the patient's representative a quantity of prescription drugs or devices that are properly packaged and labeled.

645—326.2(148C) Requirements for licensure.

326.2(1) The following criteria shall apply to licensure:

a. An applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to the Board of Physician Assistants, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. An applicant shall complete the application form according to the instructions contained in the application.

c. Each application shall be accompanied by the appropriate fees payable by check or money order to the Iowa Board of Physician Assistants. The fees are nonrefundable.

d. Each applicant shall provide official copies of academic transcripts that have been sent to the board directly from an approved program for the education of physician assistants. EXCEPTION: An applicant who is not a graduate of an approved program but who passed the NCCPA initial certification examination prior to 1986 is exempt from the graduation requirement.

e. An applicant shall provide a copy of the initial certification from NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency.

f. Prior to beginning practice, the physician assistant shall notify the board of the identity of the supervising physician(s) on the board-approved form.

g. In lieu of paragraphs *"d"* and *"e,"* an applicant for licensure may provide documentation from the Federation Credentials Verification Service (FCVS) of the Federation of State Medical Boards as primary source verification for identity, education and national certification information.

326.2(2) Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

326.2(3) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate.

645—326.3(148C) Temporary licensure.

326.3(1) A temporary license may be issued for an applicant who has not taken the NCCPA initial certification examination or successor agency examination or is waiting for the results of the examination.

326.3(2) The applicant must comply with subrule 326.2(1), with the exception of paragraphs *"d"* and *"e."*

326.3(3) A temporary license shall be valid for one year from the date of issuance.

326.3(4) The temporary license shall be renewed only once upon the applicant's showing proof that, through no fault of the applicant, the applicant was unable to take the certification examination recognized by the board. Proof of inability to take the certification examination shall be submitted to

the board office with written request for renewal of a temporary license, accompanied by the temporary license renewal fee.

326.3(5) If the temporary licensee fails the certification examination, the temporary licensee must cease practice immediately and surrender the temporary license by the next business day.

326.3(6) There is no additional fee for converting temporary licensure to permanent licensure.

326.3(7) The applicant shall ensure that certification of completion is sent to the board directly from an approved program for the education of physician assistants. The certification of completion must be signed by a designee from the approved program.

645—326.4(148C) Licensure by endorsement. An applicant who has been licensed under the laws of another jurisdiction shall file an application for licensure by endorsement. An applicant shall:

326.4(1) Submit to the board a completed application according to the instructions on the application.

326.4(2) Pay the nonrefundable licensure fee.

326.4(3) Provide an official copy of the transcript sent directly to the board from an approved program for the education of physician assistants or qualify for the exception stated in paragraph 326.2(1)*"d."*

326.4(4) Provide a copy of the initial certification from NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency. Additionally, provide one of the following documents:

a. Copy of current certification from the NCCPA, or its successor agency, sent directly to the board from the NCCPA, or its successor agency; or

b. Proof of completion of 100 CME hours for each biennium since initial certification.

326.4(5) Provide verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

a. Licensee's name;

b. Date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

326.4(6) Prior to beginning practice, the physician assistant shall notify the board of the identity of the supervising physician(s) on the board-approved form.

645—326.5(148C) Licensure by reciprocal agreement. Rescinded IAB 8/13/08, effective 9/17/08.

645—326.6(148C) Examination requirements. The applicant for licensure as a physician assistant shall successfully pass the certifying examination for physician assistants conducted by the National Commission on Certification of Physician Assistants or a successor examination approved by the board.

645—326.7(148C) Educational qualifications. An applicant for licensure as a physician assistant shall submit official copies of academic transcripts from an approved program for education of physician assistants, or the applicant shall qualify for the exception stated in paragraph 326.2(1)*"d."*

645—326.8(148C) Supervision requirements.

326.8(1) Notification requirements. Physician assistants shall use the board-approved forms to notify the board of the identity of their supervising physicians at the following times:

a. Prior to beginning practice in Iowa.

b. At the time of license renewal. The physician assistant shall notify the board of the identity of each of the physician assistant's supervising physicians and of any change in the status of the supervisory relationships during the physician assistant's current biennium. In addition, the physician assistant shall maintain a list of supervising physicians to provide to the board upon request.

c. At the time of license reactivation.

326.8(2) The physician assistant shall maintain documentation of current supervising physicians, which shall be made available to the board upon request.

326.8(3) A physician assistant who provides medical services shall be supervised by one or more physicians; but a physician shall not supervise more than two physician assistants at the same time.

326.8(4) It shall be the responsibility of the physician assistant and a supervising physician to ensure that the physician assistant is adequately supervised. Upon agreeing to supervise a physician assistant, a supervising physician will be advised that the physician's name will be listed with the board as a supervising physician. In regard to scheduling, the physician assistant may not practice if supervision is unavailable, except as otherwise provided in Iowa Code chapter 148C or these rules, and must be in compliance with the requirement that no more than two physician assistants shall be supervised by a physician at one time, pursuant to 645—subrule 326.8(3). The physician assistant and the supervising physician are each responsible for knowing and complying with the supervision provisions of these rules.

a. Patient care provided by the physician assistant shall be reviewed with a supervising physician on an ongoing basis as indicated by the clinical condition of the patient. Although every chart need not be signed nor every visit reviewed, nor does the supervising physician need to be physically present at each activity of the physician assistant, it is the responsibility of the supervising physician and physician assistant to ensure that each patient has received the appropriate medical care.

b. Patient care provided by the physician assistant may be reviewed with a supervising physician in person, by telephone or by other telecommunicative means.

c. When signatures are required, electronic signatures are allowed if:

(1) The signature is transcribed by the signer into an electronic record and is not the result of electronic regeneration; and

(2) A mechanism exists allowing confirmation of the signature and protection from unauthorized reproduction.

d. When the physician assistant is being trained to perform new medical procedures, the training shall be carried out under the supervision of a physician or another qualified individual. Upon completing the supervised training, a physician assistant may perform the new medical procedures if delegated by a supervising physician, except as otherwise provided in Iowa Code chapter 148C or these rules. New medical procedures may be delegated to a physician assistant after a supervising physician determines that the physician assistant is competent to perform the task.

645—326.9(148C) License renewal.

326.9(1) The biennial license renewal period for a license to practice as a physician assistant shall begin on October 1 and end on September 30 two years later. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

326.9(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

326.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—328.2(148C) and the mandatory reporting requirements of subrule 326.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

326.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 328.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

326.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

326.9(6) A person licensed to practice as a physician assistant shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

326.9(7) 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 645—subrule 330.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

326.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a physician assistant in Iowa until the license is reactivated. A licensee who practices as a physician assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—326.10(272C) Exemptions for inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

645—326.11(272C) Lapsed license. Rescinded IAB 8/17/05, effective 9/21/05.

645—326.12(147) Duplicate certificate or wallet card. Rescinded IAB 8/13/08, effective 9/17/08.

645—326.13(147) Reissued certificate or wallet card. Rescinded IAB 8/13/08, effective 9/17/08.

645—326.14(272C) License denial. Rescinded IAB 8/13/08, effective 9/17/08.

645—326.15(148C) Use of title. A physician assistant licensed under Iowa Code chapter 148C may use the words "physician assistant" after the person's name or signify the same by the use of the letters "PA."

645—326.16(148C) Address change. The physician assistant shall notify the board of any change in permanent address within 30 days of its occurrence.

645—326.17(148C) Student physician assistant.

326.17(1) Any person who is enrolled as a student in an approved program shall comply with the rules set forth in this chapter. A student is exempted from licensure requirements.

326.17(2) Notwithstanding any other provisions of these rules, a student may perform medical services when they are rendered within the scope of an approved program.

645—326.18(148C) Recognition of an approved program. The board shall recognize a program for education and training of physician assistants if it is accredited by the American Medical Association's Committee on Allied Health Education and Accreditation, by its successor, the Commission on Accreditation of Allied Health Educational Programs, or by its successor, the Accreditation Review Commission on Education for the Physician Assistant, or its successor.

This rule is intended to implement Iowa Code section 148C.2.

645—326.19(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

326.19(1) Submit a reactivation application on a form provided by the board.

326.19(2) Pay the reactivation fee that is due as specified in 645—Chapter 330.

326.19(3) Provide verification of current competence to practice as a physician assistant by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 100 hours of continuing education within two years of application for reactivation or NCCPA or successor agency certification.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 200 hours of continuing education within two years of application for reactivation, of which at least 40 percent of the hours completed shall be in Category I, or NCCPA or successor agency certification; and

(3) Information on each supervising physician.

645—326.20(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 326.19(17A,147,272C) prior to practicing as a physician assistant in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148C and 272C.

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◊ Two or more ARCs

1 Effective date of 326.1, "remote medical site," delayed 70 days by the Administrative Rules Review Committee at its meeting held June 7, 2004.

CHAPTER 327
PRACTICE OF PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.6(148C) to 645—325.9(148C) and 645—325.18(148C)]

645—327.1(148C) Duties.

327.1(1) The medical services to be provided by the physician assistant are those delegated by a supervising physician. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills and abilities necessary to provide those services appropriate to the practice setting. The physician assistant's services may be utilized in any clinical settings including, but not limited to, the office, the ambulatory clinic, the hospital, the patient's home, extended care facilities and nursing homes. Diagnostic and therapeutic medical tasks for which the supervising physician has sufficient training or experience may be delegated to the physician assistant after a supervising physician determines the physician assistant's proficiency and competence. The medical services to be provided by the physician assistant include, but are not limited to, the following:

a. The initial approach to a patient of any age group in any setting to elicit a medical history and perform a physical examination.

b. Assessment, diagnosis and treatment of medical or surgical problems and recording the findings.

c. Order, interpret, or perform laboratory tests, X-rays or other medical procedures or studies.

d. Performance of therapeutic procedures such as injections, immunizations, suturing and care of wounds, removal of foreign bodies, ear and eye irrigation and other clinical procedures.

e. Performance of office surgical procedures including, but not limited to, skin biopsy, mole or wart removal, toenail removal, removal of a foreign body, arthrocentesis, incision and drainage of abscesses.

f. Assisting in surgery.

g. Prenatal and postnatal care and assisting a physician in obstetrical care.

h. Care of orthopedic problems.

i. Performing and screening the results of special medical examinations including, but not limited to, electrocardiogram or Holter monitoring, radiography, audiometric and vision screening, tonometry, and pulmonary function screening tests.

j. Instruction and counseling of patients regarding physical and mental health on matters such as diets, disease, therapy, and normal growth and development.

k. Function in the hospital setting by performing medical histories and physical examinations, making patient rounds, recording patient progress notes and other appropriate medical records, assisting in surgery, performing or assisting with medical procedures, providing emergency medical services and issuing, transmitting and executing patient care orders as delegated by the supervising physician.

l. Providing services to patients requiring continuing care (i.e., home, nursing home, extended care facilities).

m. Referring patients to specialty or subspecialty physicians, medical facilities or social agencies as indicated by the patients' problems.

n. Immediate evaluation, treatment and institution of procedures essential to providing an appropriate response to emergency medical problems.

o. Order drugs and supplies in the office, and assist in keeping records and in the upkeep of equipment.

p. Admit patients to a hospital or health care facility.

q. Order diets, physical therapy, inhalation therapy, or other rehabilitative services as indicated by the patient's problems.

r. Administer any drug (a single dose).

s. Prescribe drugs and medical devices under the following conditions:

(1) The physician assistant shall have passed the national certifying examination conducted by the National Commission on the Certification of Physician Assistants or its successor examination approved by the board. Physician assistants with a temporary license may order drugs and medical devices only with the prior approval and direction of a supervising physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient's being seen by the physician assistant.

(2) The physician assistant may not prescribe Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124. The physician assistant may order Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124 only with the prior approval and direction of a physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient's being seen by the physician assistant.

(3) The physician assistant shall inform the board of any limitation on the prescriptive authority of the physician assistant in addition to the limitations set out in 327.1(1)*"s"*(2).

(4) A physician assistant shall not prescribe substances that the supervising physician does not have the authority to prescribe except as allowed in 327.1(1)*"n."*

(5) The physician assistant may prescribe, supply and administer drugs and medical devices in all settings including, but not limited to, hospitals, health care facilities, health care institutions, clinics, offices, health maintenance organizations, and outpatient and emergency care settings except as limited by 327.1(1)*"s"*(2).

(6) A physician assistant who is an authorized prescriber may request, receive, and supply sample drugs and medical devices except as limited by 327.1(1)*"s"*(2).

(7) The board of physician assistants shall be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances and medical devices.

t. Supply properly packaged and labeled prescription drugs, controlled substances or medical devices when pharmacist services are not reasonably available or when it is in the best interests of the patient as delegated by a supervising physician.

(1) When the physician assistant is the prescriber of the medications under 327.1(1)*"s,"* these medications shall be supplied for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician or physician assistant.

(2) When a physician assistant supplies medication on the direct order of a physician, subparagraph (1) does not apply.

(3) A nurse or staff assistant may assist the physician assistant in supplying medications when prescriptive drug supplying authority is delegated by a supervising physician to the physician assistant under 327.1(1)*"s."*

u. When a physician assistant supplies medications as delegated by a supervising physician in a remote site, the physician assistant shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage and appropriate use of presciption drugs, controlled substances, and medical devices.

v. May, at the request of the peace officer, withdraw a specimen of blood from a patient for the purpose of determining the alcohol concentration or the presence of drugs.

w. Direct medical personnel, health professionals and others involved in caring for patients in the execution of patient care.

x. May authenticate medical forms by signing the form and including a supervising physician's name.

y. Perform other duties appropriate to a physician's practice.

z. Health care providers shall consider the instructions of the physician assistant to be instructions of a supervising physician if the instructions concern duties delegated to the physician assistant by the supervising physician.

327.1(2) Emergency medicine duties.

a. A physician assistant may be a member of the staff of an ambulance or rescue squad pursuant to Iowa Code chapter 147A.

b. A physician assistant shall document skills, training and education equivalent to that required of a certified advanced emergency medical technician or a paramedic.

c. A physician assistant must apply for approval of advanced care training equivalency on forms supplied by the board of physician assistants.

d. Exceptions to this subrule include:

(1) A physician assistant who accompanies and is responsible for a transfer patient;

(2) A physician assistant who serves on a basic ambulance or rescue squad service; and

(3) A physician assistant who renders aid within the physician assistant's skills during an emergency.

645—327.2(148C) Prohibition. No physician assistant shall be permitted to prescribe lenses, prisms or contact lenses for the aid, relief or correction of human vision. No physician assistant shall be permitted to measure the visual power and visual efficiency of the human eye, as distinguished from routine visual screening, except in the personal presence of a supervising physician at the place where these services are rendered.

645—327.3(148C) Free medical clinic. Rescinded IAB 9/15/04, effective 8/25/04.

645—327.4(148C) Remote medical site.

327.4(1) A physician assistant may provide medical services in a remote medical site if one of the following three conditions is met:

a. The physician assistant has a permanent license and at least one year of practice as a physician assistant; or

b. The physician assistant with less than one year of practice has a permanent license and meets the following criteria:

(1) The physician assistant has practiced as a physician assistant for at least six months; and

(2) The physician assistant and supervising physician have worked together at the same location for a period of at least three months; and

(3) The supervising physician reviews patient care provided by the physician assistant at least weekly; and

(4) The supervising physician signs all patient charts unless the medical record documents that direct consultation with the supervising physician occurred; or

c. The physician assistant and supervising physician provide a written statement sent directly to the board that the physician assistant is qualified to provide the needed medical services and that the medical care will be unavailable at the remote site unless the physician assistant is allowed to practice there. In addition, for three months the supervising physician must review patient care provided by the physician assistant at least weekly and must sign all patient charts unless the medical record documents that direct consultation with the supervising physician occurred.

327.4(2) A supervising physician must visit a remote site to provide additional medical direction, medical services and consultation at least every two weeks or less frequently as specified in special circumstances. When visits are less frequent than every two weeks in unusual or emergency circumstances, the board shall be notified in writing of these circumstances.

645—327.5(147) Identification as a physician assistant. The physician assistant shall be identified as a physician assistant to patients and to the public.

645—327.6(147) Prescription requirements.

327.6(1) Each written presciption drug order issued by a physician assistant shall contain the following:

a. The date of issuance.

b. The name and address of the patient for whom the drug is prescribed.

c. The name, strength, and quantity of the drug, medicine, or device prescribed and directions for use.

d. A supervising physician's name, the physician assistant's name and the practice address.

e. The signature of the physician assistant followed by the initials "PA."

f. The Drug Enforcement Administration (DEA) number of the physician assistant if the prescription is for a controlled substance.

327.6(2) Each oral prescription drug order issued by a physician assistant shall include the same information required for a written prescription, except for the written signature of the physician assistant and the address of the practitioners.

645—327.7(147) Supplying—requirements for containers, labeling, and records.

327.7(1) *Containers.* A prescription drug shall be supplied in a container which meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. §§1471-1476 (1976), which relate to childproof closure, unless otherwise requested by the patient. The containers must also meet the requirements of Section 502G of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§301 et seq. (1976), which pertain to light resistance and moisture resistance needs of the drug supplied.

327.7(2) *Labeling.* A label bearing the following information shall be affixed to a container in which a prescription drug is supplied:

a. The name and practice address of the supervising physician and physician assistant.

b. The name of the patient.

c. The date supplied.

d. The directions for administering the prescription drug and any cautionary statement deemed appropriate by the physician assistant.

e. The name, strength and quantity of the prescription drug in the container.

f. When supplying Schedule II, III, or IV controlled substances, the federal transfer warning statement must appear on the label as follows: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."

327.7(3) *Samples.* Prescription sample drugs will be provided without additional charge to the patient. Prescription sample drugs supplied in the original container or package shall be deemed to conform to labeling and packaging requirements.

327.7(4) *Records.* A record of prescription drugs supplied by the physician assistant to a patient shall be kept which contains the label information required by paragraphs 327.7(2)*"b"* to *"e."* Noting such information on the patient's chart or record is sufficient.

These rules are intended to implement Iowa Code section 147.107 and chapters 148C and 272C.

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CHAPTER 328
CONTINUING EDUCATION FOR PHYSICIAN ASSISTANTS

645—328.1(148C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of physician assistants.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"License" means license to practice.

"Licensee" means any person licensed to practice as a physician assistant in the state of Iowa.

645—328.2(148C) Continuing education requirements.

328.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on October 1 of each year and ending on September 30 two years later. Each biennium, each licensee shall be required to complete a minimum of 100 hours of continuing education approved by the board.

328.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. The new licensee will be required to complete a minimum of 100 hours of continuing education per biennium for each subsequent license renewal.

328.2(3) A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

645—328.3(148C,272C) Standards.

328.3(1) *General criteria.* A continuing education activity is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program;

d. Fulfills stated program goals, objectives, or both; and

e. Provides an individual certificate of completion or evidence of successful completion of the course provided by the course sponsor. This documentation must contain the course title, date(s), contact hours, sponsor and licensee's name.

328.3(2) *Specific criteria.* Continuing education requirements are as follows:

a. The licensee shall complete a minimum of 50 hours of credit designated as Category I by the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association Council on Continuing Medical Education, the American Academy of Family

Physicians or other organizations accredited by the Accreditation Council on Continuing Medical Education (ACCME).

b. For the remaining 50 hours of required continuing medical education (CME), Category I or Category II (elective) credit, as accepted by the National Commission on Certification for Physician Assistants, shall satisfy the CME requirements.

c. Licensees who maintain certification by the National Commission on Certification for Physician Assistants (NCCPA) may show proof of meeting the board's CME requirements by providing proof of current certification by the NCCPA.

645—328.4(148C,272C) Audit of continuing education report. Rescinded IAB 8/13/08, effective 9/17/08.

645—328.5(148C,272C) Automatic exemption. Rescinded IAB 8/13/08, effective 9/17/08.

645—328.6(148C,272C) Continuing education exemption for disability or illness. Rescinded IAB 8/13/08, effective 9/17/08.

645—328.7(148C,272C) Grounds for disciplinary action. Rescinded IAB 8/13/08, effective 9/17/08.

645—328.8(148C) Continuing education exemption for inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

645—328.9(148C) Reinstatement of inactive practitioners. Rescinded IAB 8/17/05, effective 9/21/05.

645—328.10(272C) Hearings. Rescinded IAB 8/17/05, effective 9/21/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 148C.

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CHAPTER 329
DISCIPLINE FOR PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.11(148C,272C)]

645—329.1(148C) Definitions.

"Board" means the board of physician assistants.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as a physician assistant in Iowa.

645—329.2(148C,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—329.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses.

329.2(1) *Fraud in procuring a license.* Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

329.2(2) *Professional incompetency.* Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physician assistants in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average physician assistant acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a physician assistant in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

329.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

329.2(4) Practice outside the scope of the profession.

329.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

329.2(6) Habitual intoxication or addiction to the use of drugs.

329.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

329.2(8) Falsification of client records.

329.2(9) Acceptance of any fee by fraud or misrepresentation.

329.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

329.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

329.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

329.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

329.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

329.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

329.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

329.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

329.2(18) Failure to comply with a subpoena issued by the board, or to otherwise fail to cooperate with an investigation of the board.

329.2(19) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

329.2(20) Failure to pay costs assessed in any disciplinary action.

329.2(21) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

329.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

329.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a physician assistant.

329.2(24) Failure to report a change of name or address within 30 days after it occurs.

329.2(25) Representing oneself as a physician assistant when one's license has been suspended or revoked, or when one's license is on inactive status.

329.2(26) Permitting another person to use the licensee's license for any purpose.

329.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

329.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

a. Verbally or physically abusing a patient or client or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

329.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

329.2(30) The performance of a medical function without approved supervision except in cases requiring performance of evaluation and treatment procedures essential to providing an appropriate response to an emergency situation.

329.2(31) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—329.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a mental, physical, or clinical competency examination, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—329.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—329.5(148C) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 8/13/08, effective 9/17/08.

These rules are intended to implement Iowa Code chapters 147, 148C and 272C.

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CHAPTER 330
FEES

Prior to 8/7/02, see 645—Ch 325]

Rescinded IAB 8/13/08, effective 9/17/08

ATHLETIC TRAINERS

CHAPTER 350
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE BOARD OF ATHLETIC TRAINING EXAMINERS

Rescinded IAB 8/13/08, effective 9/17/08

CHAPTER 351 LICENSURE OF ATHLETIC TRAINERS
CHAPTER 352 CONTINUING EDUCATION FOR ATHLETIC TRAINERS
CHAPTER 353 DISCIPLINE FOR ATHLETIC TRAINERS

CHAPTER 351
LICENSURE OF ATHLETIC TRAINERS

[Prior to 4/17/02, see rules 645—350.6(147,152D) to 645—350.10(147,152D)]

645—351.1(152D) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Athlete" means a person who participates in a sanctioned amateur or professional sport or other recreational sports activity.

"Athletic injury" means any of the following:

1. An injury or illness sustained by an athlete as a result of the athlete's participation in sports, games, or recreational sports activities.
2. An injury or illness that impedes or prevents an athlete from participating in sports, games, or recreational sports activities.

"Athletic trainer" means a person licensed under this chapter to practice athletic training under the direction of a licensed physician.

"Athletic training" means the practice of prevention, recognition, assessment, physical evaluation, management, treatment, disposition, and physical reconditioning of athletic injuries that are within the professional preparation and education of a licensed athletic trainer and under the direction of a licensed physician. The term "athletic training" includes the organization and administration of educational programs and athletic facilities, and the education and counseling of the public on matters relating to athletic training.

"Board" means the board of athletic training created under Iowa Code chapter 147.

"BOC" means the Board of Certification or its successor organization.

"Directing physician" means a physician who supervises the athletic training services provided by a licensed athletic trainer.

"Direction" means that a physician directs the performance of a licensed athletic trainer in the development, implementation, and evaluation of an athletic training service plan as set out in 645—351.6(152D). Direction shall not be construed as requiring the personal presence of that physician at each activity of the licensed athletic trainer. It is the responsibility of the licensed athletic trainer to ensure that the practice of athletic training is carried out only under the direction of a licensed physician.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Licensee" means any person licensed to practice as an athletic trainer in the state of Iowa.

"License expiration date" means February 28 of each odd-numbered year.

"Physical reconditioning" means the part of the practice of athletic training which combines physical treatment, rehabilitation and exercise and is carried out under the orders of a physician or physician assistant. Physical treatment is part of a service plan which includes but is not limited to the continued use of any of the following: cryotherapy, thermotherapy, hydrotherapy, electrotherapy, or the use of mechanical devices.

"Physician" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, or podiatry under the laws of this state.

"Reactivate" or *"reactivation"* means the process as outlined in rule 351.15(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice athletic training to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of athletic training to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—351.2(152D) Requirements for licensure. The following criteria shall apply to licensure:

351.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Athletic Training, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

351.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

351.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Athletic Training. The fees are nonrefundable.

351.2(4) No application will be considered by the board until official copies of academic transcripts have been sent directly from the school to the board of athletic training.

351.2(5) The applicant shall successfully complete the BOC examination. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted to the Iowa board of athletic training.

351.2(6) Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

351.2(7) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

351.2(8) An applicant for licensure who has not successfully completed the BOC examination by July 1, 2004, but who complies with subrules 351.2(1) through 351.2(4) shall be issued a temporary license to practice athletic training for a period not to extend beyond July 1, 2007, provided that the applicant satisfies all of the following requirements:

a. Submits to the board a letter of recommendation from the applicant's most recent employer when the applicant was employed as an athletic trainer. The letter shall include the dates of employment and the employee's job description and shall provide the name of the physician or physician assistant responsible for direction of the care.

b. Submits to the board a letter of recommendation from two licensed physicians who were responsible for the direction of care provided by the applicant attesting to the competency of the applicant. The letters of recommendation shall include the dates the physician was responsible for the direction of the care provided by the applicant and the athletic training service plan. The letter shall also include the name of the employer at the time the physician was responsible for direction of care.

c. Submits to the board satisfactory evidence of current cardiopulmonary resuscitation and first-aid certification.

d. Official academic transcripts sent directly from the school are received by the board showing applicant possesses a baccalaureate degree from an accredited college or university.

351.2(9) An applicant issued a temporary license must successfully complete the BOC examination by July 1, 2007, and satisfy licensure requirements specified in Chapter 351 in order to maintain licensure. The licensee will be issued an initial license following submission of proof of successful completion of the examination received directly from the BOC and satisfying licensure requirements. No fee will be assessed for this initial license. Once the initial license is issued, the licensee will be eligible for license renewal in the next biennial renewal period and shall be subject to requirements specified in 645—351.9(147), except as noted in 351.2(10).

351.2(10) A licensee who obtain an initial license following a temporary license as specified in subrule 351.2(8) is not eligible for the exception in 351.9(2), paragraph *"b,"* and must pay the license renewal fee specified in 645—subrule 354.1(2) for the biennial license renewal.

351.2(11) As with licensed athletic trainers, applicants issued temporary licenses are accountable for meeting the criteria in Iowa Code chapters 147 and 152D and 645—Chapters 351 through 353, with the exception of 351.2(8), 351.2(9) and 351.2(10).

645—351.3(152D) Educational qualifications.

351.3(1) A new applicant for licensure to practice as an athletic trainer shall possess a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university.

351.3(2) Foreign-trained athletic trainers shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from an athletic training program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

d. Pass the BOC examination. Official results are to be submitted directly to the board from the BOC.

645—351.4(152D) Examination requirements.

351.4(1) The examination required by the board shall be the BOC examination. Application and information may be obtained from the BOC Offices, 4223 S. 143rd Circle, Omaha, NE 68137, telephone (402)559-0091, Web site www.bocatc.org.

351.4(2) The applicant has responsibility for:

a. Making arrangements to take the national examination; and

b. Arranging to have the examination scores sent directly to the board from BOC.

645—351.5(152D) Documentation of physician direction. Each licensee must maintain documentation of physician direction. It is the responsibility of the licensee to ensure that documentation of physician direction is obtained and maintained, including the following:

1. Athletic training service plan as set out in 645—351.6(152D);
2. Dates and names of physician and physician assistant orders or referrals;
3. Initial evaluations and assessments;
4. Treatments and services rendered, with dates; and
5. Dates of subsequent follow-up care.

645—351.6(152D) Athletic training plan for direct service. Athletic training service plans shall be composed of the following components as taken from the Board of Certification 2000 Standards of Athletic Training for Direct Service and for Service Programs or standards from its successor as determined by the board of athletic training.

351.6(1) *Standards for athletic training—direct service.*

a. *Standard 1—direction.* The athletic trainer renders service or treatment under the direction of a physician.

b. *Standard 2—injury and ongoing care services.* All services shall be documented in writing by the athletic trainer and shall become part of the athlete's permanent records.

c. *Standard 3—documentation.* The athletic trainer shall accept responsibility for recording details of the athlete's health status. Documentation shall include:

(1) Athlete's name and any other identifying information.

(2) Referral source (doctor, dentist).

(3) Date, initial assessment, results and database.
(4) Program plan and estimated length.
(5) Program methods, results and revisions.
(6) Date of discontinuation and summary.
(7) Athletic trainer's signature.

d. *Standard 4—confidentiality.* The athletic trainer shall maintain confidentiality as determined by law and shall accept responsibility for communicating assessment results, program plans, and progress with other persons involved in the athlete's program.

e. *Standard 5—initial assessment.* Prior to treatment, the athletic trainer shall assess the athlete's level of functioning. The athlete's input shall be considered an integral part of the initial assessment.

f. *Standard 6—program planning.* The athletic training program objectives shall include long-and short-term goals and an appraisal of those which the athlete can realistically be expected to achieve from the program. Assessment measures to determine the effectiveness of the program shall be incorporated into the plan.

g. *Standard 7—program discontinuation.* The athletic trainer, with the collaboration of the physician, shall recommend discontinuation of the athletic training service when the athlete has received optimal benefit of the program. The athletic trainer, at the time of discontinuation, shall note the final assessment of the athlete's status.

351.6(2) *Standards for athletic training—service program.* Rescinded IAB 2/2/05, effective 3/9/05.

645—351.7(152D) Licensure by endorsement. An applicant who has been a licensed athletic trainer under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Has the academic transcript(s) sent directly from the school(s) to the board;
4. Shows evidence of licensure requirements that are similar to those required in Iowa;
5. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary actions taken against the license.

6. Submits evidence:

- From BOC of current certification status sent directly from BOC to the board, or
- Of a passing score on the examination of the BOC sent directly from BOC to the board.

645—351.8(147) Licensure by reciprocal agreement. Rescinded IAB 8/13/08, effective 9/17/08.

645—351.9(147) License renewal.

351.9(1) The biennial license renewal period for a license to practice athletic training shall begin on March 1 of each odd-numbered year and end on February 28 of the next odd-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

351.9(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

351.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—352.2(152D) and the mandatory reporting requirements of subrule 351.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

351.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, 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 waiver of this requirement as identified in paragraph *"e."*

b. A licensee who, in the course of employment, 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 waiver of this requirement as identified in paragraph *"e."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. 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 an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 352.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

351.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

351.9(6) A person licensed to practice as an athletic trainer shall keep the license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

351.9(7) 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 645—subrule 5.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

351.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an athletic trainer in Iowa until the license is reactivated. A licensee who practices as an athletic trainer in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—351.10(272C) Exemptions for inactive practitioners. Rescinded IAB 7/20/05, effective 8/24/05.

645—351.11(147) Duplicate certificate or wallet card. Rescinded IAB 8/13/08, effective 9/17/08.

645—351.12(147) Reissued certificate or wallet card. Rescinded IAB 8/13/08, effective 9/17/08.

645—351.13(272C) Lapsed licenses. Rescinded IAB 7/20/05, effective 8/24/05.

645—351.14(17A,147,272C) License denial. Rescinded IAB 8/13/08, effective 9/17/08.

645—351.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

351.15(1) Submit a reactivation application on a form provided by the board.

351.15(2) Pay the reactivation fee that is due as specified in 645—Chapter 5.

351.15(3) Provide verification of current competence to practice as an athletic trainer by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 50 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 50 hours of continuing education within two years of application for reactivation; and

(3) Verification of current BOC certification.

645—351.16(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 351.15(17A,147,272C) prior to practicing as an athletic trainer in this state.

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

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CHAPTER 352
CONTINUING EDUCATION FOR ATHLETIC TRAINERS

645—352.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means the license is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of athletic training created under Iowa Code chapter 147.

"BOC" means the Board of Certification or its successor organization.

"Continuing education" means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as an athletic trainer in the state of Iowa.

645—352.2(152D) Continuing education requirements.

352.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on March 1 of each odd-numbered year and ending on February 28 of the next odd-numbered year. Each biennium, each person who is licensed to practice as an athletic trainer in this state shall be required to complete a minimum of 50 hours of continuing education approved by the board.

352.2(2) Requirements for new licensees. Those persons licensed for the first time or being licensed for the first time after a temporary license shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 50 hours of continuing education per biennium for each subsequent license renewal.

352.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

352.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

352.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—352.3(152D,272C) Standards.

352.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

352.3(2) *Specific criteria.* Continuing education hours of credit shall be obtained by participating in a course provided by a BOC-approved provider of continuing education.

645—352.4(152D,272C) Audit of continuing education report. In addition to the requirements of 645—4.11(272C), proof of current BOC certification shall be accepted in lieu of individual certificates of completion for an audit.

645—352.5(152D,272C) Automatic exemption. Rescinded IAB 8/13/08, effective 9/17/08.

645—352.6(272C) Grounds for disciplinary action. Rescinded IAB 8/13/08, effective 9/17/08.

645—352.7(152D,272C) Continuing education waiver for active practitioners. Rescinded IAB 7/20/05, effective 8/24/05.

645—352.8(152D,272C) Continuing education exemption for inactive practitioners. Rescinded IAB 7/20/05, effective 8/24/05.

645—352.9(272C) Continuing education exemption for disability or illness. Rescinded IAB 8/13/08, effective 9/17/08.

645—352.10(152D,272C) Reinstatement of inactive practitioners. Rescinded IAB 7/20/05, effective 8/24/05.

645—352.11(272C) Hearings. Rescinded IAB 7/20/05, effective 8/24/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 152D.

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CHAPTER 353
DISCIPLINE FOR ATHLETIC TRAINERS
[Prior to 4/17/02, see 645—350.13(272C)]

645—353.1(152D) Definitions.

"Board" means the board of athletic training.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means a person licensed to practice as an athletic trainer in Iowa.

645—353.2(152D,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—353.3(152D,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

353.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to:

a. An intentional perversion of the truth in making application for a license to practice in this state;

b. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

c. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

353.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other athletic trainers in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average athletic trainer acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed athletic trainer in this state.

353.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

353.2(4) Practice outside the scope of the profession.

353.2(5) Use of untruthful or improbable statements in advertisements. The use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

353.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

353.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

353.2(8) Falsification of client or patient records.

353.2(9) Acceptance of any fee by fraud or misrepresentation.

353.2(10) Misappropriation of funds.

353.2(11) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including improper delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

353.2(12) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice as an athletic trainer. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

353.2(13) Violation of a regulation, rule or law of this state, another state, or the United States, which relates to the practice of athletic training.

353.2(14) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

353.2(15) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of athletic training in another state, district, territory or country.

353.2(16) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

353.2(17) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

353.2(18) Engaging in any conduct that subverts or attempts to subvert a board investigation.

353.2(19) Failure to respond within 30 days to a communication of the board which was sent by registered or certified mail.

353.2(20) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

353.2(21) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

353.2(22) Failure to pay costs assessed in any disciplinary action.

353.2(23) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

353.2(24) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

353.2(25) Knowingly aiding, assisting, or advising a person to unlawfully practice as an athletic trainer.

353.2(26) Failure to report a change of name or address within 30 days after the occurrence.

353.2(27) Representing oneself as a licensed athletic trainer when one's license has been suspended or revoked, or when one's license is on inactive status.

353.2(28) Permitting another person to use the licensee's license for any purpose.

353.2(29) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

353.2(30) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a patient or client.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

353.2(31) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

353.2(32) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

645—353.3(152D,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—353.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—353.5(152D) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 8/13/08, effective 9/17/08.

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

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CHAPTER 354
FEES
Rescinded IAB 8/13/08, effective 9/17/08

CHAPTER 355
PETITIONS FOR RULE MAKING

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 356
DECLARATORY RULINGS

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 357
AGENCY PROCEDURE FOR RULE MAKING

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 358
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTER 359
Reserved

SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 360
ADMINISTRATIVE AND REGULATORY AUTHORITY FOR THE
BOARD OF INTERPRETER FOR THE HEARING IMPAIRED EXAMINERS
Rescinded IAB 9/24/08, effective 10/29/08

CHAPTER 361 LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
CHAPTER 362 CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
CHAPTER 363 DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361
LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—361.1(154E) Definitions. For purposes of these rules, the following definitions shall apply:

"Active interpreter or transliterator services" means the actual time spent personally providing interpreting or transliterating services. When in a team interpreting situation, the time spent monitoring while the team interpreter is actively interpreting shall not be included in the time spent personally providing interpreting or transliterating services.

"Active license" means a license that is current and has not expired.

"Board" means the board of sign language interpreters and transliterators.

"Direct supervision of a temporary license holder" means board review of a temporary license holder's evidence of professional development and continuing educational training or in-person monitoring of interpreting or transliterating services in the same room as the temporary license holder providing those services, as outlined in subrule 361.2(6).

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

"License expiration date" means June 30 of odd-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is or has been licensed in another state.

"Reactivate" or *"reactivation"* means the process as outlined in rule 361.9(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of sign language interpreters and transliterators to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Supervisor" means a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3 and subrule 361.2(1) who provides on-site evaluations and advisory sessions with a temporary license holder for the purpose of the professional development of that temporary license holder.

645—361.2(154E) Requirements for licensure.

361.2(1) The following criteria shall apply to licensure:

a. The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Sign Language Interpreters and Transliterators, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board until properly completed.

c. Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Sign Language Interpreters and Transliterators. The fees are nonrefundable.

d. No application will be considered by the board until the applicant successfully passes one of the following examinations:

(1) National Association of the Deaf (NAD) examination level III or above; or

(2) One of the following examinations of the Registry of Interpreters for the Deaf National Testing System (NTS):

1. Certificate of Interpretation (CI); or
2. Certificate of Transliterating (CT); or
3. Certificate of Interpretation/Certificate of Transliterating (CI/CT); or
4. Interpreting Certificate/Transliterating Certificate (IC/TC); or
5. Comprehensive Skills Certificate (CSC); or
6. Certificate Deaf Interpreter (CDI); or

(3) The National Council on Interpreting National Interpreters Certification (NIC) Generalist Test, Certified Deaf Interpreter Test, or Oral Transliteration Test;

(4) The Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above obtained after December 31, 1999; or

(5) The Cued Language Transliterator National Certification Examination (CLTNCE).

e. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly to the Board of Sign Language Interpreters and Transliterators.

361.2(2) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

361.2(3) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

361.2(4) An applicant for licensure who has not successfully completed the board-approved examination set forth in paragraph 361.2(1)*"d"* but has complied with all other requirements in paragraphs 361.2(1)*"a"* through *"c"* shall be issued a temporary license to practice interpreting through the end of the then-current biennial license period. A temporary license holder may renew a temporary license once, for the immediately following biennial license period.

361.2(5) An applicant who is issued a temporary license is subject to the same criteria as a licensed interpreter or transliterator as defined in Iowa Code chapters 154E and 147 and 645—Chapters 361 through 363.

361.2(6) Beginning July 1, 2007, a temporary license holder shall be required to:

a. Provide to the board, by June 30 of each year in which the temporary license is held, demographic, educational and professional study information on a form prescribed by the board; and

b. Meet the requirements of either subparagraph (1) or (2) for the biennial license period:

(1) Provide services under the direct supervision of a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3. Providing such services under this subparagraph requires the temporary license holder during each year of the biennial license period to:

1. Have a supervisor observe the temporary license holder in active practice for no fewer than six consecutive, bimonthly (a total of six per year) on-site observation sessions at events lasting at least 30 minutes, if the temporary license holder is working alone in providing active interpreter or transliterator services, or at least 60 minutes, if the temporary license holder is working in a team interpreting situation.

2. Attend at least six consecutive, bimonthly (a total of six per year) advisory sessions with the supervisor for the purpose of discussing the supervisor's suggestions for professional skill development based on the on-site observation sessions. An advisory session may occur immediately following an on-site observation session if the setting is appropriate. The advisory session shall involve only the temporary license holder and supervisor.

3. Enter into a written agreement with the supervisor in which the temporary license holder and the supervisor agree to the minimum requirements provided in numbered paragraphs 361.2(6)*"b"*(1)"1" and "2." The agreement shall be signed and dated by the temporary license holder and the supervisor; shall include the temporary license holder's and supervisor's names, addresses and contact information; and shall be provided to the board upon request.

4. Maintain an event log documenting the date, time, length of observation and setting of each on-site observation session and advisory session. The temporary license holder shall ensure that the supervisor places initials beside each event entry to verify the occurrence of the observation or advisory session. This event log shall be provided to the board upon request.

5. Ensure that the supervisor attends both the on-site observation sessions and advisory sessions or reschedules the sessions as necessary to ensure compliance.

6. Comply with the required on-site observation and advisory session obligations. If there is a need to change supervisors for any reason, the temporary license holder shall be responsible for developing a new written agreement with the new supervisor. Changes in supervisors shall not excuse noncompliance with on-site observation and advisory session obligations.

7. Obtain permission from clients as necessary to allow the supervisor to be in attendance during the observation sessions.

(2) Complete during each year of the biennial license period a minimum of 30 hours (3.0 CEUs) of continuing education in areas of professional studies that conform to the requirements of 645—subparagraph 362.3(2)*"a"*(2). The temporary license holder shall submit to the board copies of certificates of completion issued to the temporary license holder evidencing successful completion of continuing education courses meeting the requirements of 645—subparagraph 362.3(2)*"a"*(2). Submittal of the copies of certificates of completion does not relieve the licensee of the requirement of providing additional information regarding this continuing education as required in 645—subrule 4.11(2) if the licensee is audited.

361.2(7) As an Iowa-licensed practitioner in accordance with this chapter, a supervisor providing direct supervision of a temporary license holder as provided in subparagraph 361.2(6)*"b"*(1) is obligated to report to the board interpreters or transliterators who are not practicing in compliance with Iowa law and rules including, but not limited to, Iowa Code chapter 154E and 645—Chapters 361 through 363.

645—361.3(154E) Licensure by endorsement. An applicant who has been a licensed sign language interpreter or transliterator under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board;
5. Provides:
- Examination scores which shall be sent directly from the examination service to the board; or
- A notarized certificate which shall be submitted showing proof of the successful completion of the examination specified in rule 361.2(154E); and

6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification directly from the jurisdiction's board office if the verification provides:
- The licensee's name;
- The date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

645—361.4(147) Licensure by reciprocal agreement. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.5(154E) License renewal.

361.5(1) The biennial license renewal period for a license to practice as a sign language interpreter or transliterator shall begin on July 1 of an odd-numbered year and end on June 30 of the next odd-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

361.5(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

361.5(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements as provided in 645—subrules 362.2(1) and 362.2(2) or, in lieu of meeting such requirements, provide proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) as evidence of meeting continuing education requirements. A licensee whose license was reactivated during the current biennial license period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

361.5(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

361.5(5) A person licensed to practice as a sign language interpreter or transliterator shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

361.5(6) 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 645—subrule 5.18(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

361.5(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a sign language interpreter or transliterator in Iowa until the license is reactivated. A licensee who practices as a sign language interpreter or transliterator in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—361.6(147) Duplicate certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.7(147) Reissued certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.8(17A,147,272C) License denial. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.9(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

361.9(1) Submit a reactivation application on a form provided by the board.

361.9(2) Pay the reactivation fee that is due as specified in 645—subrule 5.18(9).

361.9(3) Provide verification of current competence to practice sign language interpreting or transliterating by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—361.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 361.9(17A,147,272C) prior to practicing sign language interpreting or transliterating in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

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CHAPTER 362
CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—362.1(154E,272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of sign language interpreters and transliterators.

"Continuing education" means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

"License" means license to practice.

"Licensee" means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

645—362.2(154E,272C) Continuing education requirements.

362.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of each odd-numbered year and ending on June 30 of the next odd-numbered year. Each biennium, each person who is licensed to practice as a sign language interpreter or transliterator in this state shall be required to complete a minimum of 40 hours of continuing education. A licensee who provides proof of a current National Interpreter Certification or current Registry of Interpreters for the Deaf Certification meets continuing education requirements for that biennium renewal cycle.

362.2(2) Requirements for new licensees. A person licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of the license unless the licensee holds a temporary license and has chosen to meet the requirements for temporary licensure specified in 645—subparagraph 361.2(6)*"b"*(2). The new licensee shall complete a minimum of 40 hours of continuing education during the biennial license period for each subsequent license renewal and may use continuing education hours acquired anytime from the initial licensing until the second license renewal to meet the requirements for the second license renewal period. A licensee who provides proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) meets continuing education requirements.

362.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

362.2(4) No hours of continuing education shall be carried over into the next biennium.

362.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—362.3(154E,272C) Standards.

362.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

362.3(2) *Specific criteria.*

a. Continuing education shall be obtained by attending programs relating to the practice of interpreting or transliterating for the deaf or hard of hearing which meet the criteria in subrule 362.3(1) and are:

(1) Educational activities in which participants and faculty are present at the same time and attendance can be verified. Such activities include lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences;

(2) Obtained in content areas that conform to the content areas specified in the Registry of Interpreters for the Deaf (RID) Certification Maintenance Program Standards and Criteria for Approved Sponsors, revised edition, June 2004, with the exception of the number of CEUs required which is defined in 362.3(2)*"b."*

b. Each biennium, licensees shall obtain 40 hours (4 CEUs) of continuing education. The 40 hours shall include no less than 30 hours (3 CEUs) of professional studies. The remaining 10 hours (1 CEU) may be in either professional or general studies. The board shall accept proof of a current National Interpreter Certification or current Registry of Interpreters for the Deaf Certification in lieu of proof of the 40 hours of continuing education.

c. Continuing education hours of credit equivalents for academic coursework per biennium are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

1 CEU = 10 continuing education hours

d. Credit is given only for actual hours attended.

645—362.4(154E,272C) Audit of continuing education report. Rescinded IAB 9/24/08, effective 10/29/08.

645—362.5(154E,272C) Automatic exemption. Rescinded IAB 9/24/08, effective 10/29/08.

645—362.6(272C) Continuing education exemption for disability or illness. Rescinded IAB 9/24/08, effective 10/29/08.

645—362.7(154E,272C) Grounds for disciplinary action. Rescinded IAB 9/24/08, effective 10/29/08.

These rules are intended to implement Iowa Code section 272C.2 and Iowa Code chapter 154E.

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CHAPTER 363
DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—363.1(154E) Definitions.

"Board" means the board of sign language interpreters and transliterators.

"Consumer" means an individual utilizing interpreting services who uses spoken English, American Sign Language, or a manual form of English, and in an interpreting situation or setting, the term "consumer" includes both the deaf or hard-of-hearing individual or individuals and the hearing individual or individuals present in such situation or setting.

"Discipline" means any sanction the board may impose upon licensees.

"Licensee" means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

645—363.2(154E,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—363.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

363.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state which includes the following:

a. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or

b. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

363.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other interpreters in the state of Iowa acting in the same or similar circumstances.

c. A failure to exercise the degree of care which is ordinarily exercised by the average interpreter acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of an interpreter in this state.

e. Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

363.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

363.2(4) Practice outside the scope of the profession.

363.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

363.2(6) Habitual intoxication or addiction to the use of drugs.

363.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

363.2(8) Falsification of consumer records.

363.2(9) Acceptance of any fee by fraud or misrepresentation.

363.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of

duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

363.2(11) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

363.2(12) Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

363.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

363.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

363.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

363.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

363.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

363.2(18) Failure to comply with a subpoena issued by the board, or to otherwise fail to cooperate with an investigation of the board.

363.2(19) Failure to comply with the terms of a board order issued pursuant to rule 645—4.15(272C), or failure to comply with the terms of a board order or the terms of a settlement agreement or consent order issued or executed as resolution of a contested case proceeding.

363.2(20) Failure to pay costs assessed in any disciplinary action.

363.2(21) Submission of a false report of continuing education.

363.2(22) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

363.2(23) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as an interpreter.

363.2(24) Failure to report a change of name or address within 30 days after it occurs.

363.2(25) Representing oneself as an interpreter or transliterator when one's license has been suspended or revoked, or when one's license is on inactive status.

363.2(26) Permitting another person to use the licensee's license for any purpose.

363.2(27) Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

363.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct includes, but is not limited to, the following:

a. Verbally or physically abusing a consumer or coworker.

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a consumer or coworker.

c. Betrayal of a professional confidence.

d. Engaging in sexual activities or sexual contact with a consumer when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter's or transliterator's objectivity, competence, or effectiveness.

e. Failure to decline or to withdraw from an interpreting or transliterating assignment when the interpreter or transliterator does not possess the professional skills and knowledge required for the specific interpreting or transliterating situation or setting.

f. Failure to refrain from providing advice or personal opinions or aligning with one person over another in the course of one's professional duties.

g. Discriminating against a consumer on the basis of age, sex, race, creed, illness, marital status, political belief, religion, mental or physical disability or diagnosis, sexual orientation, or economic or social status.

h. Failure to inform a consumer when federal or state laws require disclosure of confidential information.

i. Failure to avoid a conflict of interest when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter's objectivity, competence, or effectiveness; or failure to disclose to a consumer an actual or perceived conflict of interest.

j. Failure to present a professional appearance that is not visually distracting and is appropriate to the setting.

k. Practicing a professional discipline without an appropriate license or after expiration of the required license.

363.2(29) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

363.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

363.2(31) Failure by a temporary license holder to comply with the requirements of 645—subrule 361.2(6).

645—363.3(147,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical, mental, or clinical competency evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

645—363.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

645—363.5(154E) Order for mental, physical, or clinical competency examination or alcohol or drug screening. Rescinded IAB 9/24/08, effective 10/29/08.

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CHAPTER 364
FEES
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