

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.

These rules are intended to implement Iowa Code chapters 147, 154E and 272C.

[Filed 2/23/06, Notice 12/21/05—published 3/15/06, effective 4/19/06]

[Filed 2/20/07, Notice 12/20/06—published 3/14/07, effective 4/18/07]

[Filed 8/21/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]