

CHAPTER 12
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES
[Prior to 4/17/24, see 193F—Chapter 16]

193F—12.1(543D) 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 543D.21.

[ARC 7855C, IAB 4/17/24, effective 5/22/24]

193F—12.2(543D) Grounds for imposing civil penalties. Grounds for issuing an order requiring compliance with Iowa Code chapter 543D or imposing civil penalties up to \$1,000 for each violation include:

12.2(1) Violating Iowa Code section 543D.15(1) “a.”

12.2(2) Failing to obtain a temporary practice permit under Iowa Code section 543D.11(2).

12.2(3) Falsely impersonating a licensee by using the certification or registration title, number or signature of a licensee, or by using the nonexistent certification or registration title, number or signature of a fictitious holder of a board-issued license.

12.2(4) Violating Iowa Code section 543D.21(4) “e.”

12.2(5) Violating Iowa Code section 543D.20(1) “a,” “b,” “c,” or “d.”

12.2(6) Violating Iowa Code section 543D.18A.

[ARC 7855C, IAB 4/17/24, effective 5/22/24]

193F—12.3(543D) Notice of intent to impose civil penalties.

12.3(1) The notice of the board’s intent to issue an order to compel compliance with Iowa Code section 543D.21 and to impose a civil penalty will be served upon the nonlicensee by 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.

12.3(2) The notice will 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 compel compliance with Iowa Code section 543D.21.

e. Notice of the nonlicensee’s right to a hearing and the time frame in which hearing has to be requested.

f. The address to which a written request for hearing has to be made.

[ARC 7855C, IAB 4/17/24, effective 5/22/24]

193F—12.4(543D) Request for hearing.

12.4(1) Nonlicensees have to request a hearing within 30 days of the date the notice is received or service is accepted. A request for hearing has to be in writing and is deemed made on the date of the non-metered United States Postal Service postmark or the date of personal delivery to the board office.

12.4(2) If a request for hearing is not timely made, as described in the notice, the board chairperson or the chairperson’s designee may issue an order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D. 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.

12.4(3) If a request for hearing is timely made, the board will issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees. Hearings involving nonlicensees are open to the public.

12.4(4) 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 543D at any stage of the proceeding upon mutual consent of the board.

12.4(5) 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.

[ARC 7855C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 17A and 543D.

[Filed ARC 7855C (Notice ARC 7272C, IAB 1/24/24), IAB 4/17/24, effective 5/22/24]