

CHAPTER 4
BOARD ADMINISTRATIVE PROCESSES

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 and vice chairperson 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.

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.

[ARC 7586B, IAB 2/25/09, effective 4/1/09; ARC 9768B, IAB 10/5/11, effective 11/9/11]

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. The board may select licensees for audit following license renewal.

4.11(1) Licensees shall provide information to the board for auditing purposes as follows:

a. The licensee shall provide an 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. Information identified in paragraph 4.11(1) "a" must be submitted within 30 days after the date on the letter of notification of the audit. Extension of time may be granted on an individual basis.

4.11(2) For auditing purposes, all licensees must retain the information identified in paragraph 4.11(1) "a" for two years after the biennium has ended.

4.11(3) 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. The deadline for receipt of the documentation for this make-up credit is 90 days from the date of mailing of the notice of deficit to the address of record at the board office. The license shall be re-audited following the next renewal period when make-up credit has been accepted.

4.11(4) Failure to notify the board of a current mailing address will not absolve the licensee from meeting the audit requirement.

[ARC 9171B, IAB 11/3/10, effective 12/8/10]

645—4.12(272C,83GA,SF2325) Automatic exemption.

4.12(1) A licensee, except a funeral director, shall be exempt from the continuing education requirement during the license biennium when the licensee:

- a.* Served honorably on active duty in the military service; or
- b.* 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
- c.* Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
- d.* Was absent from the state but engaged in active practice under circumstances which are approved by the board.

4.12(2) Automatic exemptions for a funeral director are identified in rule 645—102.5(83GA,SF2325).
[ARC 9239B, IAB 11/17/10, effective 12/22/10]

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(147,272C) Order for physical, mental, 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 physical, mental, 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.

4.15(1) Content of order. A board order for a physical, mental, 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 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.

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 that the board 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. A licensee who fails to timely file a request for hearing to object to an examination order waives any future objection to the examination order in the event formal disciplinary charges are filed for failure to comply with the examination order or on any other grounds. 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 examination 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). However, all investigative information regarding the examination order shall be provided to the licensee in the event the licensee files an objection, under subrule 4.15(3), in order to allow the licensee an opportunity to prepare for hearing.

4.15(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.

4.15(7) *Failure to submit.* Failure of a licensee to submit to a board-ordered physical, mental, 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.

[ARC 7586B, IAB 2/25/09, effective 4/1/09]

645—4.16(252J,261,272D) Noncompliance rules regarding child support, loan repayment and nonpayment of state debt.

4.16(1) *Child support noncompliance.* The board hereby adopts by reference 641—Chapter 192, "Child Support Noncompliance," Iowa Administrative Code.

4.16(2) *Noncompliance of loan repayment.* The board hereby adopts by reference 641—Chapter 195, "Student Loan Default/Noncompliance with Agreement for Payment of Obligation," Iowa Administrative Code.

4.16(3) *Nonpayment of state debt.* The board hereby adopts by reference 641—Chapter 194, "Nonpayment of State Debt," Iowa Administrative Code.

[ARC 8706B, IAB 4/21/10, effective 5/26/10]

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 252J, 261, 272C and 272D.

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