

193—7.39(546,272C) Hearing on license denial. If the board denies an application for an initial, reciprocal or comity license, the executive officer will send written notice to the applicant by regular first-class mail identifying the factual and legal basis for denying the application. If the board denies an application to renew an existing license, the provisions of rule 193—7.40(546,272C) will apply.

7.39(1) An applicant who is aggrieved by the denial of an application for licensure and who desires to contest the denial will need to request a hearing before the board within 30 calendar days of the date the notice of denial is mailed. A request for a hearing needs to be in writing and is deemed made on the date of the United States Postal Service nonmetered postmark or the date of personal service to the board office. The request for hearing will specify the factual or legal errors that the applicant contends were made by the board, needs to identify any factual disputes upon which the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure. If a request for hearing is timely made, the board will promptly issue a notice of contested case hearing on the grounds asserted by the applicant.

7.39(2) The board, in its discretion, may act as presiding officer at the contested case hearing, may hold the hearing before a panel of three board members, or may request that an administrative law judge act as presiding officer. The applicant may request that an administrative law judge act as presiding officer and render a proposed decision pursuant to rule 193—7.10(17A,272C). A proposed decision by a panel of board members or an administrative law judge is subject to appeal or review by the board pursuant to rule 193—7.32(17A).

7.39(3) License denial hearings are contested cases open to the public. Evidence supporting the denial of the license may be presented by an assistant attorney general. While each party will have the burden of establishing the affirmative of matters asserted, the applicant will have the ultimate burden of persuasion as to the applicant's qualification for licensure.

7.39(4) The board, after a hearing on license denial, may grant or deny the application for licensure. If denied, the board will state the reasons for denial of the license and may state conditions under which the application for licensure might be granted, if applicable.

7.39(5) The notice of license denial, request for hearing, notice of hearing, record at hearing and order are open records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be provided to the media, collateral organizations and other persons or entities.

7.39(6) Judicial review of a final order of the board denying licensure may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

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