261—213.10(17A,15F) Appeals. Granting or denying a request for waiver is final agency action under Iowa Code chapter 17A. An appeal to district court shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

Exhibit A

Sample Petition (Request) for Waiver

BEFORE THE ENHANCE IOWA BOARD

Petition by (insert name of petitioner) for the waiver of (insert rule citation) relating to (insert the subject matter).	}	PETITION FOR WAIVER

Requests for waiver from a board rule shall include the following information in the petition for waiver where applicable and known:

a. Provide the petitioner's (person asking for a waiver) name, address, and telephone number.

b. Describe and cite the specific rule from which a waiver is requested.

c. Describe the specific waiver requested; include the exact scope and time period that the waiver will extend.

d. Explain the important facts that the petitioner believes justify a waiver. Include in your answer why (1) applying the rule will result in undue hardship to the petitioner; and (2) granting a waiver to the petitioner is consistent with the public interest; and (3) granting the waiver will not prejudice the substantial legal rights of any person; and (4) where applicable, how 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.

e. Provide history of prior contacts between the board and petitioner relating to the regulated activity, license, grant, loan or other financial assistance that would be affected by the waiver; include a description of each affected license, grant, loan or other financial assistance held by the petitioner, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, grant or loan within the past five years.

f. Provide information known to the petitioner regarding the board's treatment of similar cases.

g. Provide 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.

h. Provide the name, address, and telephone number of any person or entity that would be adversely affected or disadvantaged by the grant of the waiver.

i. Provide the name, address, and telephone number of any person with knowledge of the relevant or important facts relating to the requested waiver.

j. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

I hereby attest to the accuracy and truthfulness of the above information.

_____ _____

Petitioner's signature Date

Petitioner should note the following when requesting or petitioning for a waiver:

1. The petitioner has the burden of proving to the board, by clear and convincing evidence, the following: (a) application of the rule to the petitioner would result in undue hardship to the petitioner; and (b) waiver on the basis of the particular circumstances relative to the petitioner would be consistent with the public interest; and (c) waiver in the specific case would not prejudice the substantial legal rights of any person; and (d) where applicable, how 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.

2. The board may request additional information from or request an informal meeting with the petitioner prior to issuing a ruling granting or denying a request for waiver.

3. All petitions for waiver must be submitted in writing to the Enhance Iowa Board, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, Attention: Legal Counsel. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

[**ARC 4513C**, IAB 6/19/19, effective 7/24/19; **ARC 5644C**, IAB 6/2/21, effective 7/7/21]