

481—500.10(147,272C) Order for physical, mental, substance abuse or clinical competency

examination. If the board has probable cause, a licensee may be required to submit to a physical, mental, substance abuse or clinical competency examination at the licensee's expense.

500.10(1) Content of order. A board order for a physical, mental, substance abuse or clinical competency examination shall include the following items:

- a. A description of the type of examination.
- b. The amount of time the licensee has to complete the examination.
- c. A statement indicating that the licensee is to sign necessary releases for the board to communicate with the examiner of the evaluation or treatment facility.
- d. A statement that the licensee is to communicate with the board regarding the status of the examination.
- e. A statement that the licensee will have the examiner provide the examination results directly to the board within a specified period of time.

500.10(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 discretion shall determine whether to grant the request.

500.10(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 481—Chapter 506. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned to maintain the licensee's confidentiality.

500.10(4) Closed hearing. Any hearing on an objection to the examination order shall be closed pursuant to Iowa Code section 272C.6(1).

500.10(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 500.15(3), in order to allow the licensee an opportunity to prepare for hearing.

500.10(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.

500.10(7) Failure to submit. Failure of a licensee to submit to a board-ordered physical, mental, substance abuse or clinical competency examination constitutes a violation of the rules of the board and is grounds for disciplinary action.

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