

**653—24.4(272C) Order for physical, mental, or clinical competency evaluation.** All licensees of this board, as a condition of licensure, have a duty to submit to a physical, mental, or clinical competency evaluation within a time specified by order of the board. A physical or mental evaluation may be ordered upon a showing of probable cause that the licensee suffers from a mental, neuropsychological, physical, physiological, psychiatric or psychological condition, including, but not limited to, behavior which constitutes professional sexual misconduct as defined by 653—subrule 13.7(4), disruptive behavior as defined by 653—subrule 13.7(5), or substance abuse. A physical or mental health evaluation may include a disruptive behavior evaluation, neuropsychological evaluation, psychiatric evaluation, professional sexual misconduct evaluation, substance abuse evaluation, or screening for alcohol or drug abuse. A clinical competency evaluation may be ordered upon a showing of probable cause that the licensee is professionally incompetent. The evaluation order and all information developed during the evaluation process shall remain part of a confidential investigative file pursuant to Iowa Code section 272C.6(4). The evaluation or screening shall be at the licensee's expense. All such orders shall be delivered to the licensee via personal service or by certified mail, return receipt requested.

**24.4(1) Content of order.** A board order shall include the following items:

*a. Probable cause.* A showing by the board that there is probable cause to order the licensee to complete an evaluation.

*b. Nature of evaluation or screening.* A description of the type of evaluation or screening that the licensee must complete.

*c. Evaluation facility.* The name and address of the examiner or evaluation or treatment or screening facility that the board has identified to perform the evaluation.

*d. Scheduling the evaluation.* The amount of time in which the licensee must schedule the required evaluation.

*e. Completion of the evaluation.* The amount of time in which the licensee must complete the evaluation.

*f. Board release.* A requirement that the licensee sign all necessary releases for the board to communicate with the evaluator or the evaluation or treatment program and to obtain any reports generated by the program.

**24.4(2) Alternatives.** Following issuance of the evaluation order, the licensee may request additional time to schedule or complete the evaluation or to request the board to approve an alternative evaluator or treatment facility. The board shall determine whether to grant such a request.

**24.4(3) Objection to order.** A licensee who is the subject of a board evaluation order and who objects to the order may file a request for hearing. The request shall be filed within 14 days of issuance of the evaluation order. A licensee who fails to timely file a request for hearing to object to an evaluation order waives any future objection to the evaluation order in the event formal disciplinary charges are filed for failure to comply with the evaluation order or on any other grounds. The request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 653—Chapter 25.

**24.4(4) Closed hearing.** Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(1).

**24.4(5) Order and reports confidential.** An evaluation order and any subsequent evaluation 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 related to an evaluation order shall be provided to the licensee in the event the licensee files an objection under 24.4(3), in order to allow the licensee an opportunity to prepare for hearing.

**24.4(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 licensee's testimony or evaluation 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.

**24.4(7)** *Failure to submit.* Failure of a licensee to submit to a board-ordered mental, physical, clinical competency or substance abuse evaluation or alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.