

**657—31.5(272C) Appeal.** A petitioner deemed ineligible for licensure or an applicant denied licensure due to a disqualifying offense may appeal the decision in the manner and time frame set forth in the board's written decision. A timely appeal will initiate a nondisciplinary contested case proceeding. The board's rules governing contested case proceedings will apply unless otherwise specified in these rules. If the petitioner or applicant fails to timely appeal, the board's written decision will become a final order.

**31.5(1) *Presiding officer.*** An administrative law judge will serve as the presiding officer of the nondisciplinary contested case proceeding, unless the board elects to serve as the presiding officer. When an administrative law judge serves as the presiding officer, the decision rendered shall be a proposed decision.

**31.5(2) *Closed hearing.*** The contested case hearing shall be closed to the public, and the board's review of a proposed decision shall occur in closed session.

**31.5(3) *Burden of proof.*** The office of the attorney general shall represent the board's initial ineligibility determination or license denial and shall have the burden of proof to establish that the convictions of the petitioner or applicant include at least one disqualifying offense. Upon satisfaction of this burden by a preponderance of the evidence by the office of the attorney general, the burden of proof shall shift to the petitioner or applicant to establish rehabilitation by clear and convincing evidence.

**31.5(4) *Judicial review.*** A petitioner or applicant must appeal an ineligibility determination or license denial in order to exhaust administrative remedies. A petitioner or applicant may only seek judicial review of an ineligibility determination or license denial after the issuance of a final order following a contested case proceeding. Judicial review of the final order following a contested case proceeding shall be in accordance with Iowa Code chapter 17A.

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