

481—506.35(17A,272C) Settlement agreements.

506.35(1) Upon a determination by the board that probable cause exists to take public disciplinary action, the board and the licensee may enter into a combined statement of charges and settlement agreement or consent order. Entering into a combined statement of charges and settlement agreement or consent order is voluntary, and no licensee is entitled to be offered a combined statement of charges and settlement agreement or consent order. The combined statement of charges and settlement agreement or consent order shall include a brief statement of the charges, the circumstances that led to the charges, and the terms of settlement. Execution of a combined statement of charges and settlement agreement or consent order constitutes the commencement and resolution of a contested case proceeding. By electing to sign a combined statement of charges and settlement agreement, the licensee waives the right to a contested case hearing on the matter and waives the right to receive the investigative file. A combined statement of charges and settlement agreement is a public record open for inspection pursuant to Iowa Code chapter 22.

506.35(2) Any contested case may be resolved by settlement agreement or consent order. Settlement negotiations may be initiated by any party at any stage of a contested case. No party is required to participate in the settlement process. The assistant attorney general representing the state of Iowa or approved department personnel are authorized to negotiate on behalf of the board.

506.35(3) The full board will not be involved in negotiations until a written proposed settlement is submitted to the full board for approval unless both parties waive this prohibition.

506.35(4) Consent to negotiation by the respondent during settlement negotiations constitutes a waiver of notice and opportunity to be heard during settlement negotiation pursuant to Iowa Code section 17A.17. Thereafter, the prosecuting attorney is authorized to discuss settlement with the board chairperson or designee or approved department personnel. By signing the proposed consent order, the respondent authorizes the prosecuting attorney or executive officer to have ex parte communications with the board related to the terms of settlement. A board member who is designated to act in negotiation of settlement is not disqualified from participating in the contested case should the case proceed to hearing.

506.35(5) Settlement agreements shall be completed at least seven days prior to the date scheduled for hearing whenever possible.

506.35(6) All settlements are subject to approval by the majority of the board. If the board fails to approve the settlement, it will be of no force or effect to either party and will not be admissible at hearing. Upon rejecting a proposed consent order, the board may suggest alternative terms of settlement that the respondent is free to accept or reject.

506.35(7) A settlement agreement is a public record open for inspection pursuant to Iowa Code chapter 22.

506.35(8) The board may accept the voluntary surrender of a license if it is accompanied by a written statement of intention. A voluntary surrender, when accepted in connection with a disciplinary proceeding, has the same force and effect as an order of revocation.

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