

**BEFORE THE BOARD OF NURSING OF THE STATE OF IOWA**

<p><b>In the Matter of the Petition for Waiver by:</b></p> <p><b>MELINDA MULVIHILL</b></p> <p><b>Petitioner.</b></p>	<p style="text-align: center;"><b>ORDER DENYING WAIVER REQUEST</b></p>
--	--

Pursuant to Iowa Code section 17A.9A and Iowa Administrative Code (“IAC”) rule 481—6, the Iowa Board of Nursing (“Board”) makes the following ruling on the Petition for Waiver submitted by Melinda Mulvihill (“Petitioner”).

**FINDINGS OF FACT**

1. Petitioner is seeking to waive the requirement to take the nurse refresher course.
2. Petitioner states in the Petition for Waiver that he seeks to waive 481 IAC 617.8(7)(a)(3) which provides:

To reactivate an inactive license, the licensee shall comply with the following:  
(3) If a licensee has not held an active license in any jurisdiction within the previous five years, the licensee must complete a nurse refresher course in accordance with rule 481—617.11(152) within 12 months of applying for reactivation.
3. Petitioner is seeking to reactivate her inactive license. Petitioner has not held an active license in any jurisdiction within the previous five years. Petitioner has not practiced nursing for twelve (12) years.
4. Petitioner is specifically requesting the Board waive the requirement that she complete the nurse refresher course.
5. The Board considered the Petition for Waiver at a board meeting on October 8, 2025.

**APPLICABLE LAW**

6. Pursuant to Iowa Administrative Code chapter 481—6.1(3), the Board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:
  - a. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
  - b. The waiver from the requirements of the rule in the specific case would not prejudice

- the substantial legal rights of any person;
- c. The provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and
  - d. 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.
7. “The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the [board] should exercise its discretion to grant a waiver from a [board] rule.” 481 IAC 6.1(8)(b).
  8. The Board's rules provide “The final decision on whether the circumstances justify the granting of a waiver is at the discretion of the [board] upon consideration of all relevant factors. Each petition for a waiver will be evaluated by the [board] based on the unique, individual circumstances set out in the petition.” 481 IAC 6.1(8)(a).
  9. “A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.” 481 IAC 6.1(8)(f).

#### **ANALYSIS OF WAIVER CRITERIA**

##### **Whether the application of the rule would create an undue hardship on the person for whom the waiver is requested:**

10. The Board does not find it to be an undue hardship to require an applicant to complete the nurse refresher course when the applicant has been out of the practice for five or more years. The practice of nursing is an ever-changing landscape. Being absent from the profession for a prolonged period of time requires an applicant to receive a refresher of education to ensure minimum competency in the practice.

##### **Whether the waiver from the requirements of the rule in the specific case would prejudice the substantial legal rights of any person:**

11. Waiving the requirements of the rule would not prejudice the substantial legal rights of any person.

##### **Whether the provision of the rule subject to the petition for waiver is not specifically mandated by another provision of law:**

12. The requirement found in the Board’s administrative rule is not specifically mandated by statute.

##### **Whether substantially equal protection of the 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:**

13. The public health, safety, and welfare will not be afforded by other means if this waiver is granted because the nurse refresher course ensures individuals who have been absent from the profession for a significant amount of time have the necessary education and competency to provide care to the public. The nurse refresher course includes a clinical component to assess the hands-on care and practice of the licensee. Allowing petitioner to just complete continuing education would not ensure competency in the practice of nursing.

### **CONCLUSIONS OF LAW**

For the reasons set forth above and upon review of the Petition, the Board finds that Petitioner has not satisfied the four criteria for waiver set forth in IAC 481—6.1(3).

### **ORDER**

**IT IS THEREFORE ORDERED** the Petition for Waiver of 481 IAC 617.8(7)(a)(3) is **DENIED**.

Issued October 8, 2025.



Jackie Barber, Board Chair  
Iowa Board of Nursing