

**BEFORE THE BOARD OF BEHAVIORAL HEALTH PROFESSIONALS OF  
THE STATE OF IOWA**

<b>In the Matter of the Petition for Waiver by:</b>  <b>Kathyria Guillen</b>  <b>Petitioner.</b>	<b>ORDER GRANTING WAIVER REQUEST</b>
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Pursuant to Iowa Code section 17A.9A and Iowa Administrative Code (“IAC”) rule 481—6, the Iowa Board of Behavioral Health Professionals (“Board”) makes the following ruling on the Petition for Waiver submitted by Kathyria Guillen (“Petitioner”).

**FINDINGS OF FACT**

1. Petitioner is seeking to obtain her license as an Iowa licensed mental health counselor.
2. Petitioner has been licensed as an Iowa temporary mental health counselor since July 2022.
3. Petitioner states in her Petition for Waiver that she seeks to waive 481 IAC 880.3(1)“a”(2) which provides:
  - (2) For a mental health counselor license, the National Clinical Mental Health Counselor Examination (NCMHCE) of the NBCC.
4. Petitioner is specifically requesting the Board allow her to utilize the National Counselor Exam to meet the exam requirements for a full mental health counselor license.
5. Petitioner passed the NCE exam in May 2019. At that time the Board’s rules allowed the NCE exam for full licensure. The Board’s rules changed in April of 2020 to require applicant’s to pass the NCMHCE for full licensure.
6. The Board considered the Petition for Waiver at a board meeting on January 27, 2026.

**APPLICABLE LAW**

7. 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.
8. “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).
  9. 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).
  10. “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:**

1. In considering this criterion, the Board noted the rules requiring the NCMHCE for full licensure became effective April 30, 2020. The Board believes it would be appropriate to grant waivers to those who took the NCE exam prior to April 30, 2020. It would be an undue hardship to require an applicant who took, and passed, the NCE prior to the April 2020 rule change to expend the expense of an additional exam, studying for the exam and a delay in getting full licensure.

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

2. 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:**

3. 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:**

4. In considering this criterion, the Board noted the rules requiring the NCMHCE for full licensure became effective April 30, 2020. The Board believes it would be appropriate to grant waivers to those who took the NCE exam prior to April 30, 2020. The Board finds that the petitioner is adequately trained and allowing her full licensure with the NCE would not compromise her competence and ability to treat clients.

**CONCLUSIONS OF LAW**

For the reasons set forth above and upon review of the Petition, the Board finds that Petitioner has 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 880.3(1)"a"(2) is GRANTED.

Issued January 27, 2026.

*Aaron L. Culley, LISW*

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Aaron Culley  
Chairperson  
Iowa Board of Behavioral Health Professionals