

BEFORE THE BOARD OF NURSING OF THE STATE OF IOWA

In the Matter of the Petition for Waiver by: JACKLINE KWENGA Petitioner.	ORDER DENYING WAIVER REQUEST
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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 Jackline Kwenga (“Petitioner”).

FINDINGS OF FACT

1. Petitioner is seeking to waive the requirement to pass the English language proficiency testing required by the CGFNS Credentials Evaluation Service (CES).
2. Petitioner states in the Petition for Waiver that she seeks to waive 481 IAC 617.7(1) which provides:

An applicant seeking licensure in Iowa who was educated in a foreign country or in a U.S. territory that is not a member of NCSBN shall apply for licensure by examination pursuant to rule 481—617.5 or licensure by endorsement pursuant to rule 481—617.6, as applicable, but instead of submitting an official transcript, shall submit one of the following documents issued by CGFNS:

- a. Credentials Evaluation Services (CES) Professional Report
 - b. VisaScreen certificate or certificate verification letter verifying that a VisaScreen certificate was issued
 - c. CGFNS Certification Program Certificate or certificate verification letter verifying that a CGFNS Certification Program certificate was issued.
3. Petitioner took the English proficiency test, IELTS, in 2019 and passed, but the certificate expired in 2021. Petitioner currently does not have a valid passing certificate for English proficiency or any of the documents required by 481—617.6. Petitioner was trained in a foreign country.
 4. Petitioner is specifically requesting the Board waive the requirement that she provide the valid certificate of passing an English proficiency test.
 5. The Board considered the Petition for Waiver at a board meeting on July 15, 2026.

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 pass an English proficiency test before being licensed. The petitioner did not raise concern of cost for taking the test or the inability to take the test. In fact, the petitioner stated she has worked in the U.S. for a number of years and therefore, should be able to take and pass the required tests.

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 proficiency in the English language is necessary to provide competent nursing care to the public.

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 617.7(1) is **DENIED**.

Issued July 15, 2026.



Jackie Barber, Board Chair
Iowa Board of Nursing