

## CHAPTER 34

## PLUMBING AND MECHANICAL SYSTEMS BOARD—COMPLAINTS AND INVESTIGATIONS

**641—34.1(272C) Complaints.**

**34.1(1)** Complaints can be submitted online, in writing, or verbally and should include the name and contact information of the complainant, the name of the licensee, and a concise statement of the allegations against the licensee. A complaint may also be initiated by the board.

**34.1(2)** A person is not civilly liable for filing a complaint in good faith with the board, or for cooperating with a board investigation per Iowa Code section 272C.8.  
[ARC 8000C, IAB 5/15/24, effective 6/19/24]

**641—34.2(272C) Report of malpractice claims or actions or disciplinary actions.** The licensee will submit any judgment or settlement in a malpractice claim or any disciplinary action taken by another licensing authority in another state or jurisdiction to the board within 30 days of the date of occurrence.  
[ARC 8000C, IAB 5/15/24, effective 6/19/24]

**641—34.3(272C) Report of acts or omissions.** A licensee having knowledge of rules violations committed by another licensee will file a report to the board. The report will include the name and contact information of the licensee and the date, time, and place of the incident.  
[ARC 8000C, IAB 5/15/24, effective 6/19/24]

**641—34.4(272C) Investigation of complaints or reports.** Board staff may request additional information, solicit a response from the licensee, subpoena records, conduct interviews, gather evidence, and perform other investigatory duties as necessary to inform the board.  
[ARC 8000C, IAB 5/15/24, effective 6/19/24]

**641—34.5(17A,272C) Issuance of investigatory subpoenas.**

**34.5(1)** The board executive officer or designee may, upon the written request of a board investigator or on the executive officer's own initiative, subpoena books, papers, records, and other real evidence that are necessary for the board to decide whether to initiate a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;
- c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

**34.5(2)** Each subpoena will contain:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production or inspection and copying;
- d. The deadline for filing a motion to quash or modify the subpoena;
- e. The signature, address and telephone number of the board executive officer or designee;
- f. The date of issuance;
- g. A return of service.

**34.5(3)** A person can challenge the subpoena by filing a motion to quash describing the legal justification for the motion within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days.

**34.5(4)** Upon receipt of a timely motion to quash or modify a subpoena, an administrative law judge will issue a decision. The administrative law judge may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

**34.5(5)** A person who is aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the board by serving the board executive officer, either in

person, by email, or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

**34.5(6)** If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either (1) the person is notified the investigation has been concluded with no formal action, or (2) there is a final decision in the contested case.

[ARC 8000C, IAB 5/15/24, effective 6/19/24]

**641—34.6(272C) Peer review.**

**34.6(1)** A complaint may be assigned to a peer reviewer for review and report to the board.

**34.6(2)** The board determines what complaints or other matters are referred to a peer reviewer.

**34.6(3)** Peer reviewers are not liable for acts, omissions, or decisions made in connection with service made in good faith.

**34.6(4)** The peer reviewer shall maintain confidentiality pursuant to Iowa Code section 272C.6.

[ARC 8000C, IAB 5/15/24, effective 6/19/24]

**641—34.7(17A) Appearance.** The board may request that a licensee appear before a committee of the board to discuss a pending investigation. By electing to participate in the committee appearance, the licensee waives any objection to a board member both participating in the appearance and later participating as a decision maker in a contested case proceeding. By electing to participate in the committee appearance, the licensee further waives any objection to the board executive officer assisting the board in the contested case proceeding.

[ARC 8000C, IAB 5/15/24, effective 6/19/24]

These rules are intended to implement Iowa Code chapters 17A, 105, and 272C.

[Filed Emergency After Notice ARC 8532B (Notice ARC 8364B, IAB 12/2/09), IAB 2/24/10,  
effective 1/26/10]

[Filed ARC 8000C (Notice ARC 7320C, IAB 1/10/24), IAB 5/15/24, effective 6/19/24]