

Extracts from the Code of Iowa (1985)
pertaining to the

PRACTICE OF NURSING

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CHAPTER 152

PRACTICE OF NURSING

152.1 Definitions. As used in this chapter:

1. The "*practice of nursing*" means the practice of a registered nurse or a licensed practical nurse. It does not mean any of the following:

a. The practice of medicine and surgery, as defined in chapter 148, the osteopathic practice, as defined in chapter 150, the practice of osteopathic medicine and surgery, as defined in chapter 150A, or the practice of pharmacy as defined in chapter 155, except practices which are recognized by the medical and nursing professions and approved by the board as proper to be performed by a registered nurse.

b. The performance of nursing services by a student enrolled in an approved program of nursing if the performance is incidental to a course of study under this program.

c. The performance of services by employed workers in offices, hospitals, or health care facilities, as defined in section 135C.1, under the supervision of a physician or a nurse licensed under this chapter, or employed in the office of a psychologist, podiatrist, optometrist, chiropractor, speech pathologist, audiologist, or physical therapist licensed to practice in this state, and when acting while within the scope of the employer's license.

d. The practice of a nurse licensed in another state and employed in this state by the federal government if the practice is in discharge of official employment duties.

e. The care of the sick rendered in connection with the practice of the religious tenets of any church or order by the adherents thereof which is not performed for hire, or if performed for hire by those who depend upon prayer or spiritual means for healing in the practice of the religion of their church or denomination, so long as they do not otherwise engage in the practice of nursing as practical nurses.

2. The "*practice of the profession of a registered nurse*" means the practice of a natural person who is licensed by the board to do all of the following:

a. Formulate nursing diagnosis and conduct nursing treatment of human responses to actual or potential health problems through services, such as case finding, referral, health teaching, health counseling, and care provision which is supportive to or restorative of life and well-being.

b. Execute regimen prescribed by a physician.

c. Supervise and teach other personnel in the performance of activities relating to nursing care.

d. Perform additional acts or nursing specialties which require education and training under emergency or other conditions which are recognized

by the medical and nursing professions and are approved by the board as being proper to be performed by a registered nurse.

e. Apply to the abilities enumerated in paragraph "a" through "d" of this subsection scientific principles, including the principles of nursing skills and of biological, physical, and psychosocial sciences.

3. The "practice of a licensed practical nurse" means the practice of a natural person who is licensed by the board to do all of the following:

a. Perform services in the provision of supportive or restorative care under the supervision of a registered nurse or a physician.

b. Perform additional acts under emergency or other conditions which require education and training and which are recognized by the medical and nursing professions and are approved by the board, as being proper to be performed by a licensed practical nurse.

4. As used in this section, "nursing diagnosis" means to identify and use discriminatory judgment concerning physical and psychosocial signs and symptoms essential to determining effective nursing intervention.

5. "Board" means the board of nursing, created under chapter 147.

6. "Physician" means a person licensed in this state to practice medicine and surgery, osteopathy and surgery, or osteopathy, or a person licensed in this state to practice dentistry or podiatry when acting within the scope of the license.

152.2 Executive director—assistants. The board shall appoint a full-time executive director. The executive director shall be a registered nurse and shall not be a member of the board. The governor, with the approval of the executive council pursuant to section 19A.9, subsection 2, under the pay plan for exempt positions in the executive branch of government, shall set the salary of the executive director.

152.3 Director's duties. The duties of the executive director shall be as follows:

1. To receive all applications to be licensed for the practice of nursing.

2. Notwithstanding section 147.82, to collect and receive all fees.

3. To deposit all fees collected in the general fund of the state and, at the same time, to render to the state comptroller an itemized and verified report which indicates the source of the collected fees.

4. To keep all records pertaining to the licensing of nurses, including a record of all board proceedings.

5. To perform such other duties as may be prescribed by the board.

6. To appoint such assistants to the director and persons as may be necessary to administer the provisions of this Act. Any appointments shall be merit appointments made pursuant to chapter 19.

152.4 Appropriations. The board may apply appropriated funds to:

1. The administration and enforcement of the provisions of this chapter and of chapter 147.

2. The elevation of the standards of the schools of nursing.

3. The promotion of educational and professional standards of nurses in this state.

152.5 Education programs.

1. All programs preparing a person to be a registered nurse or a licensed practical nurse shall be approved by the board. The board shall not recognize a program unless it:

a. Is of recognized standing.

b. Has provisions for adequate physical and clinical facilities and other resources with which to conduct a sound education program.

c. Requires, for graduation of a registered nurse applicant, the completion of at least a two academic year course of study or its equivalent which is integrated in theory and practice as prescribed by the board.

d. Requires, for graduation of a licensed practical nurse applicant, the completion of at least an academic year course of study or its equivalent in theory and practice as prescribed by the board.

2. All advanced formal academic nursing education programs shall also be approved by the board.

152.6 Licenses—professional abbreviations. The board may license a natural person to practice as a registered nurse or as a licensed practical nurse. However, only a person currently licensed as a registered nurse in this state may use that title and the abbreviation "RN" after the person's name and only a person currently licensed as a licensed practical nurse in this state may use that title and the abbreviation of "LPN" after the person's name.

152.7 Applicant qualifications. In addition to the provisions of section 147.3, an applicant to be licensed for the practice of nursing shall have the following qualifications:

1. Be a graduate of an accredited high school or the equivalent.

2. Pass an examination as prescribed by the board.

3. If to practice as a registered nurse, holds a diploma or degree resulting from the completion of a course of study in a program approved pursuant to section 152.5, subsection 1, paragraph "c".

4. If to practice as a licensed practical nurse, holds a diploma resulting from the completion of a course of study in a program approved pursuant to section 152.5, subsection 1, paragraph "d" or has successfully completed at least one academic year of a course of study in a program approved pursuant to section 152.5, subsection 1, paragraph "c" and has successfully completed all theoretical and clinical training as is required for a licensed practical nurse.

152.8 License endorsement. Notwithstanding the provisions of sections 147.44 to 147.54, the board shall decide whether to recognize a foreign license to practice nursing under conditions specified which indicate that the licensee meets all the qualifications required under section 152.7. If a foreign license is recognized, the board may issue a license by endorsement without an examination being required. Recognition shall be based on whether the foreign licensee is qualified to practice nursing.

152.9 Temporary license. The board may issue a temporary license to a natural person who has completed the requirements of and applied for licensure, either by examination or endorsement. A temporary license shall not remain effective longer than the time between application and the next issuance of licenses. A temporary license issued to a person not holding a foreign license to practice nursing shall be valid only when the temporary licensee is under the supervision of a registered nurse.

152.10 License revocation or suspension.

1. Notwithstanding sections 147.87 to 147.89 and in addition to the provisions of sections 147.58 to 147.71, the board may restrict, suspend, or revoke a license to practice nursing or place the licensee on probation. The board may also prescribe by rule conditions of license reinstatement. The board shall prescribe rules of procedure by which to restrict, suspend, or revoke a license. These procedures shall conform to the provisions of chapter 17A.

2. In addition to the grounds stated in section 147.55, the following are grounds for suspension or revocation under subsection 1 of this section:

- a. Willful violation of the rules of the board.
- b. Continued practice while knowingly having an infectious or contagious disease which could be harmful to a patient's welfare.
- c. Conviction for a felony in the courts of this state or another state, territory, or country if the felony relates to the practice of nursing. Conviction shall include only a conviction for an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another jurisdiction shall be conclusive evidence of conviction.
- d. Having a license to practice nursing as a registered nurse or licensed practical nurse revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence of such fact.
- e. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice nursing.
- f. Being adjudicated mentally incompetent by a court of competent jurisdiction. Such adjudication

shall automatically suspend a license for the duration of the license, unless the board orders otherwise.

g. Being guilty of willful or repeated departure from or the failure to conform to the minimum standard of acceptable and prevailing practice of nursing; however, actual injury to a patient need not be established.

h. (1) Inability to practice nursing with reasonable skill and safety by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

(2) The board may, upon probable cause, request a licensee to submit to an appropriate medical examination by a designated physician. If requested by the licensee, the licensee may also designate a physician for an independent medical examination. The reasonable costs of such examinations and medical reports to the board shall be paid by the board. Refusal or failure of a licensee to complete such examinations shall constitute an admission of any allegations relating to such condition. All objections shall be waived as to the admissibility of the examining physicians' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against a registered nurse or licensed practical nurse in another proceeding and shall be confidential. At reasonable intervals, a registered nurse or licensed practical nurse shall be afforded an opportunity to demonstrate that the registered nurse or licensed practical nurse can resume the competent practice of nursing with reasonable skill and safety to patients.

CHAPTER 147

GENERAL PROVISIONS REGULATING PRACTICE PROFESSIONS

147.1 Definitions. For the purpose of this and the following chapters of this title:

1. "*Examining board*" shall mean one of the boards appointed by the governor to give examinations to applicants for licenses.

2. "*Licensed*" or "*certified*" when applied to a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, occupational therapist, practitioner of cosmetology, practitioner of barbering, funeral director or social worker means a person licensed under this title.

3. "*Profession*" means medicine and surgery, podiatry osteopathy, osteopathic medicine and surgery,

psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, cosmetology, barbering, mortuary science or social work.

4. "Department" shall mean the state department of health.

5. "Peer review" means evaluation of professional services rendered by a person licensed to practice a profession.

6. "Peer review committee" means one or more persons acting in a peer review capacity who also serve as an officer, director, trustee, agent, or member of any of the following:

a. A state or local professional society of a profession for which there is peer review.

b. Any organization approved to conduct peer review by a society as designated in paragraph "a" of this subsection.

c. The medical staff of any licensed hospital.

d. An examining board.

LICENSES

147.2 License required. No person shall engage in the practice of . . . nursing . . . as defined in the following chapters of this title, unless the person has obtained from the state department of health a license for that purpose.

147.3 Qualifications. An applicant for a license to practice a profession under this title is not ineligible because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. Any board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of . . . nursing . . . for which the applicant requests to be licensed. Character references may be required, but shall not be obtained from licensed members of the profession.

147.4 Ground for refusing. The department may refuse to grant a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked by the district court.

147.6 Certificate presumptive evidence. Every license issued under this title shall be presumptive evidence of the right of the holder to practice in this state the profession therein specified.

147.7 Display of license. Every person licensed under this title to practice a profession shall keep the license publicly displayed in the place in which the person practices.

147.8 Record of licenses. The name, location, number of years of practice of the person to whom a license is issued to practice a profession, the number of the certificate, and the date of registration thereof shall be entered in a book kept in the office of the department to be known as the registry book, and the

same shall be open to public inspection.

147.9 Change of residence. When any person licensed to practice a profession under this title changes his residence the person shall notify the department.

147.10 Renewal. Every license to practice a profession shall expire in multiyear intervals and be renewed as determined by the board upon application by the licensee, without examination. Application for renewal shall be made in writing to the department accompanied by the required fee at least thirty days prior to the expiration of such license. Every renewal shall be displayed in connection with the original license. The department shall notify each licensee by mail prior to the expiration of a license. Failure to renew the license within a reasonable time after the expiration shall not invalidate the license, but a reasonable penalty may be assessed by the board.

147.11 Reinstatement. Any licensee who allows the license to lapse by failing to renew the same, as provided in section 147.10, may be reinstated without examination upon recommendation of the examining board for the licensee's profession and upon payment of the renewal fees then due.

EXAMINING BOARDS

147.12 Examining boards. For the purpose of giving examinations to applicants for licenses to practice the professions for which licenses are required by this title, the governor shall appoint, subject to confirmation by the senate, a board of examiners for each of the professions. The board members shall not be required to be members of professional societies or associations composed of members of their professions.

147.13 Designation of boards. The examining boards provided in section 147.12 shall be designated as follows: . . . for nursing, board of nursing; . . .

147.14 Composition of boards. The boards of examiners shall consist of the following: . . .

3. For nursing examiners, one registered nurse representing the colleges and universities, one registered nurse representing the hospital conducted schools of nursing, one registered nurse representing the area community and vocational technical nursing department, one registered nurse practitioner, one licensed practical nurse practitioner, and two members not registered nurses or licensed practical nurses and who shall represent the general public. The representatives of the general public shall not be members of health care delivery systems. A majority of the members of the board shall constitute a quorum.

147.16 Examiners. Each licensed examiner shall be actively engaged in the practice or the instruction of the examiner's profession and shall have been so

engaged for a period of five years just preceding the examiner's appointment, the last two of which shall be in this state.

147.19 Terms of office. The board members shall serve three-year terms, which shall commence and end as provided by section 69.19. Any vacancy in the membership of an examining board shall be filled by appointment of the governor subject to senate confirmation. A member shall serve no more than three terms or nine years.

147.20 Nomination of examiners. The regular state association or society for each profession may recommend the names of potential board members to the governor, but the governor shall not be bound by the recommendations.

147.21 Examination information. The public members of the board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

A member of the board shall not disclose information relating to the following:

1. Criminal history or prior misconduct of the applicant.

2. Information relating to the contents of the examination.

3. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

147.22 Officers. Each examining board shall organize annually and shall select a chairperson and a secretary from its own membership.

147.24 Compensation. Members of an examining board shall, in addition to necessary traveling and expenses, set their own per diem compensation at a rate not exceeding forty dollars per day for each day actually engaged in the discharge of their duties and for a reasonable number of days for the preparation of examination questions and the reading of papers, appropriated to the department and allocated to each examining board or funds appropriated to an examining board within the limits of funds.

147.25 System of health personnel statistics—fee. The division for records and statistics within the state department of health shall establish and maintain a system of health personnel statistics which shall include the collection, preservation, revision and dissemination of statistical data to enable the department or other agencies concerned with delivery of health care services in this state to determine the total

number, employment status, location of practice or place of employment, areas of professional specialization and ages of licensed health care practitioners and other pertinent information bearing on the availability of trained and licensed personnel in health care fields to provide services in this state. The statistical data shall be computed and available upon request at least biannually in the form of a report to agencies, both public and private, which are concerned with the delivery of health care in this state.

The department shall enter into co-operative arrangements with and seek the technical expertise of agencies collecting and producing health personnel statistics in order to eliminate duplication in the collection of health personnel information and to assist in the standardization and co-ordination of procedures relating to the collection of health personnel statistics.

Examining boards collecting information necessary for the division for records and statistics to carry out the provisions of this section shall provide the department with the information which may be gathered by means including, but not limited to, questionnaires forwarded to applicants for a license or renewal of a license.

In addition to any other fee provided by law, a fee may be set by the respective examining boards for each license and renewal of a license to practice . . . nursing, . . . which fee shall be based on the annual cost of collecting information for use by the department of health in the administration of the system of health personnel statistics established by this section. The fee shall be collected, transmitted to the treasurer of state and deposited in the general fund of the state in the manner in which license and renewal fees of the respective professions are collected, transmitted, and deposited in the general fund.

147.28 National organization. Each examining board may maintain a membership in the national organization of the state examining boards of its profession to be paid from funds appropriated to the board.

EXAMINATIONS

147.29 Applications. Any person desiring to take the examination for a license to practice a profession shall make application to the state department of health at least fifteen days before the examination, on a form provided by the board. Such application shall be accompanied by the examination fee and such documents and affidavits as are necessary to show the eligibility of the candidate to take such examination. All applications shall be in accordance with the rules of the department and shall be signed by the applicant. The board shall not require that a recent photograph of the applicant be attached to the application.

147.30 Time and place of examinations. The department shall give public notice of the time and place of all examinations to be held under this title. Such notice shall be given in such manner as the department may deem expedient and in ample time to allow all candidates to comply with the provisions of this title.

147.34 Examinations. Examinations for each profession licensed under this title shall be conducted at least one time per year at such time as the department may fix in co-operation with each examining board. . . . At least one session of each examining board shall be held annually at the seat of government and the locations of other sessions shall be determined by the examining board, unless otherwise ordered by the department. Applicants who fail to pass the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, applicants shall be allowed to take the examination at the discretion of the board. Examinations may be given by an examining board which are prepared and scored by persons outside the state, and examining boards may contract for such services. An examining board may make an agreement with examining boards in other states for administering a uniform examination. An applicant who has failed an examination may request in writing information from the examining board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the examining board administers a uniform, standardized examination, the examining board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the examining board.

147.36 Rules. Each examining board shall establish rules for:

1. The conducting of examinations.
2. The grading of examinations and passing upon the technical qualifications of applicants, as shown by such examinations.

147.37 Identity of candidate concealed. All examinations in theory shall be in writing, and the identity of the person taking the same shall not be disclosed upon the examination papers in such a way as to enable the members of the examining board to know by whom written until after the papers have been passed upon. . . .

147.40 Certification of applicants. Every examination shall be passed upon in accordance with the established rules of the examining board and shall be satisfactory to at least a majority of the professional members of the board. . . . After each examination the examining board shall certify the names of the successful applicants to the state department of health

in the manner prescribed by it. The department shall then issue the proper license and make the required entry in the registry book.

147.41 Partial examinations. Any examining board may provide for a partial examination for a license to practice a profession to any applicant who has completed a portion of the professional course. For such purpose said board shall establish by rule:

1. The portion of such course which shall be completed prior to such examination.

2. The subjects to be covered by such examination and the subjects to be covered by the final examination to be taken by such applicant after the completion of the professional course and prior to the issuance of the license, but the subjects covered in the partial and final examinations shall be the same as those specified in this title for the regular examination.

147.43 Preservation of records. All matters connected with each examination for a license shall be filed with the state department of health and preserved for such period of time as specified by the state records commission as a part of the records of the department. The records shall be open to public inspection.

RECIPROCAL LICENSES

147.44 Agreements. For the purpose of recognizing licenses which have been issued in other states to practice any profession for which a license is required by this title, the department shall enter into a reciprocal agreement with every state which is certified to it by the proper examining board under the provisions of section 147.45 and with which this state does not have an existing agreement at the time of such certification.

147.45 States entitled to reciprocal relations. The department shall at least once each year lay before the proper examining board the requirements of the several states for a license to practice the profession for which such examining board conducts examinations for licenses in this state. Said examining board shall immediately examine such requirements and after making such other inquiries as it deems necessary, shall certify to the department the states having substantially equivalent requirements to those existing in this state for that particular profession and with which said examining board desires this state to enter into reciprocal relations.

147.46 Reciprocal agreements. In negotiating any reciprocal agreement, the department shall be governed by the following regulations:

1. *Protection to licensees of this state.* When the laws of any state or the rules of the authorities of said state place any requirement or disability upon any

person licensed in this state to practice any profession regulated by this title which affects the right of said person to be licensed or to practice the person's profession in said state, then the same requirement or disability shall be placed upon any person licensed in said state when applying for a license to practice in this state.

2. **Special conditions.** When any examining board has established by rule any special condition upon which reiprocal agreements shall be entered into, as provided in section 147.47, such condition shall be incorporated into the reciprocal agreements negotiated with reference to licenses to practice the professions for which such examining board conducts examinations.

147.47 **Special conditions.** An examining board shall have power to provide by rule that no reciprocal relation shall be entered into by the department with any state with reference to licenses to practice the profession for which such examining board conducts examinations, unless every person licensed in another state when applying for a license to practice in this state shall comply with one or both of the following conditions:

1. Furnish satisfactory proof to the department that the person has been actively engaged in the practice of the profession for a certain period of years to be fixed by such examining board.

2. Pass a practical examination in the practice of the person's particular profession as prescribed by such examining board.

147.52 **Reciprocity.** When the laws of any state or the rules of the authorities of said state place any requirement or disability upon any person holding a diploma or certificate from any college in this state in which one of the professions regulated by this title is taught, which affects the right of said person to be licensed in said state, the same requirement or disability shall be placed upon any person holding a diploma from a similar college situated therein, when applying for a license to practice in this state.

147.53 **Power to adopt rules.** The department and each examining board shall have power to establish the necessary rules, not inconsistent with law, for carrying out the reciprocal relations with other states which are authorized by this chapter.

147.54 **Change of residence.** Any licensee who is desirous of changing the licensee's residence to that of another state or territory shall upon application to the department, and payment of the legal fee, receive a certified statement that the licensee is a duly licensed practitioner in this state.

REVOCATION OF LICENSES

147.55 **Grounds.** A license to practice a profession shall be revoked or suspended when the licensee is

guilty of any of the following acts or offenses:

1. Fraud in procuring a license.

2. Professional incompetency.

3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

4. Habitual intoxication or addiction to the use of drugs.

5. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

6. Fraud in representations as to skill or ability.

7. Use of untruthful or improbable statements in advertisements.

8. Willful or repeated violations of the provisions of this Act.

147.58 **Jurisdiction of revocation.** The district court of the county in which a licensee resides shall have jurisdiction of the proceeding to revoke or suspend the licensee's license.

147.59 **Petition for revocation.** The petition for the revocation or suspension of a license may be filed by the attorney general in all cases. Said petition shall be filed in the office of the clerk of the district court having jurisdiction.

147.60 **Duty of department.** The state department of health shall direct the attorney general to file such petition against any licensee upon its own motion, or it may give such direction upon the sworn information of some person who resides in the county wherein the licensee practices.

147.61 **Attorney general and county attorney.** The attorney general shall comply with such direction of the department and prosecute such action on behalf of the state, but the county attorney, at the request of the attorney general, shall appear and prosecute such action when brought in the county attorney's county.

147.62 **Rules governing petition.** The following rules shall govern the petition in such cases:

1. The state shall be named as plaintiff and the licensee as defendant.

2. The charges against the licensee shall be stated in full.

3. Amendments may be made as in ordinary actions.

4. All allegations shall be deemed denied but the licensee may plead thereto if the licensee desires.

147.63 **Trial.** Upon the presentation of the petition, or a copy thereof, to the court, the court shall make an order fixing the time and place for the hearing, which shall be not less than ten nor more than twenty days thereafter.

147.64 Notice. Notice of the filing of such petition and of the time and place of hearing shall be served upon the licensee at least ten days before said hearing in the manner required for the service of notice of the commencement of an ordinary action.

147.65 Nature of action. The proceeding shall be summary in its nature and triable as an equitable action.

147.66 Judgment. Judgment of revocation or suspension of the license shall be entered of record and the licensee shall not engage in the practice of the licensee's profession after the license is revoked or during the time for which it is suspended. The clerk of the court shall, upon the entry of such judgment, forthwith furnish the state department of health with a certified copy thereof.

147.67 Default. In case the licensee fails to appear, either in person or by counsel at the time and place designated in said notice, the court, after receiving satisfactory evidence of the truth of the charges, shall order the license revoked or suspended.

147.68 Costs. If the judgment is adverse to the licensee the costs shall be taxed to the licensee as in ordinary civil actions, but if the state is the unsuccessful party the costs shall be paid out of any money in the state treasury not otherwise appropriated.

147.69 Unpaid costs. All costs accrued at the instance of the state, when the successful party, which the attorney general certifies cannot be collected from the defendant, shall be paid out of any money in the state treasury not otherwise appropriated.

147.70 Hearing on appeal. Both parties shall have the right of appeal. The cause shall be advanced and take precedence over all other causes upon the court calendar, and shall be heard at the next term after the appeal is taken.

147.71 Effect of appeal. The taking of an appeal by the defendant and the filing of a supersedeas bond shall not operate to stay the proceedings of the district court, or restore the right of said defendant to practice the defendant's profession pending such appeal.

USE OF TITLES AND DEGREES

174.72 Professional titles and abbreviations. Any person licensed to practice a profession under this title may append to the person's name any recognized title or abbreviation, which the person is entitled to use, to designate the person's particular profession, but no other person shall assume or use such title or abbreviation, and no licensee shall advertise in such a manner as to lead the public to believe that the licensee is engaged in the practice of any other profession than the one which the licensee is licensed to practice.

147.73 Titles used by holder of degree. Nothing in

section 147.72 shall be construed:

1. As authorizing any person licensed to practice a profession under this title to use or assume any degree or abbreviation of the same unless such degree has been conferred upon said person by an institution of learning accredited by the appropriate board herein created, together with the commissioner of health, or by some recognized state or national accredited agency.

2. As prohibiting any holder of a degree conferred by an institution of learning accredited by the appropriate board herein created, together with the commissioner of health, or by some recognized state or national accrediting agency, from using the title which such degree authorizes the holder to use, but the holder shall not use such degree or abbreviation in any manner which might mislead the public as to the holder's qualifications to treat human ailments.

147.74 Professional titles or abbreviations — false use prohibited. Any person who falsely claims by the use of any professional title or abbreviation, either in writing, cards, signs, circulars, or advertisements, to be a practitioner of a system of the healing arts other than the one under which the person holds a license or who fails to use the following designations shall be guilty of a simple misdemeanor.

A physician or surgeon may precede the person's name with the title "Doctor", and shall add after the name the letters, "M.D."

An osteopath or osteopathic physician and surgeon may use the prefix "Doctor", but shall add after the person's name the letters, "D.O." or "O.S." as the case may be, or the words, "Osteopath" or "Osteopathic Physician and Surgeon".

A chiropractor may use the prefix "Doctor", but shall add after the person's name the letters, "D.C." or the word, "Chiropractor".

A dentist may use the prefix "Doctor", but shall add after the person's name the letters "D.D.S." or the word "Dentist" or "Dental Surgeon".

A podiatrist may use the prefix "Dr." but shall add after the person's name the word "Podiatrist".

Any graduate of a school accredited on the board of optometric examiners may use the prefix "Doctor", but shall add after the person's name the letters "Opt." or "Optometrist".

A physical therapist shall be entitled to use the words "licensed physical therapist" after the person's name or to signify the same by the use of the letters "L.P.T." after the person's name.

A psychologist who possesses a doctoral degree and who claims to be a certified practicing psychologist may use the prefix "Doctor" but shall add after the person's name the word "Psychologist".

A speech pathologist or audiologist with a doctoral degree may use the suffix "Ph.D.", or the prefix "Doctor" or "Dr." and add after the person's name

the words "Speech Pathologist" or "Audiologist".

A social worker licensed under chapter 154C and this chapter may use the words "licensed social worker" after the person's name or signify the same by the use of the letters "L.S.W." after the person's name.

No other practitioner licensed to practice a profession under any of the provisions of this title shall be entitled to use the prefix "Dr." or "Doctor".

147.76 Rules promulgated. The examining boards for the various professions shall promulgate all necessary and proper rules to implement and interpret the provisions of this chapter and chapters . . .

FEES

147.80 License—examination—fees. An examining board shall set the fees for the examination of applicants, which fees shall be based upon the annual cost of administering the examinations. An examining board shall set the annual fees, except renewal fees which need not be annual, required for any of the following based upon the cost of sustaining the board and the actual costs of licensing: . . .

11. License to practice nursing issued upon the basis of an examination given by the board of nurse examiners, license to practice nursing based on an endorsement from another state, territory or foreign country, renewal of a license to practice nursing.

12. A nurse who does not engage in nursing during the year succeeding the expiration of the license shall notify the board to place the nurse upon the inactive list and the nurse shall not be required to pay the renewal fee so long as he or she remains inactive and so notifies the board. To resume nursing, the nurse shall notify the board and remit the renewal fee for the current period. . . .

19. For a certified statement that a licensee is licensed in this state.

20. Duplicate license, which shall be so designated on its face, upon satisfactory proof the original license issued by the department has been destroyed or lost.

The licensing and certification division shall prepare estimates of projected revenues to be generated by the licensing, certification, and examination fees of each board as well as a projection of the fairly apportioned administrative costs and rental expenses attributable to each board. Each board shall annually review and adjust its schedule of fees so that, as nearly as possible, projected revenues equal projected costs and any imbalance in revenues and costs in a fiscal year is offset in a subsequent fiscal year.

VIOLATIONS — CRIMES — PUNISHMENT

147.83 Injunction. Any person engaging in any business or in the practice of any profession for which a license is required by this title without such license

may be restrained by permanent injunction.

147.84 Forgeries. Any person who shall file or attempt to file with the state department of health any false or forged diploma, or certificate or affidavit of identification or qualification, shall be guilty of a fraudulent practice.

147.85 Fraud. Any person who shall present to the department a diploma or certificate of which the person is not the rightful owner, for the purpose of procuring a license, or who shall falsely personate anyone to whom a license has been issued by said department shall be guilty of a serious misdemeanor.

147.86 Penalties. Any person violating any provision of this or the following chapters of this title, except insofar as said provisions apply or relate to or affect the practice of pharmacy shall be guilty of a serious misdemeanor.

ENFORCEMENT PROVISIONS

147.87 Enforcement. The state department of health shall enforce the provisions of this and the following chapters of this title and for that purpose shall make necessary investigations relative thereto. Every licensee and member of an examining board shall furnish the department such evidence as the member or licensee may have relative to any alleged violation which is being investigated.

147.88 Department inspector and assistant. There is hereby created the position of health department inspector and assistant who shall be attached to the state department of health and who shall be appointed by the commissioner of health of the state of Iowa. The health department inspector's duties shall consist of investigating all violations of this title, securing all available evidence and reporting to the department of health.

147.89 Report of violators. Every licensee and member of an examining board shall report, also, to the department the name of every person, without a license, that the member or licensee has reason to believe is engaged in:

1. Practicing any profession for which a license is required,

2. Operating as an itinerant practitioner of such profession.

147.90 Rules and forms. The state department of health shall establish the necessary rules and forms for carrying out the duties imposed upon it by the provisions of this and the following chapters of this title.

147.91 Publications. The department shall have printed in pamphlet form for each profession the following matter which is pertinent to the particular profession for which such pamphlet is published:

1. The law regulating the practice of the profession.

2. The rules of the department relative to licenses.

3. The rules of the examining board relative to

examinations.

Such pamphlet shall be supplied to any person applying for the same.

147.92 Attorney general and county attorney. Upon request of the state department of health the attorney general shall institute in the name of the state the proper proceedings against any person charged by the department with violating any provision of this or the following chapters of this title and the county attorney, at the request of the attorney general, shall appear and prosecute such action when brought in the county attorney's county.

147.93 Prima facie evidence. The opening of an office or place of business for the practice of any profession for which a license is required by this title, the announcing to the public in any way the intention to practice any such profession, the use of any professional degree or designation, or of any sign, card, circular, device, or advertisement, as a practitioner of any such profession, or as a person skilled in the same, shall be prima-facie evidence of engaging in the practice of such profession.

EXCEPTIONS

147.100 Expirations and renewals. Licenses shall expire in multiyear intervals as determined by the examining board. A person who fails to renew a license by the expiration date shall be allowed to do so within thirty days following its expiration, but the examining board may assess a reasonable penalty.

DRUG DISPENSING

147.107 Drug dispensing limitations.

1. A person, other than a pharmacist, physician, dentist, podiatrist, or veterinarian who dispenses as an incident to the practice of the practitioner's profession, shall not dispense prescription drugs or controlled substances.

2. A pharmacist, physician, dentist, or podiatrist who dispenses prescription drugs, including but not limited to controlled substances, for human use, may delegate nonjudgmental dispensing functions to staff assistants only when verification of the accuracy and completeness of the prescription is determined by the pharmacist or practitioner in the pharmacist's or practitioner's physical presence.

3. A physician's assistant or registered nurse may supply when pharmacist services are not reasonably available or when it is in the best interest of the patient, on the direct order of the supervising physician, a quantity of properly packaged and labeled

prescription drugs, controlled substances, or contraceptive devices necessary to complete a course of therapy. However, a remote clinic, staffed by a physician's assistant or registered nurse, where pharmacy services are not reasonably available, shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage, and appropriate use of such drugs, substances, and devices.

4. Notwithstanding subsection 1, a family planning clinic may dispense birth control drugs and devices upon the order of a physician. Subsections 2 and 3 do not apply to a family planning clinic under this subsection.

5. Notwithstanding section 147.86, a person, including a pharmacist, who violates this section is guilty of a simple misdemeanor.

MALPRACTICE

See chapter 519A relating to insurance

147.135 Exemption of peer review committee. A person shall not be civilly liable as a result of acts, omissions, or decisions made in connection with the person's service on a peer review committee. However, such immunity from civil liability shall not apply if an act, omission, or decision is made with malice.

147.136 Scope of recovery. In an action for damages for personal injury against a . . . nurse licensed to practice that profession in this state, or against a hospital licensed for operation in this state, based on the alleged negligence of the practitioner in the practice of the profession or occupation, or upon the alleged negligence of the hospital in patient care, in which liability is admitted or established, the damages awarded shall not include actual economic losses incurred or to be incurred in the future by the claimant by reason of the personal injury, including but not limited to, the cost of reasonable and necessary medical care, rehabilitation services, and custodial care, and the loss of services and loss of earned income, to the extent that those losses are replaced or are indemnified by insurance, or by governmental, employment, or service benefit programs or from any other source except the assets of the claimant or of the members of the claimant's immediate family.

147.137 Consent in writing. A consent in writing to any medical or surgical procedure or course of procedures in patient care which meets the requirements of this section shall create a presumption that informed consent was given. A consent in writing meets the requirements of this section if it:

1. Sets forth in general terms the nature and

purpose of the procedure or procedures, together with the known risks, if any, of death, brain damage, quadriplegia, paraplegia, the loss or loss of function of any organ or limb, or disfiguring scars associated with such procedure or procedures, with the probability of each such risk if reasonably determinable.

2. Acknowledges that the disclosure of that information has been made and that all questions asked about the procedure or procedures have been answered in a satisfactory manner.

3. Is signed by the patient for whom the procedure is to be performed, or if the patient for any reason lacks legal capacity to consent, is signed by a person who has legal authority to consent on behalf of that patient in those circumstances.

147.138 Contingent fee of attorney reviewed by court. In any action for personal injury or wrongful death against any . . . nurse licensed under this chapter or against any hospital licensed under chapter 135B, based upon the alleged negligence of the licensee in the practice of that profession or occupation, or upon the alleged negligence of the hospital in patient care, the court shall determine the reasonableness of any contingent fee arrangement between the plaintiff and the plaintiff's attorney.

CHAPTER 147A

ADVANCED EMERGENCY MEDICAL CARE

147A.12 Registered nurse exception.

1. Nothing in this chapter shall restrict a registered nurse, licensed pursuant to chapter 152, from staffing an authorized ambulance service or rescue squad service provided the registered nurse can document equivalency through education and additional skills training essential in the delivery of prehospital emergency care. The equivalency shall be accepted when:

a. Documentation has been reviewed and approved at the local level by the medical director of the ambulance or rescue squad service in accordance with the rules of the board of nursing developed jointly with the board of medical examiners.

b. Authorization has been granted to that ambulance or rescue squad service by the council.

2. Section 147A.10 applies to a registered nurse in compliance with this section.

CHAPTER 258A

CONTINUING PROFESSIONAL AND OCCUPATIONAL EDUCATION

258A.1 Definitions.

1. "*Licensing board*" or "*board*" includes the following boards: . . .

m. The board of nursing, created pursuant to chapter 147. . . .

2. "*Continuing education*" means that education which is obtained by a professional or occupational licensee in order to maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge. This education may be obtained through formal or informal education practices, self-study, research, and participation in professional, technical, and occupational societies, and by other similar means as authorized by the board.

3. The term "*licensing*" and its derivations include the terms "*registration*" and "*certification*" and their derivations.

4. "*Inactive licensee re-entry*" means that process a former or inactive professional or occupational licensee pursues to again be capable of actively and competently practicing as a professional or occupational licensee.

5. "*Licensee discipline*" means any sanction a licensing board may impose upon its licensees for conduct which threatens or denies citizens of this state a high standard of professional or occupational care.

6. "*Disciplinary proceeding*" means any proceeding under the authority of a licensing board pursuant to which licensee discipline may be imposed.

7. "*Peer review*" means evaluation of professional services rendered by a professional practitioner.

8. "*Peer review committee*" means one or more persons acting in a peer review capacity pursuant to this chapter.

9. "*Malpractice*" means any error or omission, unreasonable lack of skill, or failure to maintain a reasonable standard of care by a licensee in the course of practice of the licensee's occupation or profession, pursuant to this chapter.

258A.2 Continuing education required.

1. Each licensing board shall require and issue rules for continuing education requirements as a condition to license renewal.

2. The rules shall create continuing education requirements at a minimum level prescribed by each licensing board. These boards may also establish continuing education programs to assist a licensee in meeting such continuing education requirements. Such rules shall also:

a. Give due attention to the effect of continuing education requirements on interstate and international practice.

b. Place the responsibility for arrangement of financing of continuing education on the licensee, while allowing the board to receive any other available funds or resources that aid in supporting a continuing education program.

c. Attempt to express continuing education requirements in terms of uniform and widely recognized measurement units.

d. Establish guidelines, including guidelines in regard to the monitoring of licensee participation, for the approval of continuing education programs that qualify under the continuing education requirements prescribed.

e. Not be implemented for the purpose of limiting the size of the profession or occupation.

f. Define the status of active and inactive licensure and establish appropriate guidelines for inactive licensee re-entry.

g. Be promulgated solely for the purpose of assuring a continued maintenance of skills and knowledge by a professional or occupational licensee directly related and commensurate with the current level of competency of the licensee's profession or occupation.

3. A person licensed to practice an occupation or profession in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a resident of another state or district having a continuing education requirement for the occupation or profession and meets all requirements of that state or district for practice therein, or for periods that the person is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the appropriate board of examiners.

258A.3 Authority of licensing boards.

1. Notwithstanding any other provision of this chapter, each licensing board shall have the powers to:

a. Administer and enforce the laws and administrative rules provided for in this chapter and any other statute to which the licensing board is subject;

b. Adopt and enforce administrative rules which provide for the partial re-examination of the professional licensing examinations given by each licensing board;

c. Review or investigate, or both, upon written complaint or upon its own motion pursuant to other evidence received by the board, alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline;

d. Determine in any case whether an investigation, or further investigation, or a disciplinary proceeding is warranted;

e. Initiate and prosecute disciplinary proceedings;

f. Impose licensee discipline;

g. Petition the district court for enforcement of its authority with respect to licensees or with respect to other persons violating the laws which the board is charged with administering;

h. Register or establish and register peer review

committees;

i. Refer to a registered peer review committee for investigation, review, and report to the board, any complaint or other evidence of an act or omission which the board reasonably believes to constitute cause for licensee discipline. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction;

j. Determine and administer the renewal of licenses for periods not exceeding three years.

2. Each licensing board may impose one or more of the following as licensee discipline:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in section 114.21, 116.21, 117.29, 118.13, 118A.15, 147.55, 148B.7, 153.34, 154A.24, 169.13, 455B.219 or 602.3203 or chapter 135E, 151, 507B or 522, as applicable, or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;

b. Revoke, or suspend either until further order of the board or for a specified period, the privilege of a licensee to engage in one or more specified procedures, methods, or acts incident to the practice of the profession, if pursuant to hearing or stipulated or agreed settlement the board finds that because of a lack of education or experience, or because of negligence, or careless acts or omissions, or because of one or more intentional acts or omissions, the licensee has demonstrated a lack of qualifications which are necessary to assure the residents of this state a high standard of professional and occupational care;

c. Impose a period of probation under specified conditions whether or not in conjunction with other sanctions;

d. Require additional professional education or training, or re-examination, or any combination, as a condition precedent to the reinstatement of a license or of any privilege incident thereto, or as a condition precedent to the termination of any suspension;

e. Impose civil penalties by rule, if the rule specifies which offenses or acts are subject to civil penalties. The amount of civil penalty shall be in the discretion of the board, but shall not exceed one thousand dollars. Failure to comply with the imposition of a civil penalty may be grounds for further license discipline.

f. Issue a citation and warning respecting licensee behavior which is subject to the imposition of other sanctions by the board.

3. The powers conferred by this section upon a licensing board shall be in addition to powers specified elsewhere in the Code. The powers of any other

person specified elsewhere in the Code shall not limit the powers of a licensing board conferred by this section, nor shall the powers of such other person be deemed limited by the provisions of this section.

4. Nothing contained in this section shall be construed to prohibit informal stipulation and settlement by a board and a licensee of any matter involving licensee discipline. However, licensee discipline shall not be agreed to or imposed except pursuant to a written decision which specifies the sanction and which is entered by the board and filed.

All health-care boards shall file written decisions which specify the sanction entered by the board with the department of health which shall be available to the public upon request. All nonhealth-care boards shall have on file the written and specified decisions and sanctions entered by the board and shall be available to the public upon request.

258A.4 Duties of board.

1. Each licensing board shall have the following duties in addition to other duties specified by this chapter or elsewhere in the Code:

a. Establish procedures by which complaints which relate to licensure or to licensee discipline shall be received and reviewed by the board;

b. Establish procedures by which disputes between licensees and clients which result in judgments or settlements in or of malpractice claims or actions shall be investigated by the board;

c. Establish procedures by which any recommendation taken by a peer review committee shall be reported to and reviewed by the board if a peer review committee is established;

d. Establish procedures for registration with the board of peer review committees if a peer review committee is established;

e. Define by rule those recommendations of peer review committees which shall constitute disciplinary recommendations which must be reported to the board if a peer review committee is established;

f. Define by rule acts or omissions which are grounds for revocation or suspension of a license under section 114.21, 116.21, 117.29, 118.13, 118A.15, 147.55, 148B.7, 153.34, 154A.24, 169.13, 455B.187 or 602.3203 or chapter 135E, 151, 507B or 522, as applicable, and to define by rule acts or omissions which constitute negligence, careless acts or omissions within the meaning of section 258A.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 258A.9, subsection 2;

g. Establish the procedures by which licensees shall report those acts or omissions specified by the board pursuant to paragraph "f" of this subsection;

h. Give written notice to another licensing board or to a hospital licensing agency if evidence received by the board either alleges or constitutes reasonable

cause to believe the existence of an act or omission which is subject to discipline by that other board or agency;

i. Require each health care licensing board to file with the department of health a copy of each decision of the board imposing licensee discipline. ...

The commissioner of insurance shall by rule in consultation with the licensing boards enumerated in section 258A.1, require insurance carriers which insure professional and occupational licensees for acts or omissions which constitute negligence, careless acts or omissions in the practice of a profession or occupation to file reports with the commissioner of insurance. The reports shall include information pertaining to incidents by a licensee which may affect the licensee as defined by rule, involving an insured of the insurer. The commissioner of insurance shall forward reports pursuant to this section to the appropriate licensing board.

2. Each licensing board shall submit to the senate and house committees on state government in January of each year, commencing in January of 1979, a summary of the activities of that board since the preceding report respecting the following subjects:

a. The adoption or nonadoption of rules relating to the duties of the board as specified in this section;

b. The number of complaints, peer review committee disciplinary actions, and judgments and settlements reviewed or investigated by the board, the number of formal disciplinary proceedings commenced before the board or in the courts, the number and types of sanctions imposed, and the number and status of appeals to the court of board decisions, and the number and types of peer review committees registered by the board.

258A.5 Licensee disciplinary procedure—rule-making delegation.

1. Each licensing board may establish by rule licensee disciplinary procedures. Each licensing board may impose licensee discipline under these procedures.

2. Rules promulgated under subsection 1 of this section:

a. Shall comply with the provisions of chapter 17A.

b. Shall designate who may or shall initiate a licensee disciplinary investigation and a licensee disciplinary proceeding, and who shall prosecute a disciplinary proceeding and under what conditions, and shall state the procedures for review by the licensing board of findings of fact if a majority of the licensing board does not hear the disciplinary proceeding.

c. Shall state whether the procedures are an alternative to or an addition to the procedures stated in sections 114.22, 116.23, 117.35, 117.36, 118A.16, 147.58 to 147.71, 148.6 to 148.9, 153.23 to 153.30, 153.33, 154A.23, and 155.14 to 155.16.

d. Shall specify methods by which the final decisions of the board relating to disciplinary proceedings shall be published.

258A.6 Hearings—Power of subpoena—decisions.

1. Disciplinary hearings held pursuant to this chapter shall be heard by the board sitting as the hearing panel, or by a panel of not less than three board members who are licensed in the profession, or by a panel of not less than three members appointed pursuant to subsection 2. Notwithstanding chapters 17A and 21 a disciplinary hearing shall be open to the public at the discretion of the licensee.

2. When, in the opinion of a majority of the board, it is desirable to obtain specialists within an area of practice of a profession when holding disciplinary hearings, a licensing board may appoint licensees not having a conflict of interest to make findings of fact and to report to the board. Such findings shall not include any recommendation for or against licensee discipline.

3. The presiding officer of a hearing panel may issue subpoenas pursuant to rules of the board on behalf of the board or on behalf of the licensee. A licensee may have subpoenas issued on the licensee's behalf. A subpoena issued under the authority of a licensing board may compel the attendance of witnesses and the production of professional records, books, papers, correspondence and other records, whether or not privileged or confidential under law, which are deemed necessary as evidence in connection with a disciplinary proceeding.

Nothing in this subsection shall be deemed to enable a licensing board to compel an attorney of the licensee, or stenographer or confidential clerk of the attorney, to disclose any information when privileged against disclosure by section 622.10. In the event of a refusal to obey a subpoena, the licensing board may petition the district court for its enforcement. Upon proper showing, the district court shall order the person to obey the subpoena, and if the person fails to obey the order of the court the person may be found guilty of contempt of court. The presiding officer of a hearing panel may also administer oaths and affirmations, take or order that depositions be taken, and pursuant to rules of the board, grant immunity to a witness from disciplinary proceedings initiated either by the board or by other state agencies which might otherwise result from the testimony to be given by the witness to the panel.

4. In order to assure a free flow of information for accomplishing the purposes of this section, and notwithstanding section 622.10, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of a licensing board or peer review committee acting under the authority of a licensing board or its employees or agents which relates to licensee discipline are

privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee and the boards, their employees and agents involved in licensee discipline, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of a licensing board or its employees or agents which relates to licensee discipline may be disclosed to the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of a licensing board or its employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. However, a final written decision and finding of fact of a licensing board in a disciplinary proceeding, including a decision referred to in section 258A.3, subsection 4, is a public record.

Pursuant to the provisions of section 17A.19, subsection 6, a licensing board upon an appeal by the licensee of the decision by the licensing board, shall transmit the entire record of the contested case to the reviewing court.

Notwithstanding the provisions of section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall order withheld the identity of the individual whose privilege was waived.

5. Licensee discipline shall not be imposed except upon the affirmative vote of a majority of the licensing board.

258A.7 Executive secretary and personnel.

1. As an alternative to authority contained elsewhere in this chapter, a licensing board may employ within the limits of available funds an executive secretary, one or more inspectors, and such clerical personnel as may be necessary for the administration of the duties of the board. Employees of the board shall be employed subject to chapter 19A. The qualifications of the executive secretary shall be determined by the board.

2. All employees of a licensing board shall be reimbursed subject to the rules of the state comptroller for their expenses incurred in the performance of official duties. All reimbursements shall constitute costs of sustaining the board.

3. Licensees appointed to serve on a hearing panel pursuant to section 258A.6, subsection 2, shall be compensated at the rate of forty dollars for each day of actual duty, and shall be reimbursed for actual expenses reasonably incurred in the performance of duties.

4. Salaries, per diem, and expenses incurred in the performance of official duties of the board or its employees shall be paid from funds appropriated by the general assembly.

258A.8 Immunities.

1. A person shall not be civilly liable as a result of the person's acts, omissions or decisions in good faith as a member of a licensing board or as an employee or agent in connection with the person's duties.

2. A person shall not be civilly liable as a result of filing a report or complaint with a licensing board or peer review committee, or for the disclosure to a licensing board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of a health care board. However, such immunity from civil liability shall not apply if such act is done with malice.

3. A person shall not be dismissed from employment, and shall not be discriminated against by an employer because the person filed a complaint with a licensing board or peer review committee, or because the person participated as a member, agent or employee of a licensing board or peer review committee, or presented testimony or other evidence to a licensing board or peer review committee.

Any employer who violates the terms of this section shall be liable to any person aggrieved for actual and punitive damages plus reasonable attorney fees.

258A.9 Duties of licensees.

1. Each licensee of a licensing board, as a condition of licensure, is under a duty to submit to a physical or mental examination when directed in writing by the board for cause. All objections shall be waived as to the admissibility of the examining physician's testimony or reports on the grounds of privileged communications. The medical testimony or report shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board, or one commenced in district court for revocation of the licensee's privileges. The licensing board, upon probable cause, shall have the authority to order physical or mental examination, and upon refusal of the licensee to submit to the examination the licensing board may order that the allegations pursuant to which the order of physical or mental examination was made shall be taken to be established.

2. A licensee has a continuing duty to report to the licensing board by whom the person is licensed those acts or omissions specified by rule of the board pursuant to section 258A.4, subsection 1, paragraph "f", when committed by another person licensed by

the same licensing board. This subsection does not apply to licensees under chapter 116 when the observations are a result of participation in programs of practice review, peer review and quality review conducted by professional organizations of certified public accountants, for educational purposes and approved by the board of accountancy.

3. A licensee shall have a continuing duty and obligation, as a condition of licensure, to report to the licensing board by which the licensee is licensed every adverse judgment in a professional or occupational malpractice action to which the licensee is a party, and every settlement of a claim against the licensee alleging malpractice.

4. A licensee who willfully fails to comply with subsection 2 or 3 of this section commits a violation of this chapter for which licensee discipline may be imposed.

258A.10 Rules for revocation or suspension of license. A licensing board established after January 1, 1978 and pursuant to the provisions of this chapter shall by rule include provisions for the revocation or suspension of a license which shall include but is not limited to the following:

1. Fraud in procuring a license.

2. Professional incompetency.

3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical-conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

4. Habitual intoxication or addiction to the use of drugs.

5. Conviction of a felony related to the profession or occupation of the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

6. Fraud in representations as to skill or ability.

7. Use of untruthful or improbable statements in advertisements.

8. Willful or repeated violations of the provisions of this chapter.

