

CHAPTER 14
IOWA PHYSICIAN HEALTH COMMITTEE

653—14.1(272C) Iowa physician health committee. Pursuant to the authority of Iowa Code section 272C.3(1)“k,” the board establishes the Iowa physician health committee, formerly known as the impaired physician review committee.

653—14.2(272C) Definitions.

“*Board*” means the board of medicine of the state of Iowa.

“*Health contract*” or “*contract*” means the written document executed by an applicant or licensee and the IPHC which establishes the terms for participation in the Iowa physician health program.

“*Impairment*” means an inability, or significant potential for inability, to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any mental or physical disorder or disability. For the purposes of this program, “impairment” does not include sexual dysfunction, sexual addiction, sexual compulsivity, paraphilia, or other sexual disorder.

“*Initial Agreement*” means the written document establishing the initial terms for participation in the Iowa physician health program.

“*IPHC*” or “*committee*” means the Iowa physician health committee.

“*IPHP*” or “*program*” means the Iowa physician health program.

“*Participant*” means an applicant or licensee who does any of the following: self-reports an impairment to the Iowa physician health program, is referred to the Iowa physician health program by the board pursuant to 653—14.11(272C), signs an initial agreement with the Iowa physician health committee, or signs a contract with the Iowa physician health committee.

“*Referral by the board*” means the board has determined, with or without having taken disciplinary action, that the applicant or licensee is an appropriate candidate for participation in the IPHP pursuant to 653—14.11(272C).

“*Self-report*” means an applicant’s or a licensee’s providing written notification to the IPHC that the applicant or the licensee has been, is, or may be impaired. Information related to an impairment or a potential impairment which is provided on a license application or renewal form may be considered a self-report upon the request of the applicant or licensee and authorization from the board and agreement by the IPHC.

[ARC 8917B, IAB 6/30/10, effective 8/4/10; ARC 1188C, IAB 11/27/13, effective 1/1/14]

653—14.3(272C) Purpose. The IPHC assists and monitors the recovery, rehabilitation, or maintenance of licensees who self-report impairments or are referred by the board pursuant to 653—14.11(272C) and, as necessary, notifies the board in the event of noncompliance with contract provisions. The IPHC is both an advocate for licensees’ health and a means to protect the health and safety of the public.

[ARC 8917B, IAB 6/30/10, effective 8/4/10]

653—14.4(272C) Organization of the committee. The board shall appoint the members of the IPHC.

14.4(1) Membership. The membership of the IPHC includes, but is not limited to:

- a. The executive director of the board or the director’s designee from the board’s staff;
- b. One physician who has remained free of addiction for a period of no less than two years following successful completion of a board-approved recovery program, a board-ordered probation for alcohol or drug abuse, dependency, or addiction, or an IPHC contract;
- c. One practitioner with expertise in substance abuse/addiction treatment programs;
- d. One psychiatrist; and
- e. One public member.

14.4(2) Officers. The IPHC shall elect a chairperson and a co-chairperson or a vice chairperson at the last meeting of each calendar year to begin serving a one-year term on January 1.

- a. The chairperson and co-chairperson are responsible for offering guidance and direction to staff between regularly scheduled committee meetings, including negotiation and execution of initial

agreements, contracts, and program descriptions and interim restrictions on practice on behalf of the committee. The IPHC retains authority to review all interim decisions at its discretion.

b. The vice chairperson is responsible for providing guidance and direction to staff between regularly scheduled committee meetings if the chairperson is unavailable or unable to assist in a particular matter.

14.4(3) Terms. Committee members, except the executive director, shall be appointed for three-year terms, for a maximum of three terms. Terms shall expire on December 31 of the third year of the term. [ARC 1188C, IAB 11/27/13, effective 1/1/14]

653—14.5(272C) Eligibility. To be eligible for participation in the IPHP, an applicant or a licensee must self-report an impairment or potential impairment directly to the IPHP or be referred by the board for an impairment or potential impairment pursuant to 653—14.11(272C) and be determined by the IPHC to be an appropriate candidate for participation in the IPHP.

14.5(1) Participation in the program does not divest the board of its authority or jurisdiction over the participant. A participant with an impairment or potential impairment as defined at 653—14.2(272C) may retain eligibility to participate in the program if appropriate while subject to investigation or discipline by the board for matters other than the alleged impairment.

14.5(2) A participant may be determined to be ineligible to participate in the program as a self-reporter or a referral from the board if the committee finds sufficient evidence of any of the following:

a. The participant provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the IPHC.

b. The participant fails to sign a contract when recommended by the IPHC.

c. The IPHC determines it will be unable to assist the participant.

14.5(3) The IPHC shall report to the board any knowledge of violations of administrative rules or statutes other than the impairment, including, but not limited to, competency concerns or sexual misconduct.

[ARC 8917B, IAB 6/30/10, effective 8/4/10; ARC 1188C, IAB 11/27/13, effective 1/1/14]

653—14.6(272C) Type of program. The IPHP is an individualized recovery, rehabilitation, or maintenance program designed to meet the specific needs of the participant. The committee, in consultation with an IPHC-approved evaluator, shall determine the type of recovery, rehabilitation, or maintenance program required to treat the participant's impairment. The IPHC shall prepare a contract, to be signed by the participant, that shall provide a detailed description of the goals of the program, the requirements for successful participation, and the participant's obligations therein.

[ARC 1188C, IAB 11/27/13, effective 1/1/14]

653—14.7(272C) Terms of participation. A participant shall agree to comply with the terms for participation in the IPHP established in the initial agreement and contract. Terms of participation specified in the contract shall include, but are not limited to:

14.7(1) Duration. The length of time a participant may participate in the program shall be determined by the IPHC in accordance with the following:

a. Participation in the program for participants impaired as a result of alcohol or drug dependency or addiction is set at a minimum of five years. The IPHC may offer a contract with a shorter duration to a participant who can demonstrate successful participation in another state's physician health program, who can document similar experience, or who, as a board referral, has successfully completed a portion of the monitoring period established in the board order.

b. Length of participation in the program for participants with impairments resulting from mental or physical disorders or disabilities will vary depending upon the recommendations provided by an approved evaluator and the determination of the IPHC following review of all relevant information.

14.7(2) Noncompliance. A participant is responsible for promptly notifying the IPHC of all instances of noncompliance including a relapse. Notification of noncompliance made to the IPHC by

the participant, any person responsible for monitoring or treating the participant, or another party shall result in the following:

a. First instance. Upon receiving notification of a first instance of significant noncompliance including, but not limited to, a relapse, the IPHC shall make a report to the board which identifies the participant by IPHP case number, describes the relevant terms of the participant's contract and the noncompliance, and includes the IPHC's recommendation as to whether the participant should remain in the program. Upon receiving the report, the board shall determine if formal disciplinary charges should be filed, pursuant to 653—subrule 23.1(12).

b. Second instance. Upon receiving notification of a second instance of significant noncompliance including, but not limited to, a relapse, the IPHC shall refer the case and the participant's identity to the board for a determination of whether formal disciplinary charges should be filed or other appropriate action taken. In its referral, the IPHC may make recommendations as to whether the participant should be allowed to remain in the program.

14.7(3) Practice restrictions. The IPHC may impose restrictions on the license to practice the applicable profession as a term of the initial agreement or contract until such time as it receives a report from an approved evaluator and the IPHC determines, based on all relevant information, that the participant is capable of practicing with reasonable skill and safety. As a condition of participation in the program, a participant is required to agree to restrict practice in accordance with the terms specified in the initial agreement or contract. In the event that a participant refuses to agree to or comply with the restrictions established in the initial agreement or contract, the IPHC shall refer the participant to the board for appropriate action.

[ARC 8917B, IAB 6/30/10, effective 8/4/10; ARC 1188C, IAB 11/27/13, effective 1/1/14]

653—14.8(272C) Limitations.

14.8(1) The IPHC establishes the terms of and monitors a participant's compliance with the program specified in the initial agreement and contract. The IPHC is not responsible for participants who fail to comply with the terms of the initial agreement or contract or who fail to otherwise successfully complete the IPHP.

14.8(2) Participation in the IPHP shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. A participant who violates a statute or administrative rule of the board which is unrelated to impairment, including, but not limited to, competency concerns or sexual misconduct, shall be referred to the board in accordance with these administrative rules for appropriate action.

[ARC 1188C, IAB 11/27/13, effective 1/1/14]

653—14.9(272C) Confidentiality. Information in the possession of the board or the committee shall be subject to the confidentiality requirements of Iowa Code section 272C.6. Information about applicants or licensees in the program shall not be disclosed except as provided in this rule.

14.9(1) The IPHC is authorized pursuant to Iowa Code section 272C.6(4) to communicate information about a current or former IPHP participant to the applicable regulatory authorities or impaired licensee programs in the state of Iowa and in any jurisdiction of the United States or foreign nations in which the participant is currently licensed to practice medicine or in which the participant seeks licensure. IPHP participants must report their participation to the applicable physician health program or licensing authority in any state in which the participant is currently licensed or in which the participant seeks licensure.

14.9(2) The IPHC is authorized to communicate information about an IPHP participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance for the duration of the contract.

14.9(3) The IPHC is authorized to communicate information about an IPHP participant to the board in the event a participant does not comply with the terms of the contract as set forth in subrule 14.7(2). The IPHC may provide the board with a participant's IPHP file in the event the participant does not comply with the terms of the contract and the IPHC refers the case to the board for the filing of formal disciplinary charges or other appropriate action. If the board initiates disciplinary action against

a licensee for noncompliance with the terms of the contract, the board may include information about a licensee's participation in the IPHP in the statement of charges, settlement agreement and final order, or order following hearing. The IPHC is also authorized to communicate information about an IPHP participant to the board in the event the participant is under investigation by the board.

14.9(4) The IPHC is authorized to communicate information about a current or former IPHP participant to the board if reliable information held by the IPHC reasonably indicates a significant risk to the public exists. If the board initiates disciplinary action based upon this information, the board may include information about a licensee's participation in the IPHP in the statement of charges, settlement agreement and final order, or order following hearing if necessary to address impairment issues related to the violations which are the subject of the disciplinary action.

14.9(5) The IPHC shall file with the board a report on board-referred cases upon the licensee's successful completion of the program.

14.9(6) The IPHC shall maintain a participant's complete IPHP file for the ten-year period after a participant's contract has expired or is terminated. After that period, the Executive Summary and contract shall be retained.

[ARC 8917B, IAB 6/30/10, effective 8/4/10; ARC 1188C, IAB 11/27/13, effective 1/1/14]

653—14.10(28E) Authority for 28E agreements. The IPHC may enter into 28E agreements with other health professional licensing boards to evaluate, assist, and monitor impaired licensees from other health professions who self-report and to report to those professional licensing boards regarding the compliance of individual licensees. In the event of noncompliance, the licensee may be referred to the appropriate licensing board for appropriate disciplinary action. If the IPHC enters into a 28E agreement with another health professional licensing board, this chapter applies and the word "physician" shall be replaced with the word "licensee" for the purpose of interpreting this chapter.

653—14.11(272C) Board referrals to the Iowa physician health program.

14.11(1) Eligibility for board referral to IPHP. The board may refer to the IPHP a licensee or applicant for whom the following circumstances apply:

- a. The applicant or licensee has a potential impairment as defined in rule 653—14.2(272C).
- b. The board determines that the applicant or licensee is an appropriate candidate for participation in the IPHP.

NOTE: A licensee who is the subject of a formal board disciplinary order relating to an impairment must demonstrate a sufficient period of compliance with the disciplinary order before referral to the IPHP.

- c. The IPHC determines that the applicant or licensee is an appropriate candidate for participation in the IPHP.

14.11(2) Referral process.

- a. Determination of whether an applicant or licensee is appropriate for referral to the IPHP is in the sole discretion of the board. Upon the board's approval, a referral shall be made to the IPHP and board staff shall provide relevant information about the applicant or licensee to the IPHC.

- b. The IPHC shall make a determination whether the applicant or licensee is an appropriate candidate for participation in the IPHP. Upon this determination, the IPHC shall offer the referred applicant or licensee a health contract which provides a detailed description of the goals of the program, the requirements for successful participation, and the applicant's or licensee's obligations therein. See 653—14.6(272C).

- c. If the IPHC finds that the applicant or licensee is not an appropriate candidate for participation in the IPHP or if the applicant or licensee fails to sign the initial agreement or contract in the time period specified by the IPHC, the IPHC shall notify the board promptly.

- d. When the referred applicant or licensee signs the contract, the IPHC shall notify the board.

- e. Upon notification that the contract has been finalized for a participant who is the subject of a formal board disciplinary order relating to the impairment, the board shall file an order referring the licensee to the IPHP, and that order shall be a public record.

f. The IPHC shall notify the board upon the participant's successful completion of the program. The board may file an order recognizing the participant's successful completion of the program in cases where the referral was included in a public record. An order recognizing completion of the program shall be a public record.

g. Referral of an applicant or licensee by the board to the IPHP shall not relieve the board of any duties of the board and shall not divest the board of any authority or jurisdiction otherwise provided. Upon referral, the applicant or licensee shall be subject to the provisions of 653—Chapter 14. Specifically, the applicant or licensee shall be subject to board review and potential formal disciplinary action pursuant to subrule 14.7(2) for noncompliance with the provisions of the IPHP health contract.

14.11(3) *Investigation and disciplinary action on referrals.* Rescinded IAB 6/30/10, effective 8/4/10.

[ARC 8917B, IAB 6/30/10, effective 8/4/10; ARC 1188C, IAB 11/27/13, effective 1/1/14]

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