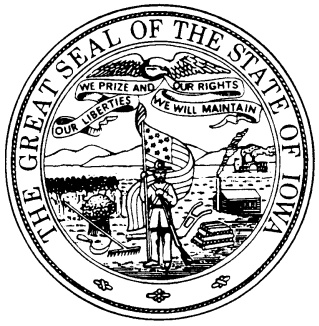
IOWA
COURT RULES

FIFTH EDITION

February 2020 Supplement



Published under the authority of Iowa Code section 2B.5B.

PREFACE

The Fifth Edition of the Iowa Court Rules was published in July 2009 pursuant to Iowa Code section 2B.5(2). Subsequent updates to the Iowa Court Rules, as ordered by the Supreme Court, are published in electronic format only and include chapters that have been amended or adopted.

The Iowa Court Rules and related documents are available at www.legis.iowa.gov/law/courtRules.

To receive e-mail notification of the publication of a Supplement to the Iowa Court Rules, subscribe at www.legis.iowa.gov/subscribe/subscriptions.

Inquiries. Inquiries regarding access to the Iowa Court Rules should be directed to the Legislative Services Agency's Computer Services Division Help Desk at 515.281.6506.

Citation. The rules shall be cited as follows:

Chapter 1	Iowa R. Civ. P.
Chapter 2	Iowa R. Crim. P.
Chapter 5	Iowa R. Evid.
Chapter 6	Iowa R. App. P.
Chapter 16	Iowa R. Elec. P.
Chapter 32	Iowa R. of Prof'l Conduct
Chapter 51	Iowa Code of Judicial Conduct

All other rules shall be cited as "Iowa Ct. R."

Supplements. Supplements to the Fifth Edition of the Iowa Court Rules have been issued as follows:

2009 — August, September, October, November, December
2010 — January, February, March, May, June, August, September, December
2011 — February
2012 — January, May, June, August, September, December
2013 — March, May, June, August, September, November, December
2014 — January, March, April, June, December
2015 — January, April, May, October, December
2016 — February, July, August, December
2017 — January, April, August, September, November, December
2018 — June, August, December
2019 — February, July, August, December

February 2020 Supplement

Changes in this supplement

Rule 7.4 ..... Amended
Rule 7.4, Form 1 ..... Adopted
Rule 7.11 ..... Amended
Rule 7.11, Forms 1 to 5 ..... Adopted
Rule 7.12 ..... Adopted
Rule 7.12, Forms 1 to 8 ..... Adopted
Rule 8.37 ..... Adopted
Rule 8.37, Forms 1 to 6 ..... Adopted
Rule 16.201(30) ..... Editorial change applied
Rule 32:8.3 ..... Editorial change applied
Rule 34.5 ..... Editorial change applied
Rule 46.16(3)(*g*) ..... Editorial change applied

INSTRUCTIONS FOR UPDATING THE IOWA COURT RULES

Replace Chapter 7
Replace Chapter 8
Replace Chapter 16
Replace Chapter 32
Replace Chapter 34
Replace Chapter 46

CHAPTER 7
RULES OF PROBATE PROCEDURE

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RULES OF PROBATE PROCEDURE

Rule 7.1 Effective removal order — turnover. When the court orders the removal of a fiduciary under Iowa Code section 633.65, such order, unless expressly providing otherwise, shall be effective as a turnover order under Iowa Code section 633.70, and without further order the fiduciary so removed shall turn over all personal property, money or securities to or for the fiduciary's successor at the clerk's office within five days after such order is filed.
[Court Order November 16, 1965; November 14, 1979; Report November 9, 2001, effective February 15, 2002]

Rule 7.2 Fees in probate.

7.2(1) Every report or application requesting an allowance of fees for personal representatives or their attorneys shall be written and verified as provided in Iowa Code section 633.35.

7.2(2) When fees for ordinary services are sought pursuant to Iowa Code sections 633.197 and 633.198, proof of the nature and extent of responsibilities assumed and services rendered shall be required. Unless special circumstances should be called to the court's attention, the contents of the court probate file may be relied upon as such proof. In determining the value of gross assets of the estate for purposes of Iowa Code section 633.197, the court shall not include the value of joint tenancy property excluded from the taxable estate pursuant to Iowa Code section 450.3(5) or the value of life insurance payable to a designated beneficiary.

7.2(3) When an allowance for extraordinary expenses or services is sought pursuant to Iowa Code section 633.199, the request shall include a written statement showing the necessity for such expenses or services, the responsibilities assumed, and the amount of extra time or expense involved. In appropriate cases, the statement shall also explain the importance of the matter to the estate and describe the results obtained. The request may be made in the final report or by separate application. It shall be set for hearing upon reasonable notice, specifying the amounts claimed, unless waivers of notice identifying the amounts claimed are filed by all interested persons. The applicant shall have the burden of proving such allowance should be made.

7.2(4) One half of the fees for ordinary services may be paid when the federal estate tax return, if required, and Iowa inheritance tax return, if required, are prepared. When a federal estate tax return is not required, the one-half fee may be paid when the Iowa inheritance tax return is prepared or, when it is not required, when the probate inventory required by the Iowa Probate Code is filed. The remainder of the fees may be paid when the final report is filed and the costs have been paid. The schedule for paying fees may be different when so provided by order of the court for good cause.

7.2(5) Every report or application requesting compensation for other fiduciaries and their attorneys pursuant to Iowa Code section 633.200 shall be written and verified.

7.2(6) When compensation has been allowed to a person employed by the fiduciary or attorney to assist the estate pursuant to Iowa Code section 633.84, the request for fees by the fiduciary shall disclose the identity of such person and the amount allowed, for consideration by the court in determining fees for the fiduciary pursuant to Iowa Code section 633.86.
[Court Order November 14, 1979; Report September 5, 1985, effective November 15, 1985; November 9, 2001, effective February 15, 2002; November 23, 2004, effective February 1, 2005]

Rule 7.3 District court rules in probate. A district court rule of probate and administration shall not be valid until it has been filed with the clerk of the supreme court and approved by that court.
[Court Order November 14, 1979; Report November 9, 2001, effective February 15, 2002]

Rule 7.4 Report of referee. A report of a referee in probate shall substantially comply with the form that accompanies this rule.
[Report November 9, 2001, effective February 15, 2002; Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.4—Form 1: ***Report of Referee***

In the Iowa District Court for _____ County	
In the Matter of the Estate of: _____ *Full name: first, middle, last* **Deceased.**	Probate no._____ **Report of Referee**

Comes now the duly appointed Referee and reports to the court as follows:
The Report has been filed in this Estate. The Referee has examined the Report and reports to the court as follows: *All questions must be answered. If "Yes" or "No" is not appropriate, check "N/A."*

		Yes	No	N/A
1.	Notice of Appointment published:	☐	☐	☐
2.	Affidavit of Mailing Notice required by			
	A. Iowa Code sections 633.230 and 633.304:	☐	☐	☐
	B. Iowa Code sections 633.231 and 633.304A (medical assistance claims):	☐	☐	☐
3.	Fiduciaries fees ordered or waived and affidavit of compensation filed:	☐	☐	☐
4.	Attorney fees ordered and affidavit of compensation filed:	☐	☐	☐
	A. Itemization requested and provided:	☐	☐	☐
	B. If not, statement required by Iowa Code section 633.477(11) made:	☐	☐	☐
5.	Income tax acquittance filed:	☐	☐	☐
6.	Inheritance tax clearance filed or certification required by Iowa Code section 450.58 made:	☐	☐	☐
7.	A list of distributees is shown:	☐	☐	☐
8.	A description of real estate is shown:	☐	☐	☐
9.	Certificates of change of title to real estate filed, as required:	☐	☐	☐
10.	All claims filed have been paid, disallowed, or released:	☐	☐	☐
11.	Notice of hearings on this Report waived:	☐	☐	☐
	If not waived, proper proof of service of notice is on file:	☐	☐	☐
12.	Accounting is waived:	☐	☐	☐
13.	Court costs have been paid:	☐	☐	☐
14.	Election filed by or for surviving spouse under Iowa Code section 633.236:	☐	☐	☐
15.	Receipts for all specific bequests:	☐	☐	☐

Continued on next page

Rule 7.4—Form 1: Report of Referee, continued

	Yes	No	N/A
16. Federal estate tax closing letter and proof of payment are on file (not required for closing):	☐	☐	☐
17. There is a statement that decedent left genetic material:	☐	☐	☐
A. Decedent left genetic material:	☐	☐	☐
B. If decedent left genetic material and was married at time of death, sufficient estate assets are reserved to fund distribution to posthumous heirs:	☐	☐	☐
C. Posthumous child (Iowa Code section 633.220A) or child born or adopted after execution of will (Iowa Code section 633.267):	☐	☐	☐
D. Final distributions will be made two years after decedent's death:	☐	☐	☐
E. Supplemental report will be submitted after final distributions:	☐	☐	☐

18. Remarks:

_____

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

19. Filer's information:

_____ _____, 20_____
Month *Day* *Year*
Date signed

_____ /s/_____
Printed name *Referee in probate signature*

_____
Law firm, if applicable

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

[Court Order November 14, 1979; December 3, 1981; November 14, 1984, effective November 26, 1984; Report September 5, 1985, effective November 15, 1985; February 18, 1987, effective July 1, 1987; September 23, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; July 23, 2003, effective October 1, 2003; November 30, 2005, effective March 1, 2006; April 11, 2008, effective July 1, 2008; May 23, 2014, effective August 16, 2014; December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.5 Referees in probate.

7.5(1) *Duties.*

a. Referees as masters. Unless otherwise directed by the court, a referee in probate appointed by the district court pursuant to Iowa Code section 633.20, and determined by the court to be qualified to serve as a master, shall have the powers to perform all the duties required of masters appointed by the court in civil actions (Iowa Rs. Civ. P. 1.935 - 1.942) and shall examine all reports, applications and petitions in probate and in trusts requiring action by the court.

b. Other referees. A referee in probate not determined by the court to be qualified to serve as a master shall have authority to examine probate files to make the report provided by rule 7.4.

c. Referee reports. The report of the referee shall be in writing on a form which substantially complies with the form that accompanies these rules and shall contain such matters as the court may request as shown by the files and reports in the clerk's office. If the referee is authorized to act as a master, the report shall also contain recommendations of the referee as to what ought to be done relative to the reports when considered by the court. No final report will be approved until the report of the referee is presented to the court, it being contemplated that such presentation shall be made expeditiously and without delay.

d. Other duties. In addition to the powers and duties of the referee in probate prescribed by this rule, the referee shall perform such duties as the court may require.

7.5(2) *Fees.*

a. The referee shall be paid a fee for services as permitted under a schedule established under Iowa Code section 633.21, unless a referee and any assistant are appointed for the county for all matters in probate in the county and are paid an annual compensation.

b. Referee fees shall be taxed and collected by the clerk as other costs, and such fees shall be in addition to all other fees charged and collected by the clerk in probate matters as required by Iowa Code section 633.31.

c. In such cases where a referee and any assistant are paid an annual compensation, any excess of fees remaining after payment of such other expenses as are approved by the court shall be disbursed pursuant to the Code.

[Court Order December 18, 1980, effective January 1, 1981; Report November 9, 2001, effective February 15, 2002]

Rule 7.6 Reports of delinquent inventories or reports.

7.6(1) The clerk's report to the presiding judge required by Iowa Code section 633.32, of all delinquent inventories or reports in estates, trusts, guardianships or conservatorships shall contain, in addition to the information required by Iowa Code section 633.32(3), a copy of each delinquency notice and, if they do not appear on the face of the delinquency notice, the following information for each delinquent inventory or report:

a. The probate number of the matter.

b. The title of the matter.

c. An indication of whether the matter is an estate, trust, guardianship, or conservatorship.

d. The name and address of the fiduciary.

e. The name and address of the attorney, if any, for the fiduciary.

f. The type of delinquent inventory or report.

g. The date notice of delinquency was given.

h. A statement that the required report or inventory or an order extending time for a specified period was not filed within 60 days after the giving of notice of delinquency.

i. The date the matter was opened.

j. The name of the last paper filed by the fiduciary or attorney and the date of filing such paper.

k. The number, including "zero" if appropriate, of previous delinquency notices given in the matter and ignored.

7.6(2) The clerk shall submit a copy of the report to the chief judge of the judicial district and the state court administrator in addition to the presiding judge as required by Iowa Code section 633.32(2). If an order extending time for a specified period was filed but not complied with, the clerk shall proceed as in instances in which an order is not filed.

7.6(3) The state court administrator shall utilize the reports in the discharge of the duties prescribed in Iowa Code section 602.1209 and, in addition, shall prepare a list of the attorneys for fiduciaries who have received and ignored a notice of delinquency. The state court administrator shall transmit

the list of attorneys, together with other relevant information, to the Iowa Supreme Court Attorney Disciplinary Board and to the Client Security Commission.

7.6(4) The Iowa Supreme Court Attorney Disciplinary Board, as a commission of the supreme court pursuant to Iowa Ct. R. 35.2, shall communicate with each attorney licensed to practice law in Iowa whose name appears on the list transmitted to the board pursuant to rule 7.6(3). If the board determines there is reasonable cause to believe an attorney for a fiduciary has violated Iowa R. of Prof'l Conduct 32:1.3 or 32:3.2 for failure to file a required inventory or report within 60 days after receiving notice of delinquency, or within an extension of time for a specified period granted by order, the board shall initiate appropriate disciplinary action. The board chairperson shall include the number of attorneys investigated and complaints initiated and processed pursuant to this rule, a synopsis of each such complaint, and the disposition thereof, in the annual board report to the supreme court required by Iowa Ct. R. 35.25.

7.6(5) The assistant court administrator of the disciplinary system is authorized to inquire into the status of any delinquent probate inventory or report.

[Court Order March 13, 1980; October 20, 1981; 1983 Iowa Acts, chapter 186, §10151; January 17, 1995, effective April 3, 1995; Report November 9, 2001, effective February 15, 2002; August 29, 2002, effective December 1, 2002; April 20, 2005, and July 1, 2005, effective July 1, 2005; February 20, 2012]

Rule 7.7 Interlocutory report. If the final report of the personal representative required by Iowa Code section 633.477 is not filed within 18 months after the date of the second publication of the notice to creditors, the personal representative shall at that time file an interlocutory report in accordance with Iowa Code section 633.469. The report shall identify the work remaining to be done in the estate and shall include an estimate of the period within which the work will be completed. The personal representative shall provide copies of the report to all interested parties by mailing, and proof of mailing shall be filed with the clerk. An order of the court approving the report shall not be required unless hearing on the report is held upon request of the personal representative or an interested party. The provisions of Iowa Code section 633.32 and rule 7.6 shall apply to the report required by this rule.

[Report August 22, 1985, effective November 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 7.8 Guardian and conservator filing requirements.

7.8(1) The court shall not waive any guardian requirement to file an initial, annual, or final report.

7.8(2) The court shall not waive any conservator requirement to file an inventory, annual report and accounting, or final report.

7.8(3) The court may extend the time for any required filing of a guardian or conservator only upon the showing of good cause.

7.8(4) Upon a failure of a guardian or conservator to make any required filing, and after notice and opportunity to cure the failure, the court may impose sanctions on the guardian or conservator including removal of the guardian or conservator.

[Court Order March 7, 2018, effective January 1, 2019]

Rules 7.9 and **7.10** Reserved.

Rule 7.11 Adult guardianships; forms mandatory for self-represented litigants. An individual serving as guardian for an adult guardianship without attorney representation must use forms contained in this rule for required filings. An attorney may use these forms but is not required to do so.

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.11—Form 1: *Protected Information Disclosure*

- *If information is abbreviated on other rule 7.11 forms, use this form to include the protected information in full.*

In the Iowa District Court for _____ County

In the Matter of the Guardianship of:	Probate no._____
_____ *Full name: first, middle, last*	**Protected Information Disclosure**
Protected Person.	

When protected information, as defined in Iowa Court Rule 16.602, is required by law or is material to the case and is therefore included in nonconfidential documents on nonconfidential cases, a party must record the protected information on this form.

For an explanation of a filer's responsibility and the procedures to use for protecting personal information, refer to Iowa Court Rules: Chapter 16, Rules of Electronic Procedure, Division VI, Protection of Personal Privacy. Rule 16.602 provides the list of protected information. Rule 16.604 provides a list of information that may be redacted or partially provided.

1. Protected Person. *The person who is the subject of the guardianship.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*
C. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
E. *Additional protected information*	*Full information*	*Partial information*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Protected Person.*

Continued on next page

Rule 7.11—Form 1: Protected Information Disclosure, continued

2. Petitioner. *The person filing the petition for appointment of a guardian.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	Complete information (See rules 16.602 and 16.604)	Redacted information (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*
C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Petitioner.*

3. Proposed Guardian or Guardian. *The proposed, or current, guardian of the protected person.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	Complete information (See rules 16.602 and 16.604)	Redacted information (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*
C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*

Continued on next page

Rule 7.11—Form 1: Protected Information Disclosure, continued

F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Proposed Guardian or Guardian.*

4. Other Persons. *Any other person with information redacted in the documents you file.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*
C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Other Person.*

Continued on next page

Rule 7.11—Form 1: Protected Information Disclosure, continued

5. Information provided by:

_____ /s/_____
Printed name *Signature*

_____
Law firm, if applicable

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

_____ _____, 20_____
Month *Day* *Year*
Date signed

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.11—Form 2: ***Background Check Information for a Proposed Guardian of a Protected Person***

Instructions:

- Iowa Code section 633.564 requires the court to conduct a criminal records check and checks of the child abuse, dependent adult abuse, and sex offender registry for a proposed guardian of a protected person, and requires the proposed guardian to pay the background check fee ($15.00). *Note: The clerk of court will keep this information form* ***confidential.***
- Do not give copies of this form to anyone except the clerk of court or your attorney, if you have one.
- If there is no existing conservatorship approved by the court, file this form and a Petition to Establish a Guardianship for a Protected Person with the clerk of court.

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County

In the Matter of the Guardianship of: _____ *Full name: first, middle, last* **Protected Person.**	Probate no._____ **Background Check Information for a Proposed Guardian of a Protected Person** Iowa Code § 633.564

Guardian states as follows:

1. Proposed Guardian's personal information

A. Current legal name

_____	_____	_____
Full first name	*Full middle name (write "N/A" if no middle name)*	*Full last name*

B. Personal identifying information

___/___/_____	_____	___-___-_____
Date of birth (month/day/year)	*Gender*	*Social security number*

C. All other names ever used (including any other previous legal names and nicknames)

Alternate name #1

_____	_____	_____
Full first name	*Full middle name (write "N/A" if no middle name)*	*Full last name*

Alternate name #2

_____	_____	_____
Full first name	*Full middle name (write "N/A" if no middle name)*	*Full last name*

Continued on next page

Rule 7.11—Form 2: Background Check Information for a Proposed Guardian of a Protected Person, continued

	Full first name	Full middle name (write "N/A" if no middle name)	Full last name
Alternate name #3			
Alternate name #4			
Alternate name #5			
Alternate name #6			
Alternate name #7			
Alternate name #8			
Alternate name #9			

2. Certification and release authorization

Certification: I confirm that the information provided above is true and correct.

Release Authorization: I give permission for the court to conduct an Iowa criminal history record check with the Division of Criminal Investigation (DCI). Any criminal history data concerning me maintained by the DCI may be released as allowed by law. I understand this can include information concerning cases expunged from court records, successful completion of the terms of a deferred judgment, if any, and arrests without dispositions.

Signature of proposed guardian	Month	Day	Year

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.11—Form 3: *Guardian's Initial Care Plan for Protected Person*

Instructions:

- Guardian must complete, sign, and file this form with the court within sixty (60) days of appointment.
- Do not include protected information on this form. For protected information, complete Rule 7.11—Form 1: Protected Information Disclosure.
- The purpose of the Initial Care Plan is to provide the court with a complete picture of Protected Person's current situation, Protected Person's needs, and Guardian's plan to meet those needs.
- Provide as much detailed information as possible.

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County

In the Matter of the Guardianship of: _____ *Full name: first, middle, last* **Protected Person.**	Probate no._____ **Guardian's Initial Care Plan for Protected Person** Iowa Code § 633.669(1)(*a*)

Guardian states as follows:

1. Guardian's information

A. Guardian's name:

_____
Full name: first, middle, last

B. Guardian is Protected Person's: *Check one*

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Other: _____

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

2. Protected Person's information

A. Protected Person's age: _____.

B. Reason for guardianship:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's highest education level attained:

☐ High school

☐ College or university

☐ Other: _____

D. Does Protected Person have a Living Will?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(2).

(1) Do you have a copy of Protected Person's Living Will?

☐ Yes ☐ No

(2) Where is the Living Will located?

_____
Full name: first, middle, last / business name

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

E. Does Protected Person have a Healthcare Power of Attorney?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(2).

(1) Who is serving as the agent (attorney-in-fact)?

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

(2) Where is the Healthcare Power of Attorney located?

_____
Full name: first, middle, last / business name

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

3. Protected Person's residence and interaction with Guardian

A. Does Protected Person currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

If you checked Yes, *complete the next section.*

Describe Guardian's daily interaction with Protected Person:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

☐ No

If you checked No, *complete* (1)–(5).

(1) Protected Person's current residence:

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(2) Date Protected Person began living at current residence:

_____ _____, 20____.
Month *Day* *Year*

(3) How often does Guardian plan to visit or have other contacts (e.g., by mail, email, social media, and phone) with Protected Person? *Check all that apply*

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(4) How does Guardian plan to interact with Protected Person? *Check all that apply*

☐ In person

☐ Mail, email, or social media

☐ Phone

☐ Other: _____

(5) Describe the types of activities with or on behalf of Protected Person that Guardian plans:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

B. Does Protected Person's current living situation best meet Protected Person's future needs?

☐ Yes ☐ No

If No, describe Guardian's plan for meeting those needs:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

4. Protected Person's expenses

A. Estimate of Protected Person's expenses:

Type of expense	**Amount estimated** *Check one* ☐ **monthly** ☐ **annual**
(1) House payment or rent	$
(2) Food *At home and restaurants*	$
(3) Transportation *(gas, bus fare) Not car loan payments – see (14).*	$
(4) Clothing	$
(5) Medical, dental *Not health insurance payments – see (10).*	$
(6) Utilities *(gas, electric, water)*	$
(7) Phone	$
(8) Cable / satellite television / internet	$
(9) Car insurance payment	$

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

(10) Health insurance payment	$
(11) Transportation	$
(12) Educational or vocational training expenses	$
(13) Credit card payments	$
(14) Car loan payments	$
(15) Other loan payments	$
(16) Other expense *Identify:*	$
(17) Other expense *Identify:*	$
(18) Other expense *Identify:*	$
(19) Other expense *Identify:*	$
(20) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding expenses.*	$
Total expenses	$

B. Who will pay Protected Person's expenses? *Check all that apply*

☐ Guardian

☐ Spouse

☐ Adult sibling or siblings

☐ One or both of Protected Person's parents

☐ A court-appointed conservator

☐ Other: _____

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

C. Information regarding payer of Protected Person's expenses:

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

D. If Guardian is responsible for paying Protected Person's expenses, describe Guardian's plan for payment of Protected Person's living expenses and other expenses:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

5. Protected Person's health

A. Protected Person's physical health

(1) Describe Protected Person's current medical health status, identifying any medical concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's medical care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

B. Protected Person's dental health

(1) Describe Protected Person's current dental health status, identifying any dental health concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's dental health care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's mental health

(1) Describe Protected Person's current mental health status, identifying any mental, cognitive, behavioral, or emotional concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's mental, cognitive, behavioral, or emotional needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

D. Other health concerns

(1) Identify any other health care concerns related to Protected Person:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting other health care concerns identified:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

6. Protected Person's education, training, and other vocational services and employment status

A. Is Protected Person enrolled in or attending school?

☐ Yes ☐ No

If you checked Yes*, complete* (1)–(2).

(1) School information:

_____

School name where Protected Person is enrolled or attending

_____

School mailing address

_____ _____ _____

City *State* *ZIP code*

(2) Does Protected Person receive or need special education or related services?

☐ Yes ☐ No

If Yes, describe:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

B. Is Protected Person employed?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(3).

(1) Protected Person is employed:

☐ Full-time

☐ Part-time

☐ Other: _____

(2) Employer's information:

_____
Employer's name

_____
Employer's mailing address

_____ _____ _____
City *State* *ZIP code*

_____
Supervisor's name

(_____) _____ _____
Supervisor's phone number *Supervisor's email address*

(3) Describe Protected Person's employee duties:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Does Protected Person receive or need educational, training, or other vocational assistance?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(2).

(1) Describe Protected Person's educational, training, and vocational needs:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

(2) Guardian's plan for meeting educational, training, and vocational needs identified:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

7. Other professional services

A. Does Protected Person require any professional services other than those listed above?

☐ Yes ☐ No

If you checked Yes, *complete* B *and* C, *otherwise skip to* **8**.

B. Other professional services Protected Person requires:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Guardian's plan to provide the professional services required:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

8. Protected Person's social activities

A. Does Protected Person require assistance with participation in social activities?

☐ Yes ☐ No

If you checked Yes, *complete the next section.*

Continued on next page

B. Guardian's plan for assisting Protected Person's participation in social activities:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

9. Protected Person's contact with family members and other significant persons

A. Will arrangements be made for regular contacts between Protected Person and Protected Person's family members (e.g., spouse, parents, adult children, and adult spouse)?

☐ Yes

If you checked Yes*, complete the following sections as appropriate.*

(1) Family member's name: _____.

Relationship to Protected Person: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

(2) Family member's name: _____.

Relationship to Protected Person: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional family members.*

☐ No

If you checked No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

B. Will arrangements be made for regular contacts between Protected Person and other significant persons (e.g., friends, former co-workers, and clergy)?

☐ Yes

If you checked Yes*, complete the following sections as appropriate.*

(1) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional significant persons.*

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

☐ No

If you checked No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

10. Additional information

Additional information that may be useful for the court to know in determining what is in Protected Person's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

11. Fees for Guardian

Check one

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

12. Fees for Guardian's attorney

Check one

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

Continued on next page

Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person, continued

13. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B*, you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

14. Oath and signature of Guardian

I, _____, have read this Initial Care Plan, and I certify
Print your name

under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Initial Care Plan is true and correct.

_____ _____, 20___ _____
Month *Day* *Year* *Signature**

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.11—Form 4: *Guardian's Annual Report for Protected Person*

Instructions:

- Guardian must complete, sign, and file this form with the court within thirty (30) days of the close of the reporting period.
- Do not include protected information on this form. For protected information, complete Rule 7.11—Form 1: Protected Information Disclosure.
- The purpose of the Annual Report is to provide the court with a complete picture of Protected Person's current situation as well as developments that occurred during the reporting period.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County

In the Matter of the Guardianship of: _____ *Full name: first, middle, last* **Protected Person.**	Probate no._____ **Guardian's Annual Report for Protected Person** Iowa Code § 633.669(1)(*b*)

Guardian states as follows:

1. Reporting period

This report is for the period from: _____/_____/_____ to _____/_____/_____.
Month Day Year Month Day Year

2. Guardian's information

A. Guardian's name:

_____
Full name: first, middle, last

B. Guardian is Protected Person's: *Check one*

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Other: _____

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

3. Protected Person's information

A. Protected Person's age: _____.

B. Protected Person's highest education level attained:

☐ High school

☐ College or university

☐ Other: _____

C. Does Protected Person have a Living Will?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(2).

(1) Do you have a copy of Protected Person's Living Will?

☐ Yes ☐ No

(2) Where is the Living Will located?

_____
Full name: first, middle, last / business name

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

D. Does Protected Person have a Healthcare Power of Attorney?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(2).

(1) Who is serving as the agent (attorney-in-fact)?

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

(2) Where is the Healthcare Power of Attorney located?

_____
Full name: first, middle, last / business name

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

4. Continuation of guardianship

A. Guardianship is recommended to be: *Check one*

☐ Continued

☐ Terminated

If you checked Terminated, *provide an explanation. A court hearing may be required on the matter of termination.*

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Ability of Guardian to continue as guardian: *Check one*

☐ Guardian is able and willing to continue as Guardian.

☐ Guardian is unable or unwilling to continue as Guardian. Explain why:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

C. Assistance requested:

Identify any assistance Guardian needs in providing or arranging for care of Protected Person.

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

5. Protected Person's residence and interaction with Guardian

A. Does Protected Person currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

If you checked Yes*, complete the next section.*

Describe Guardian's daily interaction with Protected Person during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ No

If you checked No*, complete sections* (1)–(4).

(1) Protected Person's current residence:

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(2) Date Protected Person began living at current residence:

_____ _____, 20____.
Month *Day* *Year*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

(3) What types of contacts did Guardian have with Protected Person during the reporting period and how often? *Check all that apply*

☐ In person

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Mail, email, or social media

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Phone

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Other type of contact: _____

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

(4) Summarize the types of activities with or on behalf of Protected Person that Guardian performed during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

B. Does Protected Person's current living situation best meet Protected Person's future needs?

☐ Yes ☐ No

If No, describe Guardian's plan for meeting those needs:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

6. Protected Person's expenses

A. Estimate of Protected Person's expenses for the next reporting period:

Type of expense	**Amount estimated** *Check one* ☐ **monthly** ☐ **annual**
(1) House payment or rent	$
(2) Food *At home and restaurants*	$
(3) Transportation *(gas, bus fare)* *Not car loan payments – see (14).*	$
(4) Clothing	$
(5) Medical, dental *Not health insurance payments – see (10).*	$
(6) Utilities *(gas, electric, water)*	$
(7) Phone	$
(8) Cable / satellite television / internet	$
(9) Car insurance payment	$

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

(10) Health insurance payment	$
(11) Transportation	$
(12) Educational or vocational training expenses	$
(13) Credit card payments	$
(14) Car loan payments	$
(15) Other loan payments	$
(16) Other expense *Identify:*	$
(17) Other expense *Identify:*	$
(18) Other expense *Identify:*	$
(19) Other expense *Identify:*	$
(20) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding expenses.*	$
Total expenses	$

B. Who will pay Protected Person's expenses? *Check all that apply*

☐ Guardian

☐ Spouse

☐ Adult sibling or siblings

☐ One or both of Protected Person's natural parents

☐ A court-appointed conservator

☐ Other: _____

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

C. Information regarding payer of Protected Person's expenses:

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

D. If Guardian is responsible for paying Protected Person's expenses, describe Guardian's plan for payment of Protected Person's living expenses and other expenses during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

7. Protected Person's health

A. Protected Person's physical health

(1) Summarize Protected Person's medical health status during the reporting period, identifying any medical concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's future medical care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

B. Protected Person's dental health

(1) Summarize Protected Person's dental health status during the reporting period, identifying any dental concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's future dental health care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's mental health

(1) Summarize Protected Person's mental health status during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Protected Person's future mental, cognitive, behavioral, or emotional needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

D. Other health concerns

(1) Summarize any other health care concerns related to Protected Person that occurred during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting other health care concerns identified:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

8. Protected Person's education, training, and other vocational services and employment status

A. Did Protected Person attend school during the reporting period?

☐ Yes ☐ No

If you checked Yes*, complete* (1)–(2).

(1) School information:

_____

School name Protected Person attended

_____

School mailing address

_____ _____ _____

City *State* *ZIP code*

(2) Did Protected Person receive special education or related services during the reporting period?

☐ Yes ☐ No

If Yes, describe what services were received:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

B. Was Protected Person employed during the reporting period?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(3).

(1) Protected Person was employed:

☐ Full-time

☐ Part-time

☐ Other: _____

(2) Employer's information:

_____
Employer's name

_____
Employer's mailing address

_____ _____ _____
City *State* *ZIP code*

_____
Supervisor's name

(_____) _____ _____
Supervisor's phone number *Supervisor's email address*

(3) Describe Protected Person's employee duties:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Did Protected Person receive educational, training, or other vocational assistance during the reporting period?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(2).

(1) Describe the educational, training, and vocational assistance Protected Person received during the reporting period:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

(2) Guardian's plan for meeting Protected Person's future educational, training, and vocational needs, if any:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

9. Other professional services

A. Did Protected Person receive any professional services other than those listed above during the reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Protected Person received during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Guardian plan to provide Protected Person with any professional services other than those listed above during the next reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Guardians plan to provide Protected Person during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

10. Protected Person's social activities

A. Did Protected Person require assistance with participation in social activities during the reporting period?

☐ Yes ☐ No

If Yes, describe how Guardian assisted Protected Person with participation in social activities:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Guardian plan to provide Protected Person with any assistance with participation in social activities during the next reporting period?

☐ Yes ☐ No

If Yes, describe Guardian's plan for assisting Protected Person's participation in social activities during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

11. Protected Person's contact with family members and other significant persons

A. Did Protected Person interact with any family members (e.g., spouse, natural parents, adult children, and adult spouse) during the reporting period?

☐ Yes

If you checked Yes*, complete the following sections as appropriate.*

(1) Family member's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Will arrangements be made for regular contacts between Protected Person and this family member during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

(2) Family member's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Will arrangements be made for regular contacts between Protected Person and this relative during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional family members.*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

☐ No

If you checked No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Did Protected Person interact with any other significant persons (e.g., friends, former co-workers, and clergy) during the reporting period?

☐ Yes

If you checked Yes, *complete the following sections as appropriate.*

(1) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

Will arrangements be made for regular contacts between Protected Person and this significant person during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Will arrangements be made for regular contacts between Protected Person and this significant person during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional significant persons.*

Continued on next page

☐ No

If you checked No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

12. Additional information

Additional information that may be useful for the court to know in determining what is in Protected Person's best interest:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

13. Fees for Guardian

Check one

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

14. Fees for Guardian's attorney

Check one

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

Continued on next page

Rule 7.11—Form 4: Guardian's Annual Report for Protected Person, continued

15. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B*, you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

16. Oath and signature of Guardian

I, _____, have read this Annual Report, and I certify under
Print your name
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Annual Report is true and correct.

_____ _____, 20____ _____
Month *Day* *Year* *Signature**

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.11—Form 5: *Guardian's Final Report for Protected Person*

Instructions:

- Guardian must complete, sign, and file this form with the court within thirty (30) days of the termination of the guardianship.
- Do not include protected information on this form. For protected information, complete Rule 7.11—Form 1: Protected Information Disclosure.
- The purpose of the Final Report is to provide the court with a complete picture of Protected Person's current situation as well as developments that occurred during the reporting period prior to the termination of the guardianship.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County

In the Matter of the Guardianship of: _____ *Full name: first, middle, last* **Protected Person.**	Probate no._____ **Guardian's Final Report for Protected Person** Iowa Code § 633.669(1)(*c*)

Guardian states as follows:

1. Reporting period

This report is for the period from: _____/_____/_____to_____/_____/_____.
Month Day Year Month Day Year

2. Guardian's information

A. Guardian's name:

_____
Full name: first, middle, last

B. Guardian is Protected Person's: *Check one*

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Other: _____

Continued on next page

Rule 7.11—Form 5: Guardian's Final Report for Protected Person, continued

3. Protected Person's information

A. Protected Person's age: _____.

B. Protected Person's highest education level attained:

☐ High school

☐ College or university

☐ Other: _____

C. Does Protected Person have a Living Will?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(2).

(1) Do you have a copy of Protected Person's Living Will?

☐ Yes ☐ No

(2) Where is the Living Will located?

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

D. Does Protected Person have a Healthcare Power of Attorney?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(2).

(1) Who is serving as the agent (attorney-in-fact)?

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.11—Form 5: Guardian's Final Report for Protected Person, continued

(2) Where is the Healthcare Power of Attorney located?

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

4. Termination of guardianship

The guardianship has been or should be terminated because: *Check one*

☐ Protected Person is deceased

☐ A different guardian was appointed

☐ Other reason:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

5. Protected Person's residence and interaction with Guardian

Does Protected Person currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

If you checked Yes*, complete the next section.*

Describe Guardian's daily interaction with Protected Person during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 5: Guardian's Final Report for Protected Person, continued

☐ No

If you checked No, *complete sections* (1)–(4).

(1) Protected Person's current residence:

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(2) Date Protected Person began living at current residence:

_____ ____, 20____.
Month *Day* *Year*

(3) What types of contacts did Guardian have with Protected Person during the reporting period and how often? *Check all that apply*

☐ In person
- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Mail, email, or social media
- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Phone
- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Other type of contact: _____
- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

Continued on next page

(4) Summarize the types of activities with or on behalf of Protected Person that Guardian performed during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

6. Protected Person's expenses

A. Who will be paying Protected Person's expenses after the termination of this guardianship? *Check all that apply*

☐ Guardian

☐ Another guardian

☐ Spouse

☐ Adult sibling or siblings

☐ One or both of Protected Person's natural parents

☐ A court-appointed conservator

☐ Other: _____

B. Information regarding payer of Protected Person's expenses:

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.11—Form 5: Guardian's Final Report for Protected Person, continued

7. Protected Person's health

A. Protected Person's physical health

Summarize Protected Person's medical health status during the reporting period, identifying any medical concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Protected Person's dental health

Summarize Protected Person's dental health status during the reporting period, identifying any dental concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's mental health

Summarize Protected Person's mental health status during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

D. Other health concerns

Summarize any other health care concerns related to Protected Person that occurred during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

8. Protected Person's education, training, and other vocational services and employment status

A. Did Protected Person attend school during the reporting period?

☐ Yes ☐ No

If you checked Yes*, complete* (1)–(2).

(1) School information:

_____
School name Protected Person attended

_____
School mailing address

_____ _____ _____
City *State* *ZIP code*

(2) Did Protected Person receive special education or related services during the reporting period?

☐ Yes ☐ No

If Yes, describe what services were received:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 5: Guardian's Final Report for Protected Person, continued

B. Was Protected Person employed during the reporting period?

☐ Yes ☐ No

If you checked Yes, *complete* (1)–(3).

(1) Protected Person was employed:

☐ Full-time

☐ Part-time

☐ Other: _____

(2) Employer's information:

_____
Employer's name

_____
Employer's mailing address

_____ _____ _____
City *State* *ZIP code*

(3) Describe Protected Person's employee duties:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Did Protected Person receive educational, training, or other vocational assistance during the reporting period?

☐ Yes ☐ No

If you checked Yes, *complete the next section.*

Describe the educational, training, and vocational assistance Protected Person received during the reporting period:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

9. Other professional services

Did Protected Person receive any professional services other than those listed above during the reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Protected Persons received during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

10. Protected Person's social activities

Did Protected Person require assistance with participation in social activities during the reporting period?

☐ Yes ☐ No

If Yes, describe how Guardian assisted Protected Person with participation in social activities:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 5: Guardian's Final Report for Protected Person, continued

11. Protected Person's contact with family members and other significant persons

A. Did Protected Person interact with any family members (e.g., spouse, natural parents, adult children, and adult spouse) during the reporting period?

☐ Yes

If you checked Yes*, complete the following sections as appropriate.*

(1) Family member's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Family member's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional family members.*

Continued on next page

Rule 7.11—Form 5: Guardian's Final Report for Protected Person, continued

☐ No

If you checked No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Did Protected Person interact with any other significant persons (e.g., friends, former co-workers, and clergy) during the reporting period?

☐ Yes

If you checked Yes, *complete the following sections as appropriate.*

(1) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 5: Guardian's Final Report for Protected Person, continued

(2) Significant person's name: _____.

Relationship to Protected Person: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional significant persons.*

☐ No

If you checked No*, complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.11—Form 5: Guardian's Final Report for Protected Person, continued

12. Additional information

Additional information that may be useful for the court to know in determining what is in Protected Person's best interest:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information*

13. Fees for Guardian

Check one

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

14. Fees for Guardian's attorney

Check one

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

15. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B, *you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.11—Form 5: Guardian's Final Report for Protected Person, continued

16. Oath and signature of Guardian

I, _____, have read this Final Report, and I certify under
Print your name

penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Final Report is true and correct.

_____ _____, 20___ _____
Month *Day* *Year* *Signature**

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.12 Conservatorships; forms mandatory for self-represented litigants. An individual serving as conservator for a conservatorship without attorney representation must use forms contained in this rule for required filings. An attorney may use these forms but is not required to do so.

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.12—Form 1: *Protected Information Disclosure*

- *If information is abbreviated on other rule 7.12 forms, use this form to include the protected information in full.*

In the Iowa District Court for _____ County

In the Matter of the Conservatorship of:	Probate no._____
_____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.**	**Protected Information Disclosure**

When protected information, as defined in Iowa Court Rule 16.602, is required by law or is material to the case and is therefore included in nonconfidential documents on nonconfidential cases, a party must record the protected information on this form.

For an explanation of a filer's responsibility and the procedures to use for protecting personal information, refer to Iowa Court Rules: Chapter 16, Rules of Electronic Procedure, Division VI, Protection of Personal Privacy. Rule 16.602 provides the list of protected information. Rule 16.604 provides a list of information that may be redacted or partially provided.

1. Protected Person. *The person who is the subject of the conservatorship.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Protected Person's full name (if minor)	*Full name*	*Initials only*
B. Social security number	- -	*Last four digits only*
C. Date of birth	/ / *mm/dd/yyyy*	*Year only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*

Continued on next page

Rule 7.12—Form 1: Protected Information Disclosure, continued

H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Protected Person.*

2. Petitioner. *The person filing the petition for appointment of a conservator.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*
C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Petitioner.*

3. Parent. *If requesting a conservatorship of a minor, the person who has legal custody of the minor.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*

Continued on next page

Rule 7.12—Form 1: Protected Information Disclosure, continued

C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Parent.*

4. Additional Parent. *If requesting a conservatorship of a minor, any other person who has legal custody of the minor.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*
C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Additional Parent.*

Continued on next page

Rule 7.12—Form 1: Protected Information Disclosure, continued

5. Proposed Conservator or Conservator. *The proposed, or current, conservator of the protected person.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*
C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Proposed Conseravtor or Conservator.*

6. Other Persons. *Any other person with information redacted in the documents you file.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*
C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*

Continued on next page

Rule 7.12—Form 1: Protected Information Disclosure, continued

E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Other Person.*

7. Information provided by:

_____ /s/_____
Printed name *Signature*

_____
Law firm, if applicable

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

_____ _____, 20_____
Month *Day* *Year*
Date signed

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.12—Form 2: ***Background Check Information for a Proposed Conservator of a Protected Person***

Instructions:

- Iowa Code section 633.564 requires the court to conduct a criminal records check and checks of the child abuse, dependent adult abuse, and sex offender registry for a proposed conservator of a protected person, and requires the proposed conservator to pay the background check fee ($15.00). *Note: The clerk of court will keep this information form* ***confidential****.*
- Do not give copies of this form to anyone except the clerk of court or your attorney, if you have one.
- If there is no existing conservatorship approved by the court, file this form and a Petition to Establish a Conservatorship for a Protected Person with the clerk of court.

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County

In the Matter of the Conservatorship of: _____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.**	Probate no._____ **Background Check Information for a Proposed Conservator of a Protected Person** Iowa Code § 633.564

Conservator states as follows:

1. Proposed Conservator's personal information

A. Current legal name

_____	_____	_____
Full first name	*Full middle name (write "N/A" if no middle name)*	*Full last name*

B. Personal identifying information

/ /	_____	- -
Date of birth (month/day/year)	*Gender*	*Social security number*

C. All other names ever used (including any other previous legal names and nicknames)

Alternate name #1	_____	_____	_____
	Full first name	*Full middle name (write "N/A" if no middle name)*	*Full last name*
Alternate name #2	_____	_____	_____
	Full first name	*Full middle name (write "N/A" if no middle name)*	*Full last name*

Continued on next page

Rule 7.12—Form 2: Background Check Information for a Proposed Conservator of a Protected Person, continued

	Full first name	Full middle name (write "N/A" if no middle name)	Full last name
Alternate name #3			
Alternate name #4			
Alternate name #5			
Alternate name #6			
Alternate name #7			
Alternate name #8			
Alternate name #9			

2. Certification and release authorization

Certification: I confirm that the information provided above is true and correct.

Release Authorization: I give permission for the court to conduct an Iowa criminal history record check with the Division of Criminal Investigation (DCI). Any criminal history data concerning me maintained by the DCI may be released as allowed by law. I understand this can include information concerning cases expunged from court records, successful completion of the terms of a deferred judgment, if any, and arrests without dispositions.

Signature of proposed conservator	Month	Day	Year

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.12—Form 3: ***Conservator's Request for Approval for Other Action on Behalf of Protected Person***

Instructions: Copies of this Request must be provided to Protected Person, Protected Person's attorney and court advisor, if any, and others as the court directs.

In the Iowa District Court for _____ County

In the Matter of the Conservatorship of: _____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.**	Probate no._____ **Conservator's Request for Approval for Other Action on Behalf of Protected Person** Iowa Code § 633.642

1. Requested actions

I, _____, as Conservator of
Name of Conservator or financial institution

_____, request authorization from the court to
Name of Protected Person or Initials of Protected Minor

take the following action on behalf of Protected Person: *Mark all that apply*

☐ Invest Protected Person's assets consistent with Iowa Code section 633.123.

☐ Make gifts on Protected Person's behalf from conservatorship assets to persons or charitable, educational, religious, scientific, or other nonprofit organizations to whom or to which such gifts were regularly made prior to Conservator's appointment.

☐ Make gifts upon a showing that such gifts would benefit Protected Person from the perspective of gift, estate, inheritance, or other taxes.

☐ Make payments consistent with Conservator's Initial Plan or Amended Plan directly to Protected Person or to others for Protected Person's education and training needs.

☐ Use Protected Person's income or assets to provide support for any person Protected Person is legally obligated to support.

☐ Compromise, adjust, arbitrate, or settle any claim by or against Protected Person or Conservator due to Conservator's reasonable actions on behalf of the conservatorship.

Continued on next page

If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/Administration/Directories/ADA_Access/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person, continued

☐ Make elections for Protected Person who is the surviving spouse as provided in Iowa Code sections 633.236 and 633.240.

☐ Exercise the right to disclaim on behalf of Protected Person as provided in Iowa Code section 633E.5.

☐ Sell, mortgage, exchange, pledge, or lease Protected Person's real and personal property consistent with Iowa Code sections 633.383–.403 regarding sale of property from a decedent's estate.

☐ Other action. *Describe and explain below.*

2. Explanation of actions for which Conservator is seeking court approval

Action: _____
Describe action for which Conservator is seeking the court's approval.

Explain how this action benefits Protected Person:

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Action: _____
Describe action for which Conservator is seeking the court's approval.

Explain how this action benefits Protected Person:

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person, continued

Action: _____
Describe action for which Conservator is seeking the court's approval.

Explain how this action benefits Protected Person:

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Action: _____
Describe action for which Conservator is seeking the court's approval.

Explain how this action benefits Protected Person:

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional requested actions.*

3. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B, *you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person, continued

4. Oath and signature of Conservator

I, _____, have read this Request, and I certify under
Print Conservator's name
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Request is true and correct.

_____ _____, 20___ _____
Month *Day* *Year* *Signature**

_____ _____
Name of financial institution, if applicable *Conservator's title, if applicable*

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.12—Form 4: ***Notice of Filing Conservator's Initial Plan or Amended Plan***

In the Iowa District Court for _____ County	
In the Matter of the Conservatorship of: _____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.**	Probate no._____ **Notice of Filing Conservator's** ☐ **Initial Plan** ☐ **Amended Plan** Iowa Code § 633.670(1)(*b*)

To: _____
Name of Protected Person

_____
Name of Protected Person's Attorney (if applicable)

_____
Name of Court Advisor (if applicable)

You are notified that _____,
Name of Conservator or financial institution

as conservator of _____,
Name of Protected Person

filed a Conservator's *Check one*

☐ Initial Plan

☐ Amended Plan

on _____ _____, 20___.
Month *Day* *Year*

All initial plans or amended plans must outline Conservator's plan for protecting, managing, investing, expending, and distributing the assets of the conservatorship. The plan must be based on the needs of Protected Person and take into account the best interest of Protected Person as well as Protected Person's preference, values, and prior directions to the extent known to, or reasonably ascertainable by, Conservator.

Continued on next page

If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/Administration/Directories/ADA_Access/). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

Rule 7.12—Form 4: Notice of Filing Conservator's Initial Plan or Amended Plan, continued

At a minimum, all initial plans or amended plans must include:

(1) A budget containing projected expenses and resources for Protected Person, including an estimate of the total amount of fees Conservator anticipates charging per year and a statement or list of the amount Conservator proposes to charge for each service Conservator anticipates providing to Protected Person.

(2) A statement as to how Conservator will involve Protected Person in decisions about management of conservatorship assets.

(3) If ordered by the court, any steps Conservator plans to take to develop or restore the ability of Protected Person to manage conservatorship assets.

(4) An estimate of the duration of the conservatorship.

A copy of the filed plan is included with this notice.

Any person entitled to a copy of the plan must file any objections to the plan not later than fifteen days after it is filed.

Conservator's Information:

_____ _____, 20____ _____
Month *Day* *Year* *Signature*

_____
Conservator's printed name

_____ _____
Name of financial institution, if applicable *Conservator's title, if applicable*

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.12—Form 5: *Conservator's Initial Plan or Amended Plan*

Instructions:

- Conservator must complete, sign, and file this form with the court within ninety (90) days of appointment, when there has been a significant change in circumstances, or when Conservator seeks to deviate significantly from an approved plan.
- Within two (2) days of filing this form, Conservator must provide notice of filing (Rule 7.12—Form 4: Notice of Filing of Conservator's Initial Plan or Amended Plan) and a copy of this form to Protected Person, Protected Person's attorney and court advisor, if any, and others as the court directs.
- Do not include protected information on this form. For protected information, complete Rule 7.12—Form 1: Protected Information Disclosure.
- The purpose of the Initial Plan is to provide the court with a complete picture of Protected Person's current situation, Protected Person's needs, and Conservator's plan to meet those needs.
- Provide as much detailed information as possible.

In the Iowa District Court for _____ County

In the Matter of the Conservatorship of: _____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.**	Probate no._____ **Conservator's** *Check one* ☐ **Initial Plan** ☐ **Amended Plan** Iowa Code § 633.670(1)(*a*), (*e*)

Conservator states as follows:

1. Conservator's information

A. Conservator's name:

_____
Name of Conservator or financial institution

B. Conservator is Protected Person's:
Check one

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Financial institution

☐ Other: _____

Continued on next page

Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan, continued

2. Protected Person's information

A. Protected Person's age: _____.

B. Reason for conservatorship:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's residence:

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

D. Guardianship: *Check one*

☐ Protected Person does not have a guardian or guardianship.

☐ Protected Person has a natural guardian (legal parent):

_____
Full name of natural guardian: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

☐ Protected Person has a court-appointed guardian:

_____
Full name of court-appointed guardian: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan, continued

E. Does Protected Person have a valid Durable Financial Power of Attorney?

☐ Yes *File a copy of the power of attorney as an attachment to this form.*

☐ No

F. Does Protected Person have a Last Will and Testament?

☐ Yes ☐ No

If you checked Yes, *complete the next section.*

Has the original Last Will and Testament been filed with the clerk of court?

☐ Yes, in _____ County, _____.
Name of county *Name of state*

☐ No, the following person has a copy of the Last Will and Testament:

_____
Full name: first, middle, last / business name

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

G. Does Protected Person have a prepaid funeral plan or prepaid funeral trust?

☐ Yes *File a copy of the contract plan or trust as an attachment to this form.*

☐ No

Continued on next page

Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan, continued

3. Annual budget

A. Income sources

Estimate the amount of each source of income Protected Person receives.

**How often is income received?*
W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month

Income sources for Protected Person	**Income**	
	How often received?* *W,B,M,T*	**Amount**
(1) Wages from employer *Employer name:* *Job title:*		$
(2) Wages from employer *Employer name:* *Job title:*		$
(3) Unemployment assistance		$
(4) Family Investment Program		$
(5) Social Security		$
(6) Other *Identify:*		$
(7) Other *Identify:*		$
(8) Other *Identify:*		$
(9) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information on Protected Person's income sources.*		$
Total *Total estimated annual income for Protected Person*		**$**

B. Debts and liabilities

Estimate the amount of each debt or liability Protected Person owes.

**How often are debts and liabilities paid?*
W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month

Debts and liabilities of Protected Person	**Debts and liabilities**	
	How often paid?* *W,B,M,T*	**Amount**
(1) Mortgage		$
(2) Car loan payments		$

Continued on next page

Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan, continued

(3) Credit card debt		$
(4) Other *Identify:*		$
(5) Other *Identify:*		$
(6) Other *Identify:*		$
(7) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information on Protected Person's debts and liabilities.*		$
Total *Total estimated annual debts and liabilities for Protected Person*		**$**

Is any other person jointly liable for all or part of any listed debt or liability?

☐ Yes ☐ No

If you checked Yes, *complete the next section.*

Debt: _____
Description of jointly owed debt or liability

a. Person jointly liable:

_____
Full name: first, middle, last

b. Above person's relationship to Protected Person:_____
Describe relationship

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for debt or liability

Debt: _____
Description of jointly owed debt or liability

a. Person jointly liable:

_____
Full name: first, middle, last

b. Above person's relationship to Protected Person:_____
Describe relationship

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for debt or liability

Continued on next page

Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan, continued

Debt: _____
Description of jointly owed debt or liability

a. Person jointly liable:

_____
Full name: first, middle, last

b. Above person's relationship to Protected Person:_____
Describe relationship

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for debt or liability

☐ *Check this box if you have attached a sheet with additional debts or liabilities.*

Are any of the listed debts or liabilities owed by Protected Person to Conservator?

☐ Yes ☐ No

If you checked Yes*, complete the next section.*

Debt: _____
Description of debt or liability owed by Protected Person to Conservator

a. Amount: $_____
Total amount of debt or liability

b. Current balance: $_____
Current balance owed

c. Source of payments (if any):_____
Identify sources of payment for debt or liability

Debt: _____
Description of debt or liability owed by Protected Person to Conservator

a. Amount: $_____
Total amount of debt or liability

b. Current balance: $_____
Current balance owed

c. Source of payments (if any):_____
Identify sources of payment for debt or liability

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

C. Monthly or annual budget

Complete a monthly or annual budget for Protected Person.

Type of expense	**Amount estimated** *Check one* ☐ **monthly** ☐ **annual**
(1) House payment or rent	$
(2) Food *At home and restaurants*	$
(3) Transportation *(gas, bus fare) Not car loan payments – see (14).*	$
(4) Clothing	$
(5) Medical, dental *Not health insurance payments – see (10).*	$
(6) Utilities *(gas, electric, water)*	$
(7) Phone	$
(8) Cable / satellite television / internet	$
(9) Car insurance payment	$
(10) Health insurance payment	$
(11) Transportation	$
(12) Educational or vocational training expenses	$
(13) Credit card payments	$
(14) Car loan payments	$
(15) Other loan payments	$
(16) Other expense *Identify:*	$
(17) Other expense *Identify:*	$
(18) Other expense *Identify:*	$

Continued on next page

Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan, continued

(19) Other expense *Identify:*	$
(20) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding expenses.*	$
Total *Total monthly or annual budgeted expenditures*	**$**

4. Conservatorship checking and savings account

A. Is there a conservatorship **checking** account?

☐ Yes ☐ No

If you checked Yes, *complete sections* (1) *and* (2), *otherwise skip to* B.

(1) Is the checking account interest-bearing?

☐ Yes ☐ No

(2) Location of conservatorship checking account:

_____
Name of financial institution

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

The partial account number is:_____
Last 4 digits of account number

B. Is there a conservatorship **savings** account?

☐ Yes ☐ No

If you checked Yes, *complete the next section.*

Location of conservatorship savings account:

_____
Name of financial institution

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

The partial account number is:_____
Last 4 digits of account number

Continued on next page

Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan, continued

5. Conservatorship services and fees

Will Conservator be charging for services provided to Protected Person?

☐ Yes ☐ No

If you checked Yes, *complete the next section, otherwise skip to* **6**.

List the services Conservator will provide to Protected Person and an estimate of the charge for each service.

Conservatorship service	**Amount estimated** *Check one* ☐ **hourly** ☐ **monthly** ☐ **annual**
(1)	$
(2)	$
(3)	$
(4)	$
(5) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding conservatorship services.*	$
Total amount of fees Conservator anticipates charging annually for services:	$

6. Asset management plan

Identify each of Protected Person's assets that Conservator will manage and describe Conservator's plan for management of the asset.

Asset (1)

Asset:_____
Description of asset

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan, continued

Asset (2)

Asset:_____
Description of asset

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Asset (3)

Asset:_____
Description of asset

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Asset (4)

Asset:_____
Description of asset

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional assets.*

Continued on next page

7. Involvement of Protected Person

State how Conservator will involve Protected Person in decisions about the management of the conservatorship's assets:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

8. Restoration of Protected Person to management of conservatorship assets

If ordered by the court, state the steps Conservator plans to take to develop or restore the ability of Protected Person to manage the conservatorship assets:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

9. Duration of conservatorship

How long is the conservatorship estimated to last? *Explain*

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan, continued

10. Additional information

Additional information that may be useful for the court to determine what is in Protected Person's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

11. Request for approval of proposed budget and general conservatorship powers

Conservator requests that the court approve the following: *Check only those that apply*

☐ Conservator's proposed budget for Protected Person.

☐ Authority to apply for and receive Protected Person's income (*see* **3**(A)).

☐ Authority to use conservatorship income and assets for payment of debts and liabilities (*see* **3**(B)).

☐ Authority to use conservatorship income and assets for payment of expenses in accordance with the proposed monthly or annual budget (*see* **3**(C)).

☐ Authority to use conservatorship income and assets for payment of conservatorship services and fees (*see* **5**).

☐ Authority to manage Protected Person's assets in accordance with the proposed asset management plan (*see* **6**).

☐ Authority to use conservatorship income and assets for payment of attorney fees and other professional fees related to administration of the conservatorship.

☐ Authority to use conservatorship income and assets for payment of Protected Person's miscellaneous expenses not to exceed $_____ per month without further order of the court.

☐ Authority to file Protected Person's federal and state income tax returns and pay Protected Person's income taxes and local property taxes from conservatorship income and assets.

Note: If additional conservatorship powers are necessary, complete and file Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person.

12. Fees for Conservator

Check one

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

Continued on next page

Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan, continued

13. Fees for Conservator's attorney

Check one

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

14. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B*, you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

15. Oath and signature

I, _____, have read this Initial Plan or Amended Plan, and I
Print Conservator's name
certify under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this plan is believed to be complete and accurate as far as information permits.

_____ _____, 20___ _____
Month *Day* *Year* *Signature**

_____ _____
Name of financial institution, if applicable *Conservator's title, if applicable*

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.12—Form 6: *Inventory of Assets of Protected Person*

Instructions:

- Conservators must complete, sign, and file this form with the court within ninety (90) days of appointment. Once the conservatorship is approved, Conservators must also file this form with all Conservator's Annual Reports and Final Reports, identifying Protected Person's assets at the close of the reporting period.
- The purpose of the Inventory is to provide the court with a complete picture of Protected Person's current assets.
- Copies of this Inventory must be provided to Protected Person, Protected Person's attorney and court advisor, if any, and others as the court directs.

In the Iowa District Court for _____ County

In the Matter of the Conservatorship of: _____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.**	Probate no._____ **Inventory of Assets of Protected Person** Iowa Code § 633.670(2)

Conservator states as follows:

1. Protected Person's assets

Protected Person owns the following assets:

A. Real estate

Type of real estate	**Jointly owned?** *Check box if jointly owned.*	**Market value** *What it would sell for*	**Debt** *Total amount owed on debt* **and to whom owed**	**Net value** *Market value minus debt owed*
(1) Homestead *Address*	☐	$	$ to:	$
(2) Other real estate *Address*	☐	$	$ to:	$

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 6: Inventory of Assets of Protected Person, continued

B. Vehicles *Includes cars, trucks, motorcycles, and other motorized vehicles.*

Vehicles *Make (e.g., Ford) Year*	**Jointly owned?** *Check box if jointly owned*	**Market value** *What it would sell for*	**Debt** *Total amount owed on debt* **and to whom owed**	**Net Value** *Market value minus debt owed*
(1)	☐	$	$ to:	$
(2)	☐	$	$ to:	$
(3)	☐	$	$ to:	$

☐ *Check this box if you have attached a sheet with additional information.*

C. Securities, stocks, & bonds

Securities, stocks, & bonds *Company name*	**Jointly owned?** *Check box if jointly owned*	**Market value** *What it would sell for*	**Debt** *Total amount owed on debt* **and to whom owed**	**Net value** *Market value minus debt owed*
(1)	☐	$	$ to:	$
(2)	☐	$	$ to:	$
(3)	☐	$	$ to:	$

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 6: Inventory of Assets of Protected Person, continued

D. Life insurance

Life insurance *Company name*	**Jointly owned?** *Check box if jointly owned*	**Cash value** *Not death benefit*	**Loan from cash value** *Total amount still owed on loan*	**Cash value** *Minus loan owed*
(1)	☐	$	$	$
(2)	☐	$	$	$
(3)	☐	$	$	$

☐ *Check this box if you have attached a sheet with additional information.*

E. Bank accounts

Checking & savings accounts *Bank or Credit Union name If you do not use bank accounts, write "Cash"*	**Jointly owned?** *Check box if jointly owned*	**Cash value**	**Personal loans or overdraft accounts** *Total amount still owed, if any*	**Net value** *Cash value minus loan / overdraft owed*
(1)	☐	$	$	$
(2)	☐	$	$	$
(3)	☐	$	$	$

☐ *Check this box if you have attached a sheet with additional information.*

F. Household

Household contents *Describe*	**Jointly owned?** *Check box if jointly owned*	**Market value** *What it would sell for*	**Debt** *Total amount owed on debt* **and to whom owed**	**Net value** *Market value minus debt owed*
(1) Furniture a.	☐	$	$ to:	$
b.	☐	$	$ to:	$
c.	☐	$	$ to:	$
d.	☐	$	$ to:	$

Rule 7.12—Form 6: Inventory of Assets of Protected Person, continued

(2) Appliances / Electronics a.	☐	$	$ to:	$
b.	☐	$	$ to:	$
c.	☐	$	$ to:	$
d.	☐	$	$ to:	$
(3) Other contents a.	☐	$	$ to:	$
b.	☐	$	$ to:	$
c.	☐	$	$ to:	$

☐ *Check this box if you have attached a sheet with additional information.*

G. Retirement assets

Retirement assets *Examples: Pensions, IRAs, 401(k)s, annuities, etc.*	**Jointly owned?** *Check box if jointly owned*	**Market value** *What it would sell for*	**Loan from retirement account** *Total amount still owed, if any* **and to whom owed**	**Net value** *Market value minus loan owed*
(1)	☐	$	$ to:	$
(2)	☐	$	$ to:	$
(3)	☐	$	$ to:	$

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 6: Inventory of Assets of Protected Person, continued

H. Other assets *Items not listed in the other boxes should be listed here. For example: jewelry, furs, guns, sporting goods, farm animals.*

Other assets *Describe*	**Jointly owned?** *Check box if jointly owned*	**Market value** *What it would sell for*	**Debt** *Total amount owed on debt* **and to whom owed**	**Net value** *Market value minus debt owed*
(1)	☐	$	$ to:	$
(2)	☐	$	$ to:	$
(3)	☐	$	$ to:	$

☐ *Check this box if you have attached a sheet with additional information.*

I. Totals

(1) Total from attached sheets *Listed in 1A-H.*	$
(2) **Total net value of assets** *Listed in 1A-H.*	$

J. Jointly owned assets

For each jointly owned asset, identify:

Asset: _____
Description of jointly owned asset

a. Person responsible for management of asset:

_____
Full name: first, middle, last

b. Person responsible for payments (if any):

_____
Full name: first, middle, last

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for asset

Continued on next page

Rule 7.12—Form 6: Inventory of Assets of Protected Person, continued

Asset: _____
Description of jointly owned asset

a. Person responsible for management of asset:

_____
Full name: first, middle, last

b. Person responsible for payments (if any):

_____
Full name: first, middle, last

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for asset

Asset: _____
Description of jointly owned asset

a. Person responsible for management of asset:

_____
Full name: first, middle, last

b. Person responsible for payments (if any):

_____
Full name: first, middle, last

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for asset

☐ *Check this box if you have attached a sheet with additional jointly owned assets.*

Continued on next page

Rule 7.12—Form 6: Inventory of Assets of Protected Person, continued

2. Other assets

A. Provide a complete list of Protected Person's assets **not transferred** into conservatorship's name.

Other assets *Describe*	**Jointly owned?** *Check box if jointly owned*	**Market value** *What it would sell for*	**Debt** *Total amount owed on debt* **and to whom owed**	**Net value** *Market value minus debt owed*
(1)	☐	$	$ to:	$
(2)	☐	$	$ to:	$
(3)	☐	$	$ to:	$
(4)	☐	$	$ to:	$
(5)	☐	$	$ to:	$
(6)	☐	$	$ to:	$

☐ *Check this box if you have attached a sheet with additional information.*

For each jointly owned asset, identify:

Asset: _____
Description of jointly owned asset

a. Person responsible for management of asset:

_____
Full name: first, middle, last

b. Person responsible for payments (if any):

_____
Full name: first, middle, last

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for asset

Continued on next page

Rule 7.12—Form 6: Inventory of Assets of Protected Person, continued

Asset: _____
Description of jointly owned asset

a. Person responsible for management of asset:

_____
Full name: first, middle, last

b. Person responsible for payments (if any):

_____
Full name: first, middle, last

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for asset

Asset: _____
Description of jointly owned asset

a. Person responsible for management of asset:

_____
Full name: first, middle, last

b. Person responsible for payments (if any):

_____
Full name: first, middle, last

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for asset

☐ *Check this box if you have attached a sheet with additional jointly owned assets.*

Continued on next page

B. Provide a complete list of any assets **not owned solely** by Protected Person that will be transferred into conservatorship's name.

Other assets *Describe*	**Market value** *What it would sell for*	**Debt** *Total amount owed on debt* **and to whom owed**	**Net value** *Market value minus debt owed*
(1)	$	$ to:	$
(2)	$	$ to:	$
(3)	$	$ to:	$
(4)	$	$ to:	$
(5)	$	$ to:	$
(6)	$	$ to:	$

☐ *Check this box if you have attached a sheet with additional information.*

3. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B*, you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.12—Form 6: Inventory of Assets of Protected Person, continued

4. Oath and signature of Conservator

I, _____, have read this Inventory, and I certify under
Print Conservator's name
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Inventory is believed to be complete and accurate as far as information permits.

_____ _____, 20___ _____
Month *Day* *Year* *Signature**

_____ _____
Name of financial institution, if applicable *Conservator's title, if applicable*

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

Note: Bank statements, checks, receipts, stubs, and other items evidencing receipt of funds and payment must be available to the court on demand.

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.12—Form 7: *Conservator's Annual Report*

Instructions:

- Conservators must complete, sign, and file this form on an annual basis within sixty (60) days of the close of the reporting period.
- Once filed, Conservator must serve a copy of this Annual Report on Protected Person, Protected Person's attorney and court advisor, if any, and others as the court directs.
- Do not include protected information on this form. For protected information, complete Rule 7.12—Form 1: Protected Information Disclosure.
- The purpose of this Annual Report is to provide the court with the current financial situation of the conservatorship and an accounting of important transactions that occurred during the reporting period. The Annual Report is also an opportunity to advise the court of any anticipated needs of Protected Person arising during the upcoming year and obtain court approval to meet those needs.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

In the Iowa District Court for _____ County

In the Matter of the Conservatorship of:	Probate no._____
_____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.**	**Conservator's Annual Report** Iowa Code § 633.670(3)

Conservator states as follows:

1. Reporting period

This report is for the period from: _____/_____/_____ to _____/_____/_____.
Month Day Year Month Day Year

2. Conservator's information

A. Conservator's name:

_____
Name of Conservator or financial institution

B. Conservator is Protected Person's:
Check one

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Financial institution

☐ Other: _____

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

3. Protected Person's information

A. Protected Person's age: _____.

B. Reason for conservatorship:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's residence:

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

D. Guardianship: *Check one*

☐ Protected Person does not have a guardian or guardianship.

☐ Protected Person has a natural guardian (legal parent):

_____
Full name of natural guardian: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

☐ Protected Person has a court-appointed guardian:

_____
Full name of court-appointed guardian: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

E. Does Protected Person have a valid Durable Financial Power of Attorney?

☐ Yes *File a copy of the power of attorney as an attachment to this form.*

☐ No

F. Does Protected Person have a Last Will and Testament?

☐ Yes ☐ No

If you checked Yes*, complete the next section.*

Has the original Last Will and Testament been filed with the clerk of court?

☐ Yes, in _____ County, _____.
Name of county *Name of state*

☐ No, the following person has a copy of the Last Will and Testament:

_____
Full name: first, middle, last / business name

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

G. Does Protected Person have a prepaid funeral plan or funeral trust:

☐ Yes *File a copy of the contract plan or trust as an attachment to this form.*

☐ No

H. Protected Person's health during reporting period

(1) Summarize Protected Person's physical health during the reporting period, identifying any physical concerns that occurred and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

(2) Summarize Protected Person's mental health during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(3) Summarize any other health care concerns related to Protected Person that occurred during the reporting period and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

4. Conservatorship assets

A. Total value of conservatorship assets at close of **prior** reporting period: $_____

B. Total value of conservatorship assets at close of **this** reporting period: $_____

Complete and file with this form Rule 7.12—Form 6: Inventory of Assets of Protected Person detailing Protected Person's assets at the close of this reporting period.

5. Conservatorship income and expenditures

Note: Bank statements, checks, receipts, stubs, and other items evidencing receipt of funds and payment must be available to the court on demand.

A. Total funds on hand at close of **prior** reporting period: $_____

B. Income received during reporting period:

**How often was income received?*
W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month

Income sources for Protected Person	**Income**	
	How often received?* *W,B,M,T*	**Amount**
(1) Wages from employer *Employer name:* *Job title:*		$

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

(2) Wages from employer *Employer name:* *Job title:*		$
(3) Unemployment assistance		$
(4) Family Investment Program		$
(5) Social Security		$
(6) Other *Identify:*		$
(7) Other *Identify:*		$
(8) Other *Identify:*		$
(9) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information on Protected Person's income sources.*		$
Total *Income received for Protected Person during reporting period*		**$**

C. Debts and liabilities paid during reporting period:

**How often were debts and liabilities paid?*
W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month

Debts and liabilities of Protected Person	**Debts and liabilities**	
	How often paid?* *W,B,M,T*	**Amount**
(1) Mortgage		$
(2) Car loan payments		$
(3) Credit card debt		$
(4) Other *Identify:*		$
(5) Other *Identify:*		$
(6) Other *Identify:*		$
(7) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information on Protected Person's debts and liabilities.*		$
Total *Debts and liabilities paid for Protected Person during reporting period*		**$**

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

D. Expenditures during reporting period:

Type of expense	**Amount** *Check one* ☐ **monthly** ☐ **annual**
(1) House payment or rent	$
(2) Food *At home and restaurants*	$
(3) Transportation *(gas, bus fare)* *Not car loan payments – see (14).*	$
(4) Clothing	$
(5) Medical, dental *Not health insurance payments – see (10).*	$
(6) Utilities *(gas, electric, water)*	$
(7) Phone	$
(8) Cable / satellite television / internet	$
(9) Car insurance payment	$
(10) Health insurance payment	$
(11) Transportation	$
(12) Educational or vocational training expenses	$
(13) Credit card payments	$
(14) Car loan payments	$
(15) Other loan payments	$
(16) Other expense *Identify:*	$
(17) Other expense *Identify:*	$
(18) Other expense *Identify:*	$

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

(19) Other expense *Identify:*	$
(20) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding expenses.*	$
Total *Total expenditures during reporting period*	**$**

E. Total funds on hand at the close of **this** reporting period: $_____

6. Conservatorship services and fees

Did Conservator charge fees for services provided to Protected Person during the reporting period?

☐ Yes ☐ No

If you checked Yes*, complete the next section, otherwise skip to* **7**.

List each service for which Conservator charged fees as well as the total amount charged for the service during the reporting period.

Conservatorship service	**Amount charged during reporting**
(1)	$
(2)	$
(3)	$
(4)	$
(5) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding conservatorship services.*	$
Total amount of fees Conservator charged for services during reporting period:	$

Continued on next page

7. Annual budget for next reporting period

A. Income sources

Estimate the amount of each source of income Protected Person will receive during the next reporting period.

**How often is income received?*
W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month

Income sources for Protected Person	**Income**	
	How often received?* *W,B,M,T*	**Amount**
(1) Wages from employer *Employer name:* *Job title:*		$
(2) Wages from employer *Employer name:* *Job title:*		$
(3) Unemployment assistance		$
(4) Family Investment Program		$
(5) Social Security		$
(6) Other *Identify:*		$
(7) Other *Identify:*		$
(8) Other *Identify:*		$
(9) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information on Protected Person's income sources.*		$
Total *Total estimated income for Protected Person during the next reporting period*		**$**

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

B. Debts and liabilities

Estimate the amount of each debt or liability Protected Person will pay during the next reporting period.

**How often are debts and liabilities paid?*
W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month

Debts and liabilities of Protected Person	**Debts and liabilities**	
	How often paid?* *W,B,M,T*	**Amount**
(1) Mortgage		$
(2) Car loan payments		$
(3) Credit card debt		$
(4) Other *Identify:*		$
(5) Other *Identify:*		$
(6) Other *Identify:*		$
(7) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information on Protected Person's debts and liabilities.*		$
Total *Total estimated debts and liabilities for Protected Person during the next reporting period*		**$**

Is any other person jointly liable for all or part of any listed debt or liability?

☐ Yes ☐ No

If you checked Yes*, complete the next section.*

Debt: _____
Description of jointly owed debt or liability

a. Person jointly liable:

_____
Full name: first, middle, last

b. Above person's relationship to Protected Person:_____
Describe relationship

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for debt or liability

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

Debt: _____
Description of jointly owed debt or liability

a. Person jointly liable:

_____
Full name: first, middle, last

b. Above person's relationship to Protected Person:_____
Describe relationship

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for debt or liability

Debt: _____
Description of jointly owed debt or liability

a. Person jointly liable:

_____
Full name: first, middle, last

b. Above person's relationship to Protected Person:_____
Describe relationship

c. Payment amount (if any):_____
Identify payment amount and how often it is paid

d. Source of payments (if any):_____
Identify sources of payment for debt or liability

☐ *Check this box if you have attached a sheet with additional debts or liabilities.*

Are any of the listed debts or liabilities owed by Protected Person to Conservator?

☐ Yes ☐ No

If you checked Yes*, complete the next section.*

Debt: _____
Description of debt or liability owed by Protected Person to Conservator

a. Amount: $_____
Total amount of debt or liability

b. Current balance: $_____
Current balance owed

c. Source of payments (if any):_____
Identify sources of payment for debt or liability

Continued on next page

Debt: _____
Description of debt or liability owed by Protected Person to Conservator

a. Amount: $_____
Total amount of debt or liability

b. Current balance: $_____
Current balance owed

c. Source of payments (if any):_____
Identify sources of payment for debt or liability

☐ *Check this box if you have attached a sheet with additional information.*

C. Monthly or annual budget

Complete a monthly or annual budget for Protected Person during the next reporting period.

Type of expense	**Amount estimated** *Check one* ☐ **monthly** ☐ **annual**
(1) House payment or rent	$
(2) Food *At home and restaurants*	$
(3) Transportation *(gas, bus fare) Not car loan payments – see (14).*	$
(4) Clothing	$
(5) Medical, dental *Not health insurance payments – see (10).*	$
(6) Utilities *(gas, electric, water)*	$
(7) Phone	$
(8) Cable / satellite television / internet	$
(9) Car insurance payment	$
(10) Health insurance payment	$
(11) Transportation	$
(12) Educational or vocational training expenses	$
(13) Credit card payments	$

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

(14) Car loan payments	$
(15) Other loan payments	$
(16) Other expense *Identify:*	$
(17) Other expense *Identify:*	$
(18) Other expense *Identify:*	$
(19) Other expense *Identify:*	$
(20) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding expenses.*	$
Total *Total monthly or annual budgeted expenditures for next reporting period*	**$**

8. Changes in Conservator's Initial Plan or Amended Plan

A. Were changes made in investments during this reporting period?

☐ Yes ☐ No

If Yes, identify each investment and the changes made during the reporting period:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

B. Did the conservatorship receive any new assets during the reporting period?

☐ Yes ☐ No

If Yes, identify each new asset and its estimated value and describe Conservator's plan for management of the asset:

New Asset (1)

Asset:_____
Description of asset

Estimated value: $_____

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

New Asset (2)

Asset:_____
Description of asset

Estimated value: $_____

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional assets.*

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

C. Are any modifications necessary for management of existing assets?

Significant modifications cannot be requested with this Annual Report. Significant modifications require Conservator to file an Amended Plan using Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan.

☐ Yes ☐ No

If Yes, identify each existing asset and describe the modification necessary for management of the asset:

Asset (1)

Asset:_____
Description of asset

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Asset (2)

Asset:_____
Description of asset

Plan for management of this asset:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional assets.*

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

D. Are any other modifications to Conservator's Initial Plan or Amended Plan necessary?

Note: Significant modifications cannot be requested with this Annual Report. Significant modifications require Conservator to file an Amended Plan using Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan.

☐ Yes ☐ No

If Yes, describe what modifications are necessary and why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

9. Conservator's bond *See Iowa Code sections 633.169–.187.*

Is there a bond for Conservator?

☐ Yes

If Yes*, complete the next* (1) *and* (2).

(1) Amount of Conservator's bond: $_____.

(2) Surety's information:

_____
Surety's name

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

☐ No

If No, explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

10. Additional information

Additional information that may be useful for the court to determine what is in Protected Person's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

11. Request for approval of proposed budget and general conservatorship powers

Conservator requests that the court approve the following: *Check only those that apply.*

☐ Conservator's proposed budget for Protected Person for the next reporting period.

☐ Authority to apply for and receive Protected Person's income during the next reporting period (*see* **7**(A)).

☐ Authority to use conservatorship income and assets for payment of debts and liabilities during the next reporting period (*see* **7**(B)).

☐ Authority to use conservatorship income and assets for payment of expenses in accordance with the proposed monthly or annual budget for the next reporting period (*see* **7**(C)).

☐ Authority to manage Protected Person's assets in accordance with the proposed asset management plan (*see* **8**(B) and **8**(C)).

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

☐ Authority to use conservatorship income and assets for payment of attorney fees and other professional fees related to administration of the conservatorship.

☐ Authority to use conservatorship income and assets for payment of Protected Person's miscellaneous expenses not to exceed $_____ per month without further order of the court.

☐ Authority to file Protected Person's federal and state income tax returns and pay Protected Person's income taxes and local property taxes from conservatorship income and assets.

Note: *If additional conservatorship powers are necessary, complete and file Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person.*

12. Fees for Conservator

Check one

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

13. Fees for Conservator's attorney

Check one

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

14. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B, *you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.12—Form 7: Conservator's Annual Report, continued

15. Oath and signature

I, _____, have read this Annual Report, and I certify under
Print Conservator's name
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Annual Report is believed to be complete and accurate as far as information permits.

_____ _____, 20____ _____
Month *Day* *Year* *Signature**

_____ _____
Name of financial institution, if applicable *Conservator's title, if applicable*

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 7.12—Form 8: *Conservator's Final Report*

Instructions:

- Conservators must complete, sign, and file this form:
  - Within thirty (30) days following removal of Conservator.
  - Upon Conservator's filing of a resignation and before the court accepts the resignation.
  - Within sixty (60) days following the termination of conservatorship.
- Once filed, Conservator must serve a copy of this Final Report on Protected Person, Protected Person's attorney and court advisor, if any, and others as the court directs.
- Do not include protected information on this form. For protected information, complete Rule 7.12—Form 1: Protected Information Disclosure.
- The purpose of this Final Report is to provide the court with the current financial situation of the conservatorship and an accounting of important transactions that occurred during the reporting period.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

In the Iowa District Court for _____ County

In the Matter of the Conservatorship of:	Probate no._____
_____ *Full name: first, middle, last* *If the protected person is a minor, use initials only.* **Protected Person.**	**Conservator's Final Report** Iowa Code § 633.670(3)

Conservator states as follows:

1. Reporting period

This report is for the period from: _____/_____/_____ to _____/_____/_____.
Month Day Year Month Day Year

2. Conservator's information

A. Conservator's name:

_____
Name of Conservator or financial institution

B. Conservator is Protected Person's:
Check one

☐ Spouse

☐ Adult child

☐ Parent

☐ Adult sibling

☐ Financial institution

☐ Other: _____

Continued on next page

Rule 7.12—Form 8: Conservator's Final Report, continued

3. Type of report
Check one

☐ Report filed within thirty (30) days following removal of Conservator.

☐ Report filed with Conservator's filing of a resignation and before the court's acceptance of the resignation.

☐ Report filed within sixty (60) days following termination of the conservatorship.

☐ Other. *Explain*

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

4. Status of the conservatorship

Identify status of the conservatorship at close of this reporting period. *Check one*

☐ The conservatorship has been or should be terminated because Protected Person was a minor who is no longer a minor and no longer benefits from a conservatorship.

☐ The conservatorship has been or should be terminated because Protected Person is deceased.

☐ The conservatorship will continue but a different conservator has been or will be appointed.

☐ Other. *Explain*

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 8: Conservator's Final Report, continued

5. Protected Person's information

If Protected Person is deceased, fill out only sections F *and* G.

A. Protected Person's age: _____.

B. Reason for conservatorship:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Protected Person's residence:

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

D. Guardianship: *Check one*

☐ Protected Person does not have a guardian or guardianship.

☐ Protected Person has a natural guardian (legal parent):

_____
Full name of natural guardian: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

☐ Protected Person has a court-appointed guardian:

_____
Full name of court-appointed guardian: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

Rule 7.12—Form 8: Conservator's Final Report, continued

E. Does Protected Person have a valid Durable Financial Power of Attorney?

☐ Yes *File a copy of the power of attorney as an attachment to this form.*

☐ No

F. Does Protected Person have a Last Will and Testament?

☐ Yes ☐ No

If you checked Yes*, complete the next section.*

Has the original Last Will and Testament been filed with the clerk of court?

☐ Yes, in _____ County, _____.
Name of county *Name of state*

☐ No, the following person has a copy of the Last Will and Testament:

_____
Full name: first, middle, last / business name

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

G. Does Protected Person have a prepaid funeral plan or trust?

☐ Yes *File a copy of the contract plan or trust as an attachment to this form.*

☐ No

H. Protected Person's health during reporting period

(1) Summarize Protected Person's physical health during the reporting period, identifying any physical concerns that occurred and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

(2) Summarize Protected Person's mental health during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(3) Summarize any other health care concerns related to Protected Person that occurred during the reporting period and if the concern is resolved or ongoing:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

6. Conservatorship assets

A. Total value of conservatorship assets at close of **prior** reporting period: $_____

B. Did the conservatorship receive any new assets during the reporting period?

☐ Yes ☐ No

If Yes, identify each new asset and its estimated value.

Asset (1)

Asset:_____
Description of asset

Estimated value: $_____

Asset (2)

Asset:_____
Description of asset

Estimated value: $_____

Continued on next page

Rule 7.12—Form 8: Conservator's Final Report, continued

Asset (3)

Asset:_____
Description of asset

Estimated value: $_____

☐ *Check this box if you have attached a sheet with additional assets.*

C. Total value of conservatorship assets at close of **this** reporting period: $_____

Complete and file with this form Rule 7.12—Form 6: Inventory of Assets of Protected Person detailing Protected Person's assets at the close of this reporting period.

7. Conservatorship income and expenditures

Note: Bank statements, checks, receipts, stubs, and other items evidencing receipt of funds and payment must be available to the court on demand.

A. Total funds on hand at close of **prior** reporting period: $_____

B. Income received during reporting period:

**How often was income received?*
W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month

Income sources for Protected Person	**Income**	
	How often received?* *W,B,M,T*	**Amount**
(1) Wages from employer *Employer name:* *Job title:*		$
(2) Wages from employer *Employer name:* *Job title:*		$
(3) Unemployment assistance		$
(4) Family Investment Program		$
(5) Social Security		$
(6) Other *Identify:*		$
(7) Other *Identify:*		$

Continued on next page

Rule 7.12—Form 8: Conservator's Final Report, continued

(8) Other *Identify:*		$
(9) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information on Protected Person's income sources.*		$
Total *Income received for Protected Person during reporting period*		**$**

C. Debts and liabilities paid during reporting period:

**How often were debts and liabilities paid?*
W = Weekly B = Bi-weekly (every other week) M = Monthly T = Two times a month

Debts and liabilities of Protected Person	**Debts and liabilities**	
	How often paid?* *W,B,M,T*	**Amount**
(1) Mortgage		$
(2) Car loan payments		$
(3) Credit card debt		$
(4) Other *Identify:*		$
(5) Other *Identify:*		$
(6) Other *Identify:*		$
(7) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information on Protected Person's debts and liabilities.*		$
Total *Debts and liabilities paid for Protected Person during reporting period*		**$**

D. Expenditures during reporting period:

Type of expense	**Amount** *Check one* ☐ **monthly** ☐ **annual**
(1) House payment or rent	$
(2) Food *At home and restaurants*	$
(3) Transportation *(gas, bus fare)* *Not car loan payments – see (14).*	$

Continued on next page

Rule 7.12—Form 8: Conservator's Final Report, continued

(4) Clothing	$
(5) Medical, dental *Not health insurance payments – see (10).*	$
(6) Utilities *(gas, electric, water)*	$
(7) Phone	$
(8) Cable / satellite television / internet	$
(9) Car insurance payment	$
(10) Health insurance payment	$
(11) Transportation	$
(12) Educational or vocational training expenses	$
(13) Credit card payments	$
(14) Car loan payments	$
(15) Other loan payments	$
(16) Other expense *Identify:*	$
(17) Other expense *Identify:*	$
(18) Other expense *Identify:*	$
(19) Other expense *Identify:*	$
(20) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding expenses.*	$
Total *Total expenditures during reporting period*	**$**

E. Total funds on hand at the close of **this** reporting period: $_____

Continued on next page

Rule 7.12—Form 8: Conservator's Final Report, continued

8. Conservatorship services and fees

Did Conservator charge fees for services provided to Protected Person during the reporting period?

☐ Yes ☐ No

If you checked Yes*, complete the next section, otherwise skip to* **9**.

List each service for which Conservator charged fees as well as the total amount charged for the service during the reporting period.

Conservatorship service	**Amount charged during reporting**
(1)	$
(2)	$
(3)	$
(4)	$
(5) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding conservatorship services.*	$
Total amount of fees Conservator charged for services during reporting period:	$

9. Changes in investments

Were changes made in investments during this reporting period?

☐ Yes ☐ No

If Yes, identify each investment and the changes made during the reporting period:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 8: Conservator's Final Report, continued

10. Proposed plan for conservatorship's assets upon termination of conservatorship

Complete this section if the conservatorship has been or should be terminated.

How will the conservatorship's assets be distributed upon termination of conservatorship?

☐ Conservatorship assets will be transferred to Protected Person.

☐ Conservatorship assets will be transferred into an estate.

☐ Conservatorship assets will be transferred as follows:

Asset (1)

Asset:_____
Description of asset

Estimated value: $_____

Person or entity the asset will be transferred to:

_____
Full name of person or name or entity

Relationship to Protected Person (if a person):_____
Describe relationship

Asset (2)

Asset:_____
Description of asset

Estimated value: $_____

Person or entity the asset will be transferred to:

_____
Full name of person or name or entity

Relationship to Protected Person (if a person):_____
Describe relationship

☐ *Check this box if you have attached a sheet with additional assets.*

Continued on next page

Rule 7.12—Form 8: Conservator's Final Report, continued

11. Conservator's bond *See Iowa Code sections 633.169–.187.*

Is there a bond for Conservator?

☐ Yes

If Yes, *complete the next* (1) *and* (2).

(1) Amount of Conservator's bond: $_____.

(2) Surety's information:

_____
Surety's name

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

☐ No

If No, explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

12. Additional information

Additional information that may be useful for the court to determine what is in Protected Person's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 7.12—Form 8: Conservator's Final Report, continued

13. Request for approval of proposed budget and general conservatorship powers

Conservator requests that the court: *Check only those that apply*

☐ Approve Conservator's final accounting as detailed in this Final Report and the accompanying Inventory.

☐ Discharge Conservator from the conservatorship.

☐ Terminate the conservatorship.

☐ Cancel Conservator's bond and exonerate the surety on Conservator's bond.

☐ Approve Conservator's proposed plan regarding the conservatorship's assets.

Note: If additional conservatorship powers are necessary, complete and file Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person.

14. Fees for Conservator

Check one

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

15. Fees for Conservator's attorney

Check one

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

16. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B*, you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 7.12—Form 8: Conservator's Final Report, continued

17. Oath and signature

I, _____, have read this Final Report, and I certify under
Print Conservator's name
penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Final Report is believed to be complete and accurate as far as information permits.

_____ _____, 20____ _____
Month *Day* *Year* *Signature**

_____ _____
Name of financial institution, if applicable *Conservator's title, if applicable*

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

CHAPTER 8
RULES OF JUVENILE PROCEDURE

DISCOVERY AND NOTICE OF DEFENSES

MOTION PRACTICE

PRETRIAL CONFERENCES

SPEEDY HEARING

DELINQUENCY PROCEEDINGS

CINA AND TERMINATION PROCEEDINGS

PROCEDURE FOR JUDICIAL WAIVER OF PARENTAL NOTIFICATION

CHAPTER 8
RULES OF JUVENILE PROCEDURE

DISCOVERY AND NOTICE OF DEFENSES

Rule 8.1 Scope of discovery. In order to provide adequate information for informed decision making and to expedite trials, minimize surprise, afford opportunity for effective cross-examination and meet the requirements of due process, discovery prior to trial and other judicial hearings should be as full and free as possible consistent with protection of persons and effectuation of the goals of the juvenile justice system.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.2 Delinquency proceedings.

8.2(1) *Access to records.* Upon the request of counsel for a juvenile who has been referred for intake screening on a delinquency complaint, the state shall give the juvenile's counsel access to all documents, reports and records within or which come within its possession or control that concern the juvenile or the alleged offense.

8.2(2) *Informal discovery sufficient.* Although informal discovery methods are preferred, upon good cause shown, depositions and interrogatories by any party may be permitted by the court in delinquency proceedings except where they conflict with these rules or with statutes. Ordinarily, however, depositions and interrogatories shall not be permitted for issues arising under Iowa Code section 232.45(6)(b) after filing of a motion to waive jurisdiction.

8.2(3) *Affirmative defenses.* If a juvenile alleged to have committed a delinquent act intends to rely upon the affirmative defenses of insanity, diminished responsibility, intoxication, entrapment, or self-defense [justification], the juvenile shall file written notice of the intention not later than the time set by the court for said filing and in any event not less than ten calendar days prior to the adjudicatory hearing, except for good cause shown.

8.2(4) *State's right to expert examination.* Where a juvenile has given notice of the use of the defense of insanity or diminished responsibility and intends to call an expert witness or witnesses on that issue at trial, the juvenile shall, within the time provided for the filing of pretrial motions, file written notice of the name of such witness. Upon such notice or as otherwise appropriate the court may upon application order the examination of the juvenile by a state-named expert or experts whose names shall be disclosed to the juvenile prior to examination.

8.2(5) *Notice of alibi.* If a juvenile alleged to have committed a delinquent act intends to offer an alibi defense, the juvenile shall file written notice of such intention not later than the time set by the court for the filing of pretrial motions or at such later time as the court directs. The notice of alibi defense shall state the specific place or places the juvenile claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom the juvenile intends to rely to establish such alibi. In the event that a juvenile shall file such notice the prosecuting attorney shall file written notice of the names and addresses of the witnesses the state proposes to offer in rebuttal to discredit the alibi. Such notice shall be filed within ten days after the filing of the juvenile's witness list, or within such other time as the court may direct.

8.2(6) *Failure to comply.* If either party fails to abide with the notice requirements of rule 8.2(3), 8.2(4), or 8.2(5), such party may not offer evidence on the issue of alibi, insanity, diminished responsibility, intoxication, entrapment, or self-defense without leave of court for good cause shown. In granting leave, the court may impose terms and conditions including a delay or continuance of trial. The right of a juvenile to give evidence of alibi, insanity, diminished responsibility, intoxication, entrapment, or self-defense in his or her own testimony is not limited by this rule.

8.2(7) *Multiple offenses.* Two or more delinquent acts which arise from the same transaction or occurrence or from two or more transactions or occurrences constituting parts of a common scheme or plan, when alleged and prosecuted contemporaneously, shall be alleged and prosecuted as separate counts in a single delinquency petition unless, for good cause shown, the juvenile court in its discretion determines otherwise.

8.2(8) *Separate petition(s).* In cases not subject to rule 8.2(7), a separate delinquency petition shall be filed for each delinquent act.
[Report February 21, 1985, effective July 1, 1985; April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002]

Rule 8.3 Child in need of assistance and termination proceedings. Although informal discovery methods are preferred, Iowa R. Civ. P. divisions V and VII, governing discovery, depositions and perpetuation of testimony, shall apply to proceedings under Iowa Code chapter 232, divisions III and IV, where not otherwise inconsistent with these rules or applicable statutes.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

MOTION PRACTICE

Rule 8.4 General rule. Any motion filed with the juvenile court shall be promptly brought to the attention of the judge or referee by the moving party.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.5 Motions for continuance in all proceedings. A motion for continuance shall not be granted except for good cause. Any order granting a continuance shall state the grounds therefor.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

PRETRIAL CONFERENCES

Rule 8.6 Pretrial conferences discretionary. In all actions the juvenile court may in its discretion order all parties to the action to appear for a pretrial conference to consider such matters as will promote a fair and expeditious trial.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

SPEEDY HEARING

Rule 8.7 General rule. It is the public policy of the state of Iowa that proceedings involving delinquency or child in need of assistance be concluded at the earliest possible time consistent with a fair hearing to all parties.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.8 Delinquency. If a child against whom a delinquency petition has been filed has not waived the right to a speedy adjudicatory hearing, the hearing must be held within 60 days after the petition is filed or the court shall order the petition dismissed unless good cause to the contrary is shown.

8.8(1) Entry of a consent decree shall be deemed a waiver of the child's right to a speedy hearing.

8.8(2) The provisions contained herein shall be applicable notwithstanding a motion or hearing to waive jurisdiction pursuant to rule 8.9 or 8.10.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.9 Motion to waive jurisdiction. A motion under Iowa Code section 232.45 must be filed within ten days of the filing of the petition.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.10 Hearings regarding waiver. A hearing on a motion to waive jurisdiction filed pursuant to Iowa Code section 232.45 shall be held within 30 days of the filing of said motion unless good cause to the contrary is shown.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.11 Child in need of assistance adjudicatory hearings. The adjudicatory hearing on a child in need of assistance petition shall be held within 60 days of the filing of said petition unless good cause to the contrary is shown. Failure to comply with this rule shall not result in automatic dismissal, but any such failure may be urged as grounds for discretionary dismissal.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

Rule 8.12 Temporary removal hearings. Whenever a child has been removed pursuant to Iowa Code section 232.78 or 232.79, a hearing under Iowa Code section 232.95 shall be held within ten days of such removal.
[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002]

DELINQUENCY PROCEEDINGS

Rule 8.13 Corroboration of accomplice or solicited person. An adjudication of delinquency shall not be entered against a juvenile based upon the testimony of an accomplice or a solicited person unless corroborated by other evidence which tends to connect the juvenile with the commission of the offense; and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof. Corroboration of the testimony of victims shall not be required.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

Rule 8.14 Suppression of evidence. Motions to suppress evidence shall be raised by motion of the juvenile specifying the ground upon which the juvenile claims the search and seizure to be unlawful. Motions to suppress evidence shall be filed not later than the time set by the court for said filing and in any event not less than ten calendar days prior to the adjudicatory hearing, except for good cause shown.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

Rule 8.15 Multiple juvenile defendants. Two or more juveniles may be tried jointly if in the discretion of the court a joint trial will not result in prejudice to one or more of the parties. Otherwise, the juvenile defendants shall be tried separately. When tried jointly, the juvenile defendants shall be adjudged separately on each count.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

Rule 8.16 Evidence at detention, shelter care, and waiver hearings. The probable cause finding made at a shelter or detention hearing under Iowa Code section 232.44 and at waiver of jurisdiction hearings under Iowa Code section 232.45 shall be based upon substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished. The juvenile defendant may cross-examine witnesses and may introduce evidence in his or her own behalf.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

Rule 8.17 Venue in delinquency cases where child has been placed in another judicial district. Where a juvenile has been placed in another judicial district and is alleged to have committed a delinquent act or acts during such placement, venue, for the purpose of conducting the adjudicatory hearing, shall be in the judicial district where the delinquent act or acts are alleged to have occurred. However, the juvenile court which originally placed the juvenile shall have the option of requesting that venue be transferred to it for the purpose of conducting the adjudicatory proceedings. If the juvenile is adjudicated of committing a delinquent act or acts in the judicial district of the juvenile's placement, venue of the matter shall be transferred to the juvenile court which previously placed the child pursuant to the original dispositional order for the purpose of conducting any dispositional and subsequent review hearings.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

CINA AND TERMINATION PROCEEDINGS

Rule 8.18 Child abuse reports. The juvenile court shall retain founded child protective assessment reports for ten years. Notwithstanding the foregoing, when notified by the Department of Human Services that the report shall be expunged, the juvenile court shall destroy the report pursuant to Iowa Code section 235A.18. The juvenile court shall retain all other child protective assessment reports for five years from the date of intake at which time the clerk shall destroy the reports. Notwithstanding the foregoing, child protective assessment reports which are received into evidence in a juvenile proceeding shall be retained for so long as the case file is retained and shall not be destroyed pursuant to this rule.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002]

Rule 8.19 Admissibility of evidence at temporary removal hearings, hearings for removal of sexual offenders and physical abusers from the residence, and examination hearings. The finding of imminent risk of harm allowing for the temporary removal of a child from his or her

parent, guardian or custodian under Iowa Code section 232.95, the finding that probable cause exists to believe that a sexual or physical abuse has occurred and that the presence of the alleged sexual offender or physical abuser in the child's residence presents a danger to the child's life or physical, emotional or mental health under Iowa Code section 232.82, and the finding that probable cause exists to believe a child is a child in need of assistance pursuant to section 232.2(6)(e) or (f) for purposes of establishing grounds for examination of the child pursuant to Iowa Code section 232.98 shall be made by substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002]

Rule 8.20 Motions to vacate an order for termination of parental rights. Any request by a biological or putative parent to vacate an order terminating parental rights pursuant to Iowa Code chapter 600A must be filed within 30 days from the entry of said order. The 30-day period for filing a motion to vacate such order shall not be waived or extended.
[Report April 7, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002]

Rule 8.21 CINA and termination of parental rights orders, informational notice regarding appeal. If a court enters an order in an Iowa Code chapter 232 CINA, termination of parental rights, or post-termination proceeding, the order shall contain a written notice that an appeal by an aggrieved party must be taken pursuant to Iowa R. App. P. 6.101(1)(*a*), the notice of appeal must be filed within 15 days of the entry of the order, and a petition on appeal must be filed within 15 days thereafter. The absence of such language from an order will not affect the time for filing a notice of appeal or a petition on appeal.
[Report August 31, 2001, effective January 1, 2002; November 9, 2001, effective February 15, 2002; April 21, 2003, effective July 1, 2003; October 31, 2008, effective January 1, 2009]

PROCEDURE FOR JUDICIAL WAIVER OF PARENTAL NOTIFICATION

Rule 8.22 General principles.

8.22(1) These rules shall be interpreted to provide expeditious and confidential proceedings in accordance with Iowa Code chapter 135L.

8.22(2) All references in these rules to the clerk shall mean the clerk of the district court and shall include the clerk's designee.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.23 Petition for waiver.

8.23(1) *Form.* A minor who seeks waiver of parental notification prior to obtaining an abortion shall petition the court in a manner substantially complying with the form that accompanies these rules. This form, along with other forms that accompany these rules for use in waiver proceedings, shall be available at the offices of all clerks of court. All petitions shall state the manner by which the minor desires to receive notification of the court's decision and whether a similar petition has previously been presented to and refused by any court.

8.23(2) *Assistance.* The clerk shall assist the minor in completing and filing the petition.

8.23(3) *Filing.* A petition is filed for the purposes of these rules when it is date and time stamped in the clerk's office. The clerk shall present the petition to the court immediately upon filing.

8.23(4) *Anonymity and confidentiality.* The minor may file a petition using a pseudonym and the petition shall not contain any information, such as social security number, address, or name of parents, by which the minor may be identified. A sworn statement containing the case number, and the minor's true name, date of birth, and address shall be filed simultaneously with the pseudonymous petition. The clerk of court shall issue to the minor a certified copy of the sworn statement, which shall identify her to the provider of abortion services as the minor for whom a petition to waive notification was granted or denied. The clerk shall then place the original sworn statement under seal. Notwithstanding

any other provision of Iowa law or these rules, the seal on the statement containing the minor's true name may not be broken except upon court order in exigent circumstances or at the minor's request.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.24 Appointment of counsel. The clerk shall inform the minor that she has a right to a court-appointed attorney without cost to her. The court shall appoint an attorney for the minor upon her request. The attorney shall serve as counsel on appeal.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.25 Appointment of guardian ad litem. The court may appoint a guardian ad litem, and shall appoint a guardian ad litem if the minor is not accompanied by a responsible adult, as that term is defined in the statute, or has not viewed the video under Iowa Code section 135L.2.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.26 Advisory notice to minor.

8.26(1) Upon the filing of any petition for waiver of parental notification, the clerk shall provide the minor a copy of the Advisory Notice to Minor form that accompanies these rules.

8.26(2) The clerk shall document in the court file that a copy of the advisory notice has been provided to the minor.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.27 Scheduling. Immediately upon filing the petition, the clerk shall set or secure the date for the hearing and so advise the minor if she is present. Otherwise, notice of hearing shall follow the procedures of rule 8.28. The hearing shall be held within 48 hours of the filing of the petition unless the minor or her attorney requests an extension of time within which a hearing shall be held. If the request for extension of time is granted, the deadline for filing any decision on appeal shall be extended for a like period of time.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.28 Notice of hearing. If the court determines that a guardian ad litem and/or an attorney for the minor should be appointed in accordance with Iowa Code section 135L.3(3)(b), the clerk shall notify said person(s) as well as any other person(s) designated by the minor not less than eight hours before the time fixed for a hearing, unless there is a waiver of the notice requirement by said person(s), or the time is reduced or extended by the court. Service of notice may be by acceptance of service. The only notice provided to the minor shall be by the minor making inquiry of the clerk of court following the entry of the order scheduling the hearing. Notice shall be provided by the clerk only to the above-named person(s).
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.29 Burden of proof and standard of evidence. The minor shall have the burden of proving the allegations of her petition by a preponderance of the evidence.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.30 Record required. In accordance with Iowa Code section 624.9, and consistent with the confidentiality requirements of rule 8.32, stenographic notes or electronic recordings shall be taken of all hearings held pursuant to Iowa Code chapter 135L and said record shall not be waived.
[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.31 Order granting or denying petition.

8.31(1) *Time for granting or denying waiver.* An order either granting or denying waiver of parental notification with findings of fact and conclusions of law shall be filed immediately following

the hearing and in no event later than 48 hours from the filing of the petition or from the hearing if an extension is granted under rule 8.27.

8.31(2) *Procedure in default of hearing and order.* If the court fails to hold the hearing and rule on the petition within the time provided by these rules, the petition is deemed granted and the waiver is deemed authorized. In the event the petition is deemed authorized, the clerk shall immediately issue the certification form that accompanies these rules to the minor or her attorney.

8.31(3) *Delivery of order or certification.* The clerk shall deliver the order under rule 8.31(1), or the certification under rule 8.31(2), in the manner requested by the minor in the petition. The order or certification shall specify the person(s) to whom the clerk shall provide a copy. A copy shall be available to the minor at the clerk's office.

8.31(4) *Notification of appeal rights.* If the petition is denied, the order shall include notice of the right to appeal to the Iowa supreme court, the time period within which appeal must be filed and a copy of the applicable rules of appellate procedure.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.32 Confidentiality of documents and hearings.

8.32(1) *Records.* In accordance with Iowa Code chapter 135L and these rules, all records of parental notification proceedings are confidential. All confidential records shall be kept sealed and opened only as necessary for the conduct of proceedings for waiver of parental notification, an appeal of the district court decision, or as ordered by a court.

8.32(2) *Hearings.* The hearing shall be held in a confidential manner, preferably in chambers. Only the minor, her attorney, her guardian ad litem, and the person(s) whose presence is specifically requested by the minor, her attorney, or her guardian ad litem may attend the hearing on the petition.

8.32(3) *Purging of files.* The clerk shall destroy all records and files in the case when one year has elapsed from any of the following, as applicable:

a. The date that the court issues an order waiving the notification requirement or the date the waiver is deemed authorized under rule 8.31(2).

b. The date after which the court denies the petition for waiver of notification and the decision is not appealed.

c. The date after which the court denies the petition for waiver of notification, the decision is appealed, and all appeals are exhausted.

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.33 Juvenile Procedure Forms — General. The following forms are illustrative and not mandatory, but any particular instrument shall substantially comply with the form illustrated.

Rule 8.33 — Form 1: ***Petition for Family in Need of Assistance.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
JUVENILE COURT

IN RE THE FAMILY OF _____; UPON THE PETITION OF _____ A CHILD/CHILDREN or A PARENT, GUARDIAN or CUSTODIAN	JUVENILE NO. _____ **PETITION FOR FAMILY IN NEED OF ASSISTANCE**

The petitioner respectfully states to the court that _____[child/children]_____ and _____[parent, guardian or custodian]_____ are a family in need of assistance within the purview of Iowa Code sections 232.122 through 232.127, in that there has been a breakdown in the familial relationship. In support thereof, petitioner states as follows:

[STATE BRIEFLY FACTS RELIED ON TO SUSTAIN PETITION.]

Petitioner has sought services from _____, a private or public agency, to maintain and improve the familial relationship, but the relationship has not improved and petitioner now requests the aid of the court.

The name(s) and residence(s) of the child/children are _____.

The age(s) of the child/children is/are _____.

The names and residences of the living parents, guardian or custodian are _____.

The name and address of the guardian ad litem are _____.

WHEREFORE, the undersigned prays that the court set a time and place for hearing on the petition, appoint counsel for the child, order that notice be directed to all parties in interest in a manner provided by law, and upon hearing adjudicate this family to be a family in need of assistance and make such order or orders as may maintain and improve the familial relationship.

_____
Petitioner

_____
Address

VERIFICATION

State of Iowa }
_____County } ss

I, _____, being duly sworn, depose and say that I have read and signed the foregoing petition and that the allegations therein made are true to the best of my information and belief.

_____
Petitioner

Subscribed and sworn to before me this _____ day of _____, 20 _____.

_____
Notary Public or Deputy Clerk

SOURCE: Iowa Code §232.125, 232.126, 232.127; 8.33, Form 1.

[Report 1983; November 9, 2001, effective February 15, 2002]

Rule 8.33 — Form 2: ***Order Setting Hearing, Appointing Counsel and Giving Notice (Family in Need of Assistance).***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
JUVENILE COURT

IN RE THE FAMILY OF _____; UPON THE PETITION OF _____ A CHILD/CHILDREN or A PARENT, GUARDIAN or CUSTODIAN	JUVENILE NO. _____ **ORDER SETTING HEARING, APPOINTING COUNSEL AND GIVING NOTICE (FAMILY IN NEED OF ASSISTANCE)**

To: _____

You are hereby notified that there is presently on file in this court a verified petition alleging the above-named family to be a family in need of assistance; a copy of the petition is attached. An adjudicatory hearing on the merits of the petition is set for the time and place stated below.

You are further notified that the court shall appoint counsel or a guardian ad litem to represent the interests of the child at the adjudicatory hearing unless the child already has such counsel or guardian and that the court shall appoint counsel for the parent, guardian, or custodian if that person desires but is financially unable to employ counsel.

You are further notified that if you wish to state your views, you must appear or in your absence the court may order you to comply with any other reasonable orders designed to maintain and improve the familial relationship.

The court having found that a hearing on this matter should be set, IT IS HEREBY ORDERED:

1. That the above matter is set for adjudicatory hearing at _____ o'clock _____.m., on the _____ day of _____, 20 _____, before this court at the _____ County Courthouse at _____, in the city of _____, _____ County, Iowa.

2. That _____, an attorney practicing before this court, is appointed to represent the child, _____, in this matter as guardian ad litem.*

3. That the clerk of the juvenile court is directed to send by certified mail a copy of this order with the attached petition to the above-named child, child's counsel and said child's parent, guardian or custodian no less than _____ days prior to the time set out above, said mailing to serve as notice of said hearing.

Dated this _____ day of _____, 20 _____.

_____
Judge

* Delete this paragraph if the child is already represented by counsel.

SOURCE: Iowa Code §232.126, 232.127; 8.33, Form 2.

[Report 1983; November 9, 2001, effective February 15, 2002]

Rule 8.33 — Form 3: ***Financial Affidavit of Parent and Application for Appointment of Counsel for ❑ Child ❑ Parent ❑ Other.***

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of	)	**Juvenile No.** _____
_____,	)	
_____,	)	**Financial Affidavit of Parent and Application for Appointment of Counsel for**
_____,	)	**❑ Child ❑ Parent ❑ Other:** _____
Child(ren).	)	

In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State Zip

Case: ❑ CINA ❑ TPR ❑ Del ❑ Other: _____ Relationship to Child(ren): ❑ Parent ❑ Other: _____

Do you have a job? ❑ No job ❑ Yes, full time ❑ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ❑ hour ❑ month ❑ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ❑ hour ❑ month ❑ year

List all other money you, and anyone else living in your household, has coming in: _____
_____
_____
_____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than $100: _____
_____
_____
_____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____
_____
_____
_____

I understand I may be required to repay the state for my attorney fees and costs and those of my child, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.

Date_____ Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; November 8, 2012, effective January 7, 2013]

Rule 8.33 — Form 3A: *Order for Appointment of Counsel for ❑ Child ❑ Parent ❑ Other.*

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of	)	**Juvenile No.** _____
_____,	)	
_____,	)	**Order for Appointment**
_____,	)	**of Counsel for**
Child(ren).	)	**❑ Child ❑ Parent ❑ Other:** _____

Now on this _____ day of_____, 20___, the court having received and examined the Financial Affidavit of Parent and Application for Appointment of Counsel and having considered not only Child/Applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. **Child/Applicant:**
   - ❑ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
     - ❑ Child/Applicant's income is **at or below 125%** of the poverty guidelines and Child/Applicant is unable to pay for the cost of an attorney; **or**
     - ❑ Child/Applicant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Child/Applicant substantial financial hardship; **or**
     - ❑ Child/Applicant's Income is **over 200%** of the poverty guidelines, case is a felony-level delinquency, and not appointing counsel would cause Child/Applicant substantial financial hardship.
   - ❑ Is a child and is otherwise eligible for court-appointed counsel under Iowa Code chapter 232.
   - ❑ Is not eligible for court-appointed counsel.
2. **Counsel/Guardian ad litem** appointed below to represent Child/Applicant is:
   - ❑ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in this county; **or**
   - ❑ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
     - ❑ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
     - ❑ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
     - ❑ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

It is therefore ordered that Child/Applicant's Application for Appointment of Counsel is

- ❑ Denied.
- ❑ Approved, and that _____ is appointed to serve as counsel/guardian ad litem in this case for _____ at state expense and may be contacted at _____.

_____
Judge, _____ Judicial District

Copy to:

* **Note**: A different standard applies for determining eligibility for appointment of respondent's counsel in a Chapter 600A TPR, and additional findings are required to determine the appropriate party/agency responsible for payment. *See* Iowa Code §§ 600A.2(11), 600A.6A(2), and 600A.6B. **Do not use this form order for 600A TPR Appointments.**

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; November 8, 2012, effective January 7, 2013]

Rule 8.33 — Form 4: ***Financial Affidavit of 600A Respondent and Application for Appointment of Counsel.***

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of	)	**Juvenile No.** _____
_____,	)	
_____,	)	**Financial Affidavit of 600A Respondent and Application for Appointment of Counsel**
_____,	)	
Child(ren).	)	

In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:

Respondent's name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State Zip

Do you have a job? ❑ No job ❑ Yes, full time ❑ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ❑ hour ❑ month ❑ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ❑ hour ❑ month ❑ year

List all other money you, and anyone else living in your household, has coming in: _____
_____
_____
_____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than $100: _____
_____
_____
_____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____
_____
_____
_____

I understand I may be required to repay the state for my attorney fees and costs and those of my child, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.

Date_____ Signature _____

[Report November 8, 2012, effective January 7, 2013]

Rule 8.33 — Form 4A: *Order for Appointment of Counsel for 600A Respondent.*

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of	)	**Juvenile No.** _____
_____,	)	
_____,	)	**Order for Appointment**
_____,	)	**of Counsel for 600A Respondent**
Child(ren).	)	

Now on this _____ day of _____, 20___, the court having received and examined the Financial Affidavit of Respondent and Application for Appointment of Counsel and having conducted an in-court colloquy and having considered not only Respondent's income, but also the availability of any assets subject to execution and the nature and complexity of the case, finds the following:

1. **Respondent:**
   - ❑ Is eligible for court-appointed counsel pursuant to Iowa Code section 600A.6A because each of the following criteria are met:
     - ❑ Respondent requested appointment of counsel; **and**
     - ❑ Respondent is indigent (at or below 100% of the poverty guidelines and Respondent is unable to pay for the cost of an attorney); **and**
     - ❑ Respondent, because of lack of skill or education, would have difficulty in presenting the person's version of the facts in dispute, particularly where the presentation of the facts requires the examination or cross-examination of witnesses or the presentation of complex documentary evidence; **and**
     - ❑ Respondent has a colorable defense to the termination of parental rights, or there are substantial reasons that make termination of parental rights inappropriate.
   - ❑ Is not eligible for court-appointed counsel.
2. **Counsel** appointed below to represent Respondent:
   - ❑ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
   - ❑ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
   - ❑ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

It is therefore ordered that Respondent's Application for Appointment of Counsel is

- ❑ Denied.
- ❑ Approved, and that _____ is appointed to serve as counsel in this case for Respondent at state expense and may be contacted at _____.

_____
Judge, _____ Judicial District

Copy to:

[Report November 8, 2012, effective January 7, 2013]

Rule 8.33 — Form 5: *Financial Affidavit of Petitioner Under Iowa Code Chapter 600A.*

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of _____, _____, _____, **Child(ren).**	)))))))	**Juvenile No.** _____ **Financial Affidavit of Petitioner Under Iowa Code Chapter 600A**

Petitioner's name: _____ Birth date: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State Zip

Do you have a job? ❑ No job ❑ Yes, full time ❑ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ❑ hour ❑ month ❑ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ❑ hour ❑ month ❑ year

List all other money you, and anyone else living in your household, has coming in: _____
_____
_____
_____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than $100: _____
_____
_____
_____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____
_____
_____
_____

I promise under penalty of perjury that the statements I make in this affidavit are true and that I am unable to pay for an attorney to represent Respondent in this case. I also understand that I must report any changes in the information submitted on this financial affidavit.

Date_____ Signature _____

[Report November 8, 2012, effective January 7, 2013]

Rule 8.33 — Form 5A: ***Order for Payment of Respondent's Court Appointed Attorney Fees and Costs.***

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of _____, _____, _____, **Child(ren).**	)))))))	**Juvenile No.** _____ **Order for Payment of Respondent's Court Appointed Attorney Fees and Costs**

Now on this _____ day of _____, 20___, the court having received and examined the Financial Affidavit of Petitioner Under Iowa Code Chapter 600A finds as follows:

- ☐ Petitioner is **not indigent** (over 100% poverty guideline) and is responsible for payment of reasonable attorney's fees to Respondent's court-appointed attorney.

- ☐ Petitioner is **indigent** (at or under 100% poverty guideline unless able to pay attorney costs) and the State Public Defender is responsible for payment of reasonable attorney's fees to Respondent's court-appointed attorney under Iowa Code section 600A.6B(3) and Iowa Administrative Code section 493-14.

_____
Judge, _____ Judicial District

Copy to:

[Report November 8, 2012, effective January 7, 2013]

Rule 8.34 Juvenile Procedure Forms — Judicial Waiver of Parental Notification. The following forms are illustrative and not mandatory, but any particular instrument shall substantially comply with the form illustrated.

Rule 8.34 — Form 1: ***Petition for Waiver of Parental Notification of Minor's Abortion.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF _____, A Minor.	Juvenile No. _____ **PETITION FOR WAIVER OF PARENTAL NOTIFICATION OF MINOR'S ABORTION PURSUANT TO IOWA CODE SECTION 135L.3**

I, the above-named minor, state:

1. I am under 18 years of age.

2. I am approximately _____ weeks pregnant and seek an abortion by a licensed physician, without notification of a parent.

3. (Check one)

_____ a. I am accompanied by a responsible adult (a responsible adult is a person who is 18 or over and who is not associated with the clinic or physician who will perform the abortion).

_____ b. I am not accompanied by a responsible adult.

4. (Check one)

_____ a. I have viewed the video prepared by the Iowa Department of Public Health that explains my options as a pregnant minor, including parenting, adoption, and abortion.

_____ b. I have not viewed the video.

5. (Check one)

_____ a. I understand that I have the right to a court-appointed attorney at no cost to me. Please appoint an attorney to represent me.

_____ b. I have an attorney to represent me. The attorney's name, address, and telephone number is _____
_____.

6. I understand that this proceeding will be kept secret from my parents and the public. The only persons who may attend any hearing on the petition are myself, my attorney, my guardian ad litem (if one is appointed) and those whose presence I, my attorney, or my guardian ad litem specifically request. I request that the following person(s) be notified of and admitted to all hearings in my case:
Name(s) and address(es): _____
_____.

7. I understand court personnel will not send any papers to my home or try to call me. I would like to be informed of the court's decision in the following way: _____
_____.

I request the following person(s), in addition to my attorney, be contacted and given papers in my case:
Name(s) and address(es): _____
_____.

Petition for Waiver of Parental Notification of Minor's Abortion *(cont'd)*

8. (Check one or both)

_____ a. I am mature and capable of providing informed consent for the performance of an abortion.

_____ b. It would not be in my best interests to notify a parent of my abortion for the following reasons: _____ _____ _____.

9. I state on oath that (check one)

_____ a. I am presenting this request to a court for the first time.

_____ b. I have made this request to a court before and was refused.

10. The name, business address, and business telephone number (if these are known) of the physician who will perform the abortion is _____ _____ _____.

THEREFORE, I request that the court grant my application to obtain an abortion without notifying a parent.

Signed on this _____ day of _____, 20 _____.

_____
Petitioner (You may sign a name other than your true name, such as Jane Doe)

NOTICE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at _____. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 2: ***Declaration of Minor who has Filed Pseudonymous Petition to Waive Parental Notification.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF _____, A Minor.	Juvenile No. _____ **DECLARATION OF MINOR WHO HAS FILED PSEUDONYMOUS PETITION TO WAIVE PARENTAL NOTIFICATION UNDER IOWA CODE CHAPTER 135L**

NOTICE TO THE CLERK OF COURT: A CERTIFIED COPY OF THIS DECLARATION, WITH THE FILE NUMBER NOTED ON IT, SHOULD BE GIVEN TO THE MINOR AFTER SHE SIGNS IT.

THE ORIGINAL SHOULD IMMEDIATELY BE PLACED IN A SEALED ENVELOPE, WHICH SHOULD BE FILED UNDER SEAL AND KEPT UNDER SEAL AT ALL TIMES.

1. My true name is _____, and my address is
(print your name)
_____.
(print your address)
2. My date of birth is _____.
3. I have filed a petition to waive parental notification, under the name _____

_____ on _____.
(date)

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: _____ Signed: _____
(You must sign your true name)

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 3: ***Order Appointing Counsel for a Minor.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF _____, A Minor.	Juvenile No. _____ **ORDER APPOINTING COUNSEL FOR A MINOR UNDER IOWA CODE SECTION 135L.3(3)(b)**

THIS MATTER is before the court upon the minor's request to waive parental notification of an abortion under Iowa Code chapter 135L. The court finds that counsel should be appointed.

IT IS ORDERED that [*name*] _____, [*address*] _____, [*telephone number*] _____ is appointed counsel for the minor at public expense.

The clerk shall provide a copy of this order as specified in Iowa R. Juv. P. 8.28.

Dated this _____ day of _____, 20 _____.

_____
JUDGE
_____ **JUDICIAL DISTRICT OF IOWA**

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 4: ***Order Appointing a Guardian Ad Litem for a Minor.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF _____, A Minor.	Juvenile No. _____ **ORDER APPOINTING A GUARDIAN AD LITEM FOR A MINOR UNDER IOWA CODE SECTION 135L.3(3)(b)**

THIS MATTER is before the court upon the minor's request to waive parental notification of an abortion under Iowa Code chapter 135L. The court finds that a guardian ad litem should be appointed.

IT IS ORDERED that [*name*] _____, [*address*] _____, [*telephone number*] _____ be appointed as the guardian ad litem for the minor at public expense.

The clerk shall provide a copy of this order as specified in Iowa R. Juv. P. 8.28.

Dated this _____ day of _____, 20 _____.

_____
JUDGE
_____ **JUDICIAL DISTRICT OF IOWA**

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 5: *Advisory Notice to Minor.*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF _____, A Minor.	Juvenile No. _____ **ADVISORY NOTICE TO MINOR**

YOU ARE NOTIFIED as follows:

All information in your case is confidential. No papers will be sent to your home, and you will not be contacted by this court. Your name will not be on your court papers.

Your lawyer and your guardian ad litem (if one is appointed) will receive notices about your case. You may also name someone else to get notices. That person's name should be on your petition.

YOUR CASE NUMBER APPEARS AT THE TOP OF THIS SHEET. KEEP IT IN A SAFE PLACE. YOU CANNOT GET INFORMATION FROM THE CLERK WITHOUT YOUR CASE NUMBER.

YOU HAVE BEEN GIVEN A COPY OF THE STATEMENT YOU SIGNED WITH YOUR TRUE NAME. KEEP IT IN A SAFE PLACE. YOU MAY NEED TO SHOW IT TO YOUR DOCTOR TO OBTAIN AN ABORTION WITHOUT NOTIFYING A PARENT.

Clerk: Complete information below:

1. (a) Your hearing is scheduled for _____, at the _____ County Courthouse in _____, Iowa.

   OR

   (b) You must call the clerk at (_____) _____ to obtain the date of the hearing.

2. (a) Your lawyer is _____, telephone number _____.

   OR

   (b) You must call the clerk at the above number to get the name of your lawyer.

3. (a) Your guardian ad litem is _____, telephone number _____.

   OR

   (b) You may call the clerk at the above number to obtain the name of your guardian ad litem.

You may be told of the court's decision immediately after the hearing. If not, you may contact your lawyer or the clerk soon after the hearing to find out if the court has ruled on your petition.

You have a right to a hearing and a decision within 48 hours unless you or your attorney asks for an extension of time. Any extension of time granted for the hearing shall extend the deadline for filing any decision on appeal for a like period of time. If these deadlines are not met you have a right to ask the clerk for a paper that will allow your doctor to perform the abortion without notifying a parent.

If the court does not grant your petition, you will be able to appeal.

Advisory Notice to Minor *(cont'd)*

If the court does not grant your petition and you decide not to appeal, or if your appeal is not granted, you may request that the court appoint a licensed therapist to help you tell your family of your decision and deal with any family problems. The cost of the therapist will be paid for by the court.

I certify that I have given a copy of this advisory notice to the minor.

_____
Clerk of the Court
_____ County Courthouse
_____, Iowa _____

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 6: ***Order Setting Hearing on Petition for Waiver of Parental Notification of Minor's Abortion.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF _____, A Minor.	Juvenile No. _____ **ORDER SETTING HEARING ON PETITION FOR WAIVER OF PARENTAL NOTIFICATION OF MINOR'S ABORTION**

THIS MATTER came before the court upon the petition of _____ that a hearing be held in this matter. The court finds that such a hearing should be scheduled and proper notice should be given in accordance with Iowa R. Juv. P. 8.28.

IT IS THEREFORE ORDERED that a hearing on the Petition to Waive Parental Notification of a Minor's Abortion be held pursuant to Iowa Code section 135L.3 on the _____ day of _____, 20 _____, at _____ o'clock ____. m. at the _____ County Courthouse in _____, Iowa.

The clerk shall provide a copy of this order as specified in Iowa R. Juv. P. 8.28.

Dated this _____ day of _____, 20 _____.

_____
JUDGE
_____ **JUDICIAL DISTRICT OF IOWA**

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 7: ***Findings of Fact, Conclusions of Law and Order.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF _____, A Minor.	Juvenile No. _____ **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

This matter came before the court on _____, 20 _____, for hearing held pursuant to Iowa Code section 135L.3 on waiver of parental notification of a minor's abortion. Present for the hearing were the following:

_____, the minor;

_____, the minor's attorney;

_____, the minor's guardian ad litem; and

_____, _____.

The proceeding was reported [tape recorded]. The following exhibits and testimony were received into evidence:
_____
_____
_____

The court now makes the following **FINDINGS OF FACT**:

1. Notice of this hearing and a copy of the petition were served in accordance with Iowa R. Juv. P. 8.28.

2. The petitioner is a pregnant minor, _____ years of age. She is approximately _____ weeks pregnant and seeks an abortion but objects to the notification of a parent.

3. (Check one)

____ a. The petitioner is mature and capable of providing informed consent for the performance of an abortion. This decision is based upon the following facts: _____
_____
_____.

OR

____ b. The petitioner is not mature or does not claim to be mature, but notification to the petitioner's parent is not in the petitioner's best interest. This decision is based upon the following facts: _____
_____
_____.

OR

____ c. The petitioner has not shown she is mature and capable of providing informed consent, nor has she shown that notification to a parent is <u>not</u> in her best interest. This decision is based upon the following facts: _____
_____
_____
_____
_____.

Findings of Fact, Conclusions of Law and Order *(cont'd)*

CONCLUSIONS OF LAW

1. The court has jurisdiction of the petitioner and the subject matter as provided in Iowa Code chapter 135L.

2. The burden of proof is on the petitioner by a preponderance of the evidence.

3. (Check one)

____ a. A preponderance of the evidence shows that the petitioner is mature and capable of providing informed consent for the performance of the abortion within the scope and meaning of Iowa Code section 135L.3(3)(e)(1).

OR

____ b. A preponderance of the evidence shows that the petitioner is not mature or does not claim to be mature, but notification of the abortion to a parent is not in the best interest of the petitioner within the scope and meaning of Iowa Code section 135L.3(3)(e)(2).

OR

____ c. The evidence does not support a judicial waiver of parental notification.

4. The notification requirements as provided in Iowa Code section 135L.3 should [should not] be waived.

IT IS ORDERED, ADJUDGED AND DECREED that the petition for waiver of parental notification is granted [denied].

The clerk shall provide a copy of this order to the petitioner's attorney, guardian ad litem, if any, physician, and the following person(s) designated by the petitioner: _____
_____
_____.

The clerk shall provide notice of this decision to the petitioner as requested in the following manner: _____
_____.

Notice: (Delete if petition is granted). You have the right to appeal this ruling to the Iowa Supreme Court. You must file a notice of appeal with the district court clerk within 24 hours of this ruling. The rules you must follow for the appeal are attached to this order.

Dated this _____ day of _____, 20 _____.

_____
JUDGE
_____ **JUDICIAL DISTRICT OF IOWA**

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 8: ***Certification that Waiver of Parental Notification is Deemed Authorized.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF _____, A Minor.	Juvenile No. _____ **CERTIFICATION THAT WAIVER OF PARENTAL NOTIFICATION IS DEEMED AUTHORIZED**

Pursuant to Iowa Code section 135L.3 the clerk certifies that:

1. The minor's petition for waiver of parental notification was filed on _____.

2. ____ (a) A ruling was not made within 48 hours of the filing of said petition,

   OR

   ____ (b) The date for the hearing was extended at the request of the minor to _____, and a ruling was not made within 48 hours of the extended hearing date.

THEREFORE, pursuant to Iowa Code section 135L.3(3)(l), the petition is deemed granted and the waiver of notification requirements is deemed authorized.

Dated: _____

_____
Clerk of the Court
_____ County Courthouse

_____, Iowa _____

Copies to: (Clerk, *see* Iowa R. Juv. P. 8.31(3))

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

Rule 8.34 — Form 9: ***Notice of Appeal.***

IN THE IOWA DISTRICT COURT FOR _____ COUNTY
(JUVENILE DIVISION)

IN THE INTEREST OF _____, A Minor.	Juvenile No. _____ Supreme Court No. _____ **NOTICE OF APPEAL**

TO THE CLERK OF THE DISTRICT COURT, _____ COUNTY, AND TO THE CLERK OF THE SUPREME COURT:

You are notified that _____, the minor, who filed her petition for waiver of parental notification on _____, hereby appeals the order dated _____, which denied her petition.

Dated this _____ day of _____, 20 _____.

_____
Attorney for _____

Address: _____
_____
_____

[Court Order June 26, 1997, temporary rules effective July 1, 1997; Court Order June 26, 1997, permanent rules effective September 8, 1997; Report November 9, 2001, effective February 15, 2002]

EMANCIPATION OF MINORS

Rule 8.35 Emancipation orders.

8.35(1) *Separate orders.* The juvenile court shall enter findings of fact and conclusions of law separately from an order granting emancipation of a minor.

8.35(2) *Confidentiality.* The separate findings of fact and conclusions of law shall be confidential. Notwithstanding any other confidentiality statute or rule concerning juvenile court records, orders granting emancipation of a minor under Iowa Code chapter 232C shall be considered public records subject to release by the juvenile court.

[Report June 29, 2009, effective August 28, 2009]

PARENT REPRESENTATION

Rule 8.36 Educational requirements for court-appointed attorneys representing parents.

8.36(1) *Three-hour annual minimum.* Court-appointed attorneys representing parents in juvenile court are required to participate annually in a minimum of three hours of continuing legal education relating to juvenile court proceedings. An attorney shall not accept juvenile court appointment representing a parent unless the attorney has fulfilled this three-hour minimum requirement either in the previous calendar year or earlier in the calendar year of the appointment.

8.36(2) *Qualifying courses.*

a. For purposes of this rule, "continuing legal education relating to juvenile court proceedings" means instruction that meets all three of the following criteria:

(1) It relates to the legal, ethical, medical, psychological, or social issues arising in juvenile court proceedings.

(2) It has been approved by the Iowa Children's Justice Initiative.

(3) It has been accredited by the commission on continuing legal education.

b. The Iowa Children's Justice Initiative is responsible for publicizing courses that meet the criteria of rule 8.36(2). It is anticipated that these courses will be available throughout the state at little or no cost to the attorney.

8.36(3) *Recordkeeping.* Court-appointed attorneys representing parents in juvenile court proceedings are responsible for maintaining records of their compliance with this rule and reporting required instruction on the annual report required by Iowa Court Rule 41.4. A judge presiding over a juvenile proceeding, or the State Public Defender, may require an attorney to certify compliance with this rule and to provide the attorney's annual reports and any other records demonstrating compliance with this rule.

8.36(4) *Effective date.* This rule applies to court appointments that occur on or after January 1, 2015. Attorneys appointed to represent parents in juvenile court proceedings on or after January 1, 2015, must have completed three hours of continuing legal education relating to juvenile court proceedings either during calendar year 2014 or during calendar year 2015 prior to their appointment.

[Court Order October 16, 2013, effective January 1, 2015]

MINOR GUARDIANSHIPS

Rule 8.37 Juvenile Procedure Forms — Minor Guardianships. An individual serving as guardian for a minor guardianship without attorney representation must use forms contained in this rule for required filings. An attorney may use these forms but is not required to do so.

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 8.37 — Form 1: *Protected Information Disclosure*

- *If information is abbreviated on other rule 8.37 forms, use this form to include protected information in full.*

In the Iowa District Court for _____ County (Juvenile Division)

In the Matter of the Guardianship of:	Juvenile no._____
_____ *Initials of Protected Minor*	**Protected Information Disclosure**
Protected Minor.	

When protected information, as defined in Iowa Court Rule 16.602, is required by law or is material to the case and is therefore included in nonconfidential documents on nonconfidential cases, a party must record the protected information on this form.

For an explanation of a filer's responsibility and the procedures to use for protecting personal information, refer to Iowa Court Rules: Chapter 16, Rules of Electronic Procedure, Division VI, Protection of Personal Privacy. Rule 16.602 provides the list of protected information. Rule 16.604 provides a list of information that may be redacted or partially provided.

1. Protected Minor. *The minor who is the subject of the guardianship.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Protected Minor's full name	*Full name*	*Initials only*
B. Social security number	- -	*Last four digits only*
C. Date of birth	/ / *mm/dd/yyyy*	*Year only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*

Continued on next page

Rule 8.37—Form 1: Protected Information Disclosure, continued

H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Protected Minor.*

2. Parent. *The parent of the minor who is the subject of the guardianship.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*
C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Parent.*

3. Additional Parent. *The other parent, if applicable, of the minor who is the subject of the guardianship.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*

Continued on next page

Rule 8.37—Form 1: Protected Information Disclosure, continued

C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Additional Parent.*

4. Proposed Guardian or Guardian. *The proposed, or current, guardian of the protected minor.*

Provide the complete version of protected information and the redacted version included in documents you file.

Name _____ _____ _____
First *Middle* *Last*

Protected information type	**Complete information** (See rules 16.602 and 16.604)	**Redacted information** (See rule 16.605)
A. Social security number	- -	*Last four digits only*
B. Date of birth	/ / *mm/dd/yyyy*	*Year only*
C. Individual taxpayer identification numbers	- -	*Last four digits only*
D. Personal identification numbers (if no social security number)	*Full number*	*Partial only*
E. Other unique identifying numbers	*Full number*	*Partial only*
F. *Additional protected information*	*Full information*	*Partial information*
G. *Additional protected information*	*Full information*	*Partial information*
H. *Additional protected information*	*Full information*	*Partial information*
I. *Additional protected information*	*Full information*	*Partial information*

☐ *Check this box if you are attaching a separate sheet listing additional information for Proposed Guardian or Guardian.*

Continued on next page

Rule 8.37—Form 1: Protected Information Disclosure, continued

5. Information provided by:

_____ /s/_____
Printed name *Signature*

_____
Law firm, if applicable

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

_____ _____, 20_____
Month *Day* *Year*
Date signed

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 8.37 — Form 2: *Background Check Information for a Proposed Guardian of a Minor*

Instructions:

- Iowa Code section 232D.307 requires the court to conduct a criminal records check and checks of the child abuse, dependent adult abuse, and sex offender registry for a proposed guardian of a minor, and requires the proposed guardian to pay the background check fee ($15.00). *Note: The clerk of court will keep this information form **confidential**.*
- Do not give copies of this form to anyone except the clerk of court or your attorney, if you have one.
- If there is no existing guardianship approved by the court, file this form and a Petition to Establish a Guardianship for a Minor with the clerk of court.

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County (Juvenile Division)

In the Matter of the Guardianship of: _____ *Initials of Protected Minor* **Protected Minor.**	Juvenile no._____ **Background Check Information for a Proposed Guardian of a Minor** Iowa Code § 232D.307

Guardian states as follows:

1. Proposed Guardian's personal information

A. Current legal name

_____	_____	_____
Full first name	*Full middle name (write "N/A" if no middle name)*	*Full last name*

B. Personal identifying information

___/___/___	_____	___-___-___
Date of birth (month/day/year)	*Gender*	*Social security number*

C. All other names ever used (including any other previous legal names and nicknames)

Alternate name #1

_____	_____	_____
Full first name	*Full middle name (write "N/A" if no middle name)*	*Full last name*

Alternate name #2

_____	_____	_____
Full first name	*Full middle name (write "N/A" if no middle name)*	*Full last name*

Continued on next page

Rule 8.37—Form 2: Background Check Information for a Proposed Guardian of a Minor, continued

	Full first name	Full middle name (write "N/A" if no middle name)	Full last name
Alternate name #3			
Alternate name #4			
Alternate name #5			
Alternate name #6			
Alternate name #7			
Alternate name #8			
Alternate name #9			

2. Certification and release authorization

Certification: I confirm that the information provided above is true and correct.

Release Authorization: I give permission for the court to conduct an Iowa criminal history record check with the Division of Criminal Investigation (DCI). Any criminal history data concerning me maintained by the DCI may be released as allowed by law. I understand this can include information concerning cases expunged from court records, successful completion of the terms of a deferred judgment, if any, and arrests without dispositions.

Signature of Proposed Guardian	Month	Day	Year

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 8.37 — Form 3: *Affidavit of Parental Consent*

Instructions:

- This form must be completed by each parent who has legal custody of the minor and is consenting to the guardianship of the minor.
- Each signing parent must complete and provide a separate form.

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County (Juvenile Division)

In the Matter of the Guardianship of: _____ *Initials of Protected Minor* **Protected Minor.**	Juvenile no._____ **Affidavit of Parental Consent** Iowa Code § 232D.203

I certify the following: *Read, complete, and check each item if you agree.*

☐ I, _____, am the _____
Print your name *Parental relationship*

of _____ (Minor).
Initials of minor

☐ I currently have legal custody of Minor.

☐ Minor is in need of a guardianship because *Check all that apply*

☐ I have a physical or mental illness that prevents me from providing care and supervision of Minor.

☐ I am, or soon will be, incarcerated or imprisoned.

☐ I am, or soon will be, on active military duty.

☐ Other: *Explain*

_____

_____

_____

☐ I have read the Petition for Guardianship filed with this Affidavit.

☐ I understand the nature of the guardianship proposed in the Petition for Guardianship.

☐ I knowingly and voluntarily consent to the proposed guardianship.

☐ I have had sufficient opportunity to consult with an attorney regarding this matter.

Continued on next page

Rule 8.37—Form 3: Affidavit of Parental Consent, continued

Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B, you must fill in the following information:

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

Oath and signature of parent

I, _____, have read this Affidavit, and I certify under
Print your name

penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Affidavit is true and correct.

_____ _____, 20____ _____
Month *Day* *Year* *Signature**

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 8.37 — Form 4: *Guardian's Initial Care Plan for Protected Minor*

Instructions:

- Guardian must complete, sign, and file this form with the court within sixty (60) days of appointment.
- Do not include protected information such as Protected Minor's name. For protected information, complete Rule 8.37—Form 1: Protected Information Disclosure.
- The purpose of the Initial Care Plan is to provide the court with a complete picture of Protected Minor's current situation, Protected Minor's needs, and Guardian's plan to meet those needs.
- Provide as much detailed information as possible.

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County (Juvenile Division)

In the Matter of the Guardianship of: _____ *Initials of Protected Minor* **Protected Minor.**	Juvenile no._____ **Guardian's Initial Care Plan for Protected Minor** Iowa Code § 232D.501(1)(*a*)

Guardian states as follows:

1. Guardian's information

A. Guardian's name:

_____
Full name: first, middle, last

B. Guardian is Minor's: *Check one*

☐ Grandparent

☐ Adult sibling

☐ Other: _____

2. Minor's information

A. Minor's age: _____.

B. Reason for guardianship:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor, continued

3. Minor's residence and interaction with Guardian

A. Does Minor currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

If you checked Yes*, complete the next section.*

Describe Guardian's daily interaction with Minor:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ No

If you checked No*, complete* (1)–(6).

(1) Minor's current residence:

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(2) Date Minor began living at current residence:

_____ _____, 20____.
Month *Day* *Year*

(3) Explain why Minor does not live with Guardian:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(4) How often does Guardian plan to visit or have other contacts (e.g., by mail, email, social media, and phone) with Minor? *Check all that apply*

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

Continued on next page

Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor, continued

(5) How does Guardian plan to interact with Minor? *Check all that apply*

☐ In person

☐ Mail, email, or social media

☐ Phone

☐ Other: _____

(6) Describe the types of activities with or on behalf of Minor that Guardian plans:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Minor's current living situation best meet Minor's future needs?

☐ Yes ☐ No

If No, describe Guardian's plan for meeting those needs:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

4. Minor's expenses

A. Estimate of Minor's expenses:

Type of expense	**Amount estimated** *Check one* ☐ **monthly** ☐ **annual**
(1) Food *At home and restaurants*	$
(2) Clothing	$

Continued on next page

Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor, continued

(3) Medical, dental *Not health insurance payments – see (7).*	$
(4) Transportation	$
(5) Phone *If applicable*	$
(6) Internet *If applicable*	$
(7) Health insurance	$
(8) Educational or vocational training expenses	$
(9) Other expense *Identify:*	$
(10) Other expense *Identify:*	$
(11) Other expense *Identify:*	$
(12) Other expense *Identify:*	$
(13) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding expenses.*	$
Total expenses	$

Continued on next page

Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor, continued

B. Who will pay Minor's expenses? *Check all that apply*

☐ Guardian

☐ One or both of Minor's parents

☐ A court-appointed conservator:

_____
Conservator's full name: first, middle, last

_____
Conservator's mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

☐ Other: _____

C. If Guardian is responsible for paying Minor's expenses, describe Guardian's plan for payment of Minor's living expenses and other expenses:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

5. Minor's health

A. Minor's physical health

(1) Describe Minor's current medical health status, identifying any medical concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor, continued

(2) Guardian's plan for meeting Minor's medical care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Minor's dental health

(1) Describe Minor's current dental health status, identifying any dental health concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Minor's dental health care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Minor's mental health

(1) Describe Minor's current mental health status, identifying any mental, cognitive, behavioral, or emotional concerns:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

(2) Guardian's plan for meeting Minor's mental, cognitive, behavioral, or emotional needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

D. Other health concerns

(1) Identify any other health care concerns related to Minor:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting other health care concerns identified:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

6. Minor's education

A. Minor is: *Check one*

☐ Preschool age

If you checked the above box, complete the next section.

Is Minor receiving services from a preschool educational program (e.g., Early Access or Head Start)?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor, continued

☐ School age and enrolled in or attending school

If you checked the above box, complete the next section.

Minor's school information:

_____
School name where Minor is enrolled or attending

_____
School mailing address

_____ _____ _____
City *State* *ZIP code*

☐ School age but not enrolled in or attending school

If you checked the above box, complete the next section.

Explain how Minor's educational needs will be met:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Minor receive or need special education or related services?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Does Minor receive or need vocational or training services?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor, continued

D. Guardian's plan for meeting Minor's future educational, training, and vocational needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

7. Other professional services

A. Does Minor require any professional services other than those listed above?

☐ Yes ☐ No

If you checked Yes, *complete* B *and* C, *otherwise skip to* **8**.

B. Other professional services Minor requires:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Guardian's plan to provide the professional services required:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor, continued

8. Minor's contact with parents and other relatives

For purposes of this section, a "legal parent" is a person who is recognized by law as a parent to the child because of a birth certificate, affidavit, child support order, or other legal document.

A. Information regarding Minor's legal parent:

(1) Contact information:

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

(2) Will arrangements be made for regular contacts between Minor and this parent?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Information regarding Minor's other legal parent (if applicable):

(1) Contact information:

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor, continued

(2) Will arrangements be made for regular contacts between Minor and this parent?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Will arrangements be made for regular contacts between Minor and other relatives (e.g., siblings, grandparents, aunts, and uncles)?

☐ Yes

If you checked Yes*, complete the following sections as appropriate.*

(1) Relative's name: _____.

Relationship to Minor: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

(2) Relative's name: _____.

Relationship to Minor: _____.

Describe arrangements planned for contact with this person:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional relatives.*

☐ No

If you checked No, *complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

9. Additional information

Additional information that may be useful for the court to know in determining what is in Minor's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 4: Guardian's Initial Care Plan for Protected Minor, continued

10. Fees for Guardian

Check one

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

11. Fees for Guardian's attorney

Check one

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

12. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B*, you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

13. Oath and signature of Guardian

I, _____, have read this Initial Care Plan, and I certify
Print your name

under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Initial Care Plan is true and correct.

_____ _____, 20____ _____
Month *Day* *Year* *Signature**

_____
Mailing address

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 8.37 — Form 5: *Guardian's Annual Report for Protected Minor*

Instructions:

- Guardian must complete, sign, and file this form with the court within thirty (30) days of the close of the reporting period.
- Do not include protected information such as Protected Minor's name. For protected information, complete Rule 8.37—Form 1: Protected Information Disclosure.
- The purpose of the Annual Report is to provide the court with a complete picture of Protected Minor's current situation as well as developments that occurred during the reporting period.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County (Juvenile Division)

In the Matter of the Guardianship of:	Juvenile no._____
_____ *Initials of Protected Minor* **Protected Minor.**	**Guardian's Annual Report for Protected Minor**
	Iowa Code § 232D.501(1)(*b*)

Guardian states as follows:

1. Reporting period

This report is for the period from: _____/_____/_____to_____/_____/_____.
Month Day Year Month Day Year

2. Guardian's information

A. Guardian's name:

_____
Full name: first, middle, last

B. Guardian is Minor's: *Check one*

☐ Grandparent

☐ Adult sibling

☐ Other: _____

3. Minor's information

Minor's age: _____.

Continued on next page

4. Continuation of guardianship

A. Guardianship is recommended to be: *Check one*

☐ Continued

☐ Terminated

If you checked Terminated, *provide an explanation. A court hearing may be required on the matter of termination.*

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Ability of Guardian to continue as guardian: *Check one*

☐ Guardian is able and willing to continue as Guardian.

☐ Guardian is unable or unwilling to continue as Guardian. Explain why:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Assistance requested:

Identify any assistance Guardian needs in providing or arranging for care of Minor.

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

5. Minor's residence and interaction with Guardian

A. Does Minor currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

If you checked Yes*, complete the next section.*

Describe Guardian's daily interaction with Minor during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ No

If you checked No*, complete sections* (1)–(5).

(1) Minor's current residence:

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(2) Date Minor began living at current residence:

_____ ____, 20____.
Month *Day* *Year*

(3) Explain why Minor does not live with Guardian:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(4) What types of contacts did Guardian have with Minor during the reporting period and how often? *Check all that apply*

☐ In person

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

☐ Mail, email, or social media

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

☐ Phone

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

☐ Other type of contact: _____

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(5) Summarize the types of activities with or on behalf of Minor that Guardian performed during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Minor's current living situation best meet Minor's future needs?

☐ Yes ☐ No

If No, describe Guardian's plan for meeting those needs:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

6. Minor's expenses

A. Estimate of Minor's expenses for the next reporting period:

Type of expense	**Amount estimated** *Check one* ☐ **monthly** ☐ **annual**
(1) Food *At home and restaurants*	$
(2) Clothing	$
(3) Medical, dental *Not health insurance payments – see (7).*	$
(4) Transportation	$
(5) Phone *If applicable*	$
(6) Internet *If applicable*	$
(7) Health insurance	$
(8) Educational or vocational training expenses	$
(9) Other expense *Identify:*	$
(10) Other expense *Identify:*	$
(11) Other expense *Identify:*	$
(12) Other expense *Identify:*	$
(13) Totals from attached sheets, if any ☐ *Check this box if you have attached a sheet with additional information regarding expenses.*	$
Total expenses	$

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

B. Who will pay Minor's expenses? *Check all that apply*

☐ Guardian

☐ One or both of Minor's parents

☐ A court-appointed conservator:

_____
Conservator's full name: first, middle, last

_____
Conservator's mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

☐ Other: _____

C. If Guardian is responsible for paying Minor's expenses, describe Guardian's plan for payment of Minor's living expenses and other expenses during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

7. Minor's health

A. Minor's physical health

(1) Summarize Minor's medical health status during the reporting period, identifying any medical concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

(2) Guardian's plan for meeting Minor's future medical care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Minor's dental health

(1) Summarize Minor's dental health status during the reporting period, identifying any dental concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting Minor's future dental health care needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Minor's mental health

(1) Summarize Minor's mental health status during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

(2) Guardian's plan for meeting Minor's future mental, cognitive, behavioral, or emotional needs:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

D. Other health concerns

(1) Summarize any other health care concerns related to Minor that occurred during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Guardian's plan for meeting other health care concerns identified:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

8. Minor's education

A. Minor is: *Check one*

☐ Preschool age

If you checked the above box, complete the next section.

Did Minor receive services from a preschool educational program (e.g., Early Access or Head Start) during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

☐ School age and enrolled in or attending school

If you checked the above box, complete the next section.

Minor's school information:

_____

School name where Minor is enrolled or attending

_____

School mailing address

_____ _____ _____

City *State* *ZIP code*

☐ School age but not enrolled in or attending school

If you checked the above box, complete the next section.

Explain how Minor's educational needs were met during the reporting period and how Minor's educational needs will be met in the future:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Did Minor receive special education or related services during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Did Minor receive vocational or training services during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

D. Guardian's plan for meeting Minor's educational, training, and vocational needs during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

9. Other professional services

A. Did Minor receive any professional services other than those listed above during the reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Minor received during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Does Guardian plan to provide Minor with any professional services other than those listed above during the next reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Guardians plan to provide Minor during the next reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

10. Minor's contact with parents and other relatives

For purposes of this section, a "legal parent" is a person who is recognized by law as a parent to the child because of a birth certificate, affidavit, child support order, or other legal document.

A. Information regarding Minor's legal parent:

(1) Contact information:

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

(2) How often did this parent interact with Minor during the reporting period?

☐ No visits

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(3) If this parent interacted with Minor during the reporting period, describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

(4) Will arrangements be made for regular contacts between Minor and this parent during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

B. Information regarding Minor's other legal parent (if applicable):

(1) Contact information:

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

(2) How often did this parent interact with Minor during the reporting period?

☐ No visits

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(3) If this parent interacted with Minor during the reporting period, describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

(4) Will arrangements be made for regular contacts between Minor and this parent during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Did Minor interact with any other relatives during the reporting period?

☐ Yes

If you checked Yes*, complete the following sections as appropriate.*

(1) Relative's name: _____.

Relationship to Minor: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Will arrangements be made for regular contacts between Minor and this relative during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

(2) Relative's name: _____.

Relationship to Minor: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Will arrangements be made for regular contacts between Minor and this relative during the next reporting period?

☐ Yes ☐ No

If Yes, describe the arrangements. If No, explain why.

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional relatives.*

☐ No

If you checked No*, complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

11. Additional information

Additional information that may be useful for the court to know in determining what is in Minor's best interest:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

12. Fees for Guardian

Check one

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

13. Fees for Guardian's attorney

Check one

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

14. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B*, you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

Continued on next page

Rule 8.37—Form 5: Guardian's Annual Report for Protected Minor, continued

15. Oath and signature of Guardian

I, _____, have read this Annual Report, and I certify under
Print your name

penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Annual Report is true and correct.

_____ _____, 20____ _____
Month *Day* *Year* *Signature**

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rule 8.37 — Form 6: *Guardian's Final Report for Protected Minor*

Instructions:

- Guardian must complete, sign, and file this form with the court within thirty (30) days of the termination of the guardianship.
- Do not include protected information such as Protected Minor's name. For protected information, complete Rule 8.37—Form 1: Protected Information Disclosure.
- The purpose of the Final Report is to provide the court with a complete picture of Protected Minor's current situation as well as developments that occurred during the reporting period prior to the termination of the guardianship.
- Provide as much detailed information as possible. Do not include responses such as "same as last report" or "no change since last report."

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County (Juvenile Division)

In the Matter of the Guardianship of: _____ *Initials of Protected Minor* **Protected Minor.**	Juvenile no._____ **Guardian's Final Report for Protected Minor** Iowa Code § 232D.501(1)(*c*)

Guardian states as follows:

1. Reporting period

This report is for the period from: _____/_____/_____to_____/_____/_____.
Month Day Year Month Day Year

2. Guardian's information

A. Guardian's name:

_____
Full name: first, middle, last

B. Guardian is Minor's: *Check one*

☐ Grandparent

☐ Adult sibling

☐ Other: _____

3. Minor's information

Minor's age: _____.

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

4. Termination of guardianship

The guardianship has been or should be terminated because: *Check one*

☐ Minor is no longer a minor

☐ Minor is deceased

☐ Minor is now adopted

☐ Minor is now emancipated

☐ A different guardian was appointed

☐ Other reason:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

5. Minor's residence and interaction with Guardian

Does Minor currently live with Guardian? *Check* Yes *or* No *below.*

☐ Yes

If you checked Yes*, complete the next section.*

Describe Guardian's daily interaction with Minor during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ No

If you checked No*, complete sections* (1)–(5).

(1) Minor's current residence:

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(2) Date Minor began living at current residence:

_____ _____, 20____.
Month *Day* *Year*

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

(3) Explain why Minor does not live with Guardian:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(4) What types of contacts did Guardian have with Minor during the reporting period and how often? *Check all that apply*

☐ In person

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Mail/email

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Phone

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

☐ Other type of contact: _____

- ☐ Daily
- ☐ Weekly
- ☐ Monthly
- ☐ Other: _____

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

(5) Summarize the types of activities with or on behalf of Minor that Guardian performed during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

6. Minor's expenses

A. Who will paying Minor's expenses after the termination of this guardianship? *Check all that apply*

☐ Guardian

☐ Another guardian

☐ One or both of Minor's natural parents

☐ A court-appointed conservator

☐ Other: _____

B. Information regarding payer of Minor's expenses:

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

7. Minor's health

A. Minor's physical health

Summarize Minor's medical health status during the reporting period, identifying any medical concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

B. Minor's dental health

Summarize Minor's dental health status during the reporting period, identifying any dental concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Minor's mental health

Summarize Minor's mental health status during the reporting period, identifying any mental, cognitive, behavioral, or emotional concerns that occurred:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

D. Other health concerns

Summarize any other health care concerns related to Minor that occurred during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

8. Minor's education

A. Minor is: *Check one*

☐ Preschool age

If you checked the above box, complete the next section.

Did Minor receive services from a preschool educational program (e.g., Early Access or Head Start) during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ School age and enrolled in or attending school

If you checked the above box, complete the next section.

Minor's school information:

_____
School name where Minor is enrolled or attending

_____
School mailing address

_____ _____ _____
City *State* *ZIP code*

☐ School age but not enrolled in or attending school

If you checked the above box, complete the next section.

Explain how Minor's educational needs were met during the reporting period and how Minor's educational needs will be met in the future:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

B. Did Minor receive special education or related services during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

C. Did Minor receive vocational or training services during the reporting period?

☐ Yes ☐ No

If Yes, describe the services:

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

9. Other professional services

Did Minor receive any professional services other than those listed above during the reporting period?

☐ Yes ☐ No

If Yes, describe the other professional services Minor received during the reporting period:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

10. Minor's contact with parents and other relatives

For purposes of this section, a "legal parent" is a person who is recognized by law as a parent to the child because of a birth certificate, affidavit, child support order, or other legal document.

A. Information regarding Minor's legal parent:

(1) Contact information:

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

(2) How often did this parent interact with Minor during the reporting period?

☐ No visits

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(3) If this parent interacted with Minor during the reporting period, describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

B. Information regarding Minor's other legal parent (if applicable):

(1) Contact information:

_____
Full name: first, middle, last

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

(2) How often did this parent interact with Minor during the reporting period?

☐ No visits

☐ Daily

☐ Weekly

☐ Monthly

☐ Other: _____

(3) If this parent interacted with Minor during the reporting period, describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

C. Did Minor interact with any other relatives during the reporting period?

☐ Yes

If you checked Yes*, complete the following sections as appropriate.*

(1) Relative's name: _____.

Relationship to Minor: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

(2) Relative's name: _____.

Relationship to Minor: _____.

Describe the interactions, including whether the interactions were in person, and provide a summary of the interactions:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

☐ *Check this box if you have attached a sheet with additional relatives.*

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

☐ No

If you checked No*, complete the next section.*

Explain why:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information.*

11. Additional information

Additional information that may be useful for the court to know in determining what is in Minor's best interest:

_____

_____

_____

_____

_____

_____

☐ *Check this box if you have attached a sheet with additional information*

12. Fees for Guardian

Check one

☐ Fees are applied for. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are waived.

13. Fees for Guardian's attorney

Check one

☐ Fees should be set by the court. *Attach affidavit relative to compensation (Iowa Code section 633.202).*

☐ Fees are not requested.

☐ Fees are waived or not applicable.

Continued on next page

Rule 8.37—Form 6: Guardian's Final Report for Protected Minor, continued

14. Attorney Help *Check one*

A. ☐ An attorney did not help me prepare or fill in this paper.

B. ☐ An attorney helped me prepare or fill in this paper.

If you check B*, you must fill in the following information:*

_____
Name of attorney or organization, if any

_____
Business address of attorney or organization

_____ _____ _____
City *State* *ZIP code*

(_____) _____ _____
Phone number *Fax number*

_____ _____
Email address *Additional email address, if applicable*

15. Oath and signature of Guardian

I, _____, have read this Final Report, and I certify under
Print your name

penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Final Report is true and correct.

_____ _____, 20____ _____
Month *Day* *Year* *Signature**

_____
Mailing address

_____ _____ _____
City *State* *ZIP code*

(_____) _____
Phone number

_____ _____
Email address *Additional email address, if applicable*

**Handwrite your signature on this form. Scan the form after signing it and file it electronically.*

[Court Order December 12, 2019, temporarily effective December 12, 2019, permanently effective February 11, 2020]

Rules 8.38 to **8.40** Reserved.

RESTRAINT OF JUVENILES DURING COURT PROCEEDINGS

Rule 8.41 Routine use of restraints prohibited.

8.41(1) Instruments of restraint, such as handcuffs, chains, irons, or straitjackets, cloth and leather restraints, and other similar items, will not be used on a child during a court proceeding unless the juvenile court upon the recommendation of the juvenile court officer or the county attorney makes a finding on the record that restraints are necessary due to any of the following:

a. Recent behavior of the child has placed others at risk of substantial physical harm.

b. Sufficient grounds to believe the child is a substantial flight risk.

c. Sufficient grounds to show restraints are necessary to prevent physical harm to the child or another person during the court proceeding.

d. There are no less restrictive alternatives to restraints, including the presence of a security officer. The juvenile court officer is not considered a security officer.

8.41(2) If the juvenile court officer or the county attorney recommends that restraints are necessary, the juvenile court officer or county attorney must provide notice to the court and the child's attorney outlining the circumstances supporting that recommendation prior to the child's appearance in each court proceeding or as soon as practicable. If notice is not given in writing, a record must be made at the court proceeding.

8.41(3) The child's attorney, the juvenile court officer, and the county attorney must have an opportunity to be heard before the court prior to any court proceeding for which any recommendation to restrain the child has been made.

8.41(4) For subsequent court proceedings in the same case, the court may rely on a previous finding if the security circumstances relating to the child have not materially changed.

8.41(5) Any restraint must allow the child limited movement of the hands to read and handle documents and writings necessary to the hearing. Under no circumstances should a child be restrained using fixed restraints to a wall, floor, or furniture.

8.41(6) Any restraint of children in the courtroom must balance legitimate security needs against the care, protection, and positive mental and physical development of the child while preserving the dignity and decorum of the courtroom and security of the court proceeding and court personnel.

[Court Order October 25, 2017, effective December 26, 2017]

CHAPTER 16
IOWA RULES OF ELECTRONIC PROCEDURE

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CHAPTER 16
IOWA RULES OF ELECTRONIC PROCEDURE

DIVISION I
SCOPE AND AUTHORITY

Rule 16.101 Scope and applicability.

16.101(1) The rules in this chapter govern the filing of all documents in the Iowa Judicial Branch electronic document management system (EDMS) in cases commenced on or after the initiation of electronic filing in an Iowa county or in the Iowa appellate courts. The rules of this chapter also govern the electronic filing of documents in cases converted to electronic cases.

16.101(2) Chapter 16 comments serve solely as explanation of the Iowa Rules of Electronic Procedure and are not a part of the rules.

16.101(3) The Iowa Rules of Electronic Procedure will be cited as "Iowa R. Elec. P."

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.101. EDMS is designed to provide more efficient and less costly access to the Iowa court system for parties, attorneys, and other users by enabling access to their cases 24 hours per day, 7 days per week from anywhere with Internet access. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.102 Cases pending prior to electronic filing.

16.102(1) A case pending prior to the initiation of electronic filing in a particular county is not subject to the requirements of this chapter. A party, however, may apply to convert a case not subject to the requirements of this chapter to an electronic case.

16.102(2) If the court approves an application to convert a case to electronic filing, the rules of this chapter govern the electronically converted portion of the case. The court will determine how the case will be converted to an electronic file and which party, if any, should bear the costs of such conversion.

16.102(3) For efficiency in court operations, the chief judge of the judicial district may order the electronic conversion of any case not already subject to the requirements of this chapter.

16.102(4) Any electronically converted document is subject to the redaction requirements related to protected information in division VI of this chapter. Documents filed prior to the conversion order may be scanned for the convenience of the court, but the electronic documents will be set at a security level available only to the court. The original paper portion of any converted file is not subject to the Iowa Rules of Electronic Procedure unless the court orders otherwise.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.103 Relationship to other court rules. To the extent these rules are inconsistent with any other Iowa court rule, the rules in this chapter govern electronically filed cases and cases converted to electronic filing.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.104 Authority. These rules are adopted under the authority granted to the Iowa Supreme Court by article V, section 4, of the Iowa Constitution and by Iowa Code section 602.1614 (judicial branch acceptance, distribution, and retention of electronic records).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.105 to **16.200** Reserved.

DIVISION II
DEFINITIONS

Rule 16.201 Definitions. The following terms, as used in this chapter, are defined as follows:

16.201(1) *Confidential.* "Confidential" means court files, documents, or information excluded from public access by federal or state law or administrative rule, court rule, court order, or case law.

16.201(2) *Court-generated document.* "Court-generated document" means a document that is created and signed by court personnel, including judges, magistrates, court administrators, clerks of court and any designees of each.

16.201(3) *Court record.* "Court record" means for all cases the electronic files maintained in EDMS, filings the clerk of court maintains in paper form when permitted by these rules, and exhibits and other materials filed with or delivered to the court that the clerk maintains.

16.201(4) *Document.* "Document" means an instrument on which is recorded, by means of letters, figures, or marks, the original, official, or legal form of something, which may be used in evidence. A document is any physical embodiment of information or ideas, which may be in electronic or paper form.

16.201(5) *EDMS.* "EDMS" means the electronic document management system, the Iowa Judicial Branch electronic filing and case management system.

16.201(6) *Electronic.* "Electronic" means technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

16.201(7) *Electronic cover sheet.* "Electronic cover sheet" means the information that registered filers type into EDMS when they create a new case or electronically file or present documents to the court. The cover sheet enables EDMS to correctly route the filing.

16.201(8) *Electronic filing.* "Electronic filing" means the EDMS receipt of a document submitted to EDMS for filing. The posting of "received," "awaiting approval," or "filed" status in the filer's EDMS account serves as confirmation that EDMS has received the filer's submission.

16.201(9) *Electronic presentation.* "Electronic presentation" means the process by which a party or filer may electronically deliver a document to the court for review or other court action. A document is not filed when electronically presented to the court through EDMS.

COMMENT:

"Electronic presentation." Formerly, parties and attorneys could physically hand a judge an unfiled document or draft order for consideration. With the implementation of EDMS, this process must now be done electronically. Electronic presentation is initiated through the selection of the "Document Type" on the electronic cover sheet. Most document types that are electronically presented are "Proposed Document" types (proposed orders, proposed dissolution decrees, or documents proposed for restricted access, for example). Other document types, however, such as trial informations and accompanying minutes of testimony, are also presented electronically to the court. A document that is electronically presented is available for the court to view, and is not a part of the court file unless the court or a party or attorney later files the document. The electronic presentation of a document has no impact on whether a party or attorney should or must be present when the court reviews the document. In addition, electronic presentation does not modify the ethical obligations or requirements of the parties, attorneys, and court regarding ex parte communications. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.201(10) *Electronic record.* "Electronic record" means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

16.201(11) *Electronic service.* "Electronic service" means the EDMS electronic posting of a notice of electronic filing or presentation into the registered parties' or attorneys' EDMS accounts, along with a link to the document presented or filed. Although a courtesy copy of the notice of electronic filing or service may be sent by email, service is considered complete when the notice is electronically posted to the user's EDMS account. The registered party may view and download the presented or filed document. *See* rule 16.315(1)(*f*) (electronic service of documents).

16.201(12) *File stamp.* "File stamp" means in the district court the date, time, and county information that is affixed at the top of the first page of a document when it is filed in EDMS. "File stamp" means in the appellate courts the date of filing with the clerk of the supreme court affixed along the left margin of a document's first page when it is filed in EDMS.

16.201(13) *Filing agent.* "Filing agent" means an officer, employee, or nonattorney representative of an entity, such as a partnership, association, corporation, or tribe, who is authorized by Iowa law to appear on behalf of that entity because of the nature of the proceeding. *See* rule 16.201(34) (definition of "self-represented").

16.201(14) *Governmental agency.* "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government, the state, or a county, municipality, or other political subdivision of the state, including a court-approved nonprofit designee of such governmental agency.

16.201(15) *Hyperlink.* "Hyperlink" means an electronic connection or reference to another place in the document or other cited authority which, when selected, shows the portion of the document or the cited authority to which the hyperlink refers.

16.201(16) *In camera.* "In camera" means in the judge's chambers, or in private, out of public view.

16.201(17) *Information.* "Information" means documents, text, images, sounds, codes, computer programs, software, databases, or the like.

16.201(18) *Judicial branch.* "Judicial branch" means the Iowa Judicial Branch of government and all courts, judicial officers, clerks of court, and offices of the courts of the State of Iowa.

16.201(19) *Jurisdictional deadline.* "Jurisdictional deadline" means a deadline set by rule or statute that the court may not extend or change.

16.201(20) *Nonelectronic filing.* "Nonelectronic filing" means a process by which a paper document or other nonelectronic item is filed with the court and retained in nonelectronic form. *See* rule 16.313 (nonelectronic filings). "Nonelectronic filing" means, for parties with an exception from the electronic filing registration requirement, submitting a paper document to the clerk for scanning and electronic filing. *See* rule 16.303 (submission of paper documents).

16.201(21) *Nonregistered filer.* "Nonregistered filer" means a party who has received an exception from the Iowa Judicial Branch electronic registration requirement and is authorized to submit nonelectronic documents in a case. *See* rule 16.302(2) (exceptions from electronic filing requirements).

16.201(22) *Notice of case association.* "Notice of case association" means an electronic submission by a party or filing agent to obtain access to the case and receive notifications of filings after the party or filing agent has registered in EDMS.

16.201(23) *Notice of electronic filing or presentation.* "Notice of electronic filing or presentation" means the notice EDMS generates when a document is electronically filed or electronically presented to the court. The notice of electronic filing or presentation indicates the official file-stamp date and time of the electronic filing of the document in local time for the State of Iowa. *See* rule 16.307 (electronic file stamp). When a document or proposed document is electronically filed or presented to the court, EDMS will post a notice of electronic filing or presentation to the EDMS account of all parties who are registered filers in the case. Such parties may view and download the document or proposed document by logging in to their accounts.

COMMENT:

"Notice of electronic filing or presentation." EDMS sends a courtesy notice of electronic filing or presentation by email to the filer and to any other registered party who has entered an appearance or answer in the case, filed a notice of case association, or filed an appearance as a court-approved intervenor. However, parties are cautioned that such emails are provided only as a *courtesy* service and should not be relied upon as a party's source for obtaining notifications. A courtesy email message is not an official notification of the filing of a document and is not official service of any document listed in the message. Due to the unique features and settings of individual email accounts, EDMS cannot ensure that emailed notices of electronic filing or presentation will actually be received by a party or that such notices will be received in a timely manner. Parties receive *official* notifications through their EDMS accounts and they should rely solely upon those accounts to obtain notices of electronic filing or presentation. EDMS sends additional courtesy email messages to the filer when the status of a filing is updated to "received," "approved," "filed" (for presented documents only), or "returned not filed." The official update to the status of a filing is posted to the filer's EDMS account under My Filings. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.201(24) *Party.* "Party" means a person or entity by or against whom a case or part of a case is brought, including a plaintiff, petitioner, defendant, third-party defendant, or respondent. "Party" also includes a court-approved intervenor, or any other person or entity defined as a party to a case by a statute, rule, or court order. When a party appears, the clerk of court will index that party to the case, providing case access and receipt of notifications. When one or more attorneys have entered an appearance on a party's behalf, references in these rules to service upon or filings by a party mean service upon or filings by that attorney or those attorneys. When a rule or statute requires a criminal defendant to be served with a document, service on the defendant must be made personally or electronically.

16.201(25) *Proposed document.* "Proposed document" means a document electronically presented to the court for review or other court action. A proposed document, other than a proposed exhibit, is not filed until the court takes action on it. *See* rule 16.412(2) (electronic submission of proposed exhibits).

16.201(26) *Protected information.* "Protected information" means the types of information referenced in rule 16.602.

16.201(27) *Public.* "Public" refers to court files, documents, or information that is not confidential or protected.

16.201(28) *Public access terminal.* "Public access terminal" means a computer located in a courthouse through which the public may view, print, and electronically file documents.

16.201(29) *Redact.* "Redact" means to delete, white out, black out, or otherwise hide text or images on a copy of an original document. The original document becomes confidential and the redacted version becomes the public version of the document.

16.201(30) *Registered filer.* "Registered filer" means a person or entity that has registered with EDMS and uses a login and password to file documents electronically in the Iowa court system. In cases in which the registered filer is a party and has entered an appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor, the registered filer will electronically serve and receive notice of most filed or presented documents. A registered filer, other than a registered specialized nonparty filer, can also electronically view and download files. *See* rules 16.304 (registration, logins, and passwords) and 16.315 (service of documents subsequent to original notice). *But see* rule 16.314(3) (service of original notices).

16.201(31) *Remote access.* "Remote access" means the ability to electronically search, view, copy, or download electronic court documents without visiting a courthouse. Remote access to documents is available to registered filers and specialized nonparty users. The status of the registered filer or specialized nonparty user determines the filer's or user's level of remote access to restricted access documents. *See* rule 16.502 (access to electronic court files).

16.201(32) *Restricted access.* "Restricted access" means a case, docket entry, or document, including physical or digital exhibits, which the court has placed at a nonpublic security level or that EDMS has automatically placed at a nonpublic security level based on federal or state law or by court rule or administrative rule. *See* rule 16.405 (restricting access to filings).

16.201(33) *Scanned document.* "Scanned document" means an electronic version of a paper document created by scanning the document.

16.201(34) *Self-represented.* "Self-represented" means persons or parties who represent themselves without the assistance of an attorney. An entity such as a partnership, association, corporation, or tribe may be self-represented when it is otherwise authorized by law to be represented by an officer, employee, or nonattorney representative. *See, e.g.*, Iowa Code § 631.14(1); *In re N.N.E.*, 752 N.W.2d 1, 12-13 (Iowa 2008). Except where this chapter specifically indicates otherwise, "attorney" includes self-represented litigants. *See* rule 16.201(13) (definition of "filing agent").

16.201(35) *Signature.* "Signature" means, for the purpose of electronically filing a document in EDMS, one of three formats.

a. For a registered filer electronically filing a document, *"signature"* means the registered filer's login and password, accompanied by one of the following approved signature representations and a block of identifying information as described in rule 16.305(4) (signature block):

1. *"Digitized signature"* means an electronically applied, accurate, and unaltered image of a person's handwritten signature.

2. *"Electronic signature"* means an electronic symbol, either "/s/" or "/efiler's name/," that a person has executed or adopted with the intent to sign the document.

3. *"Nonelectronic signature"* means a handwritten signature applied to an original document that is then scanned and electronically filed.

b. For a nonregistered filer or party signing a document, or for a registered filer signing a document that another filer will electronically file, *"signature"* means the filer's or party's name affixed to the document as a digitized or nonelectronic signature, along with a block of identifying information as described in rule 16.305(4).

COMMENT:

"Signature." For EDMS filing, a "digital signature" must be treated like a nonelectronic signature. *"Digital signature"* means a complex string of electronic data that is embedded in an electronic document for the purposes of verifying document integrity and signer identity. It can also be used to ensure that the original content of the message or document that has been delivered is unchanged. When a document is filed in EDMS, it is modified by the electronic file stamp. This causes digitally signed documents to display as altered in EDMS. The filer should print the digitally signed document showing a representation of the signature and the verifying codes, then scan and electronically file the resulting document. If the digitally signed document is an original document as described in rule 16.411, the filer must retain the original document. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.201(36) *Specialized nonparty filer.* "Specialized nonparty filer" means a filer who may file documents in multiple cases without being a party, such as a bail bond agent or a service provider. *See* rule 16.304(1)(*b*)(3) (specialized nonparty filer registration).

16.201(37) *Specialized nonparty user.* "Specialized nonparty user" means a nonparty other than an attorney registered to electronically view and download information from electronic files that are not confidential or protected. A specialized nonparty user may view or download documents in multiple cases and may have access to restricted information. A qualified abstractor is a specialized

nonparty user who may have access to birth dates and names of children. *See* rules 16.304(1)(*d*) (requirements for specialized nonparty user registration) and 16.502(2) (abstractor remote access).
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.202 to **16.300** Reserved.

DIVISION III
GENERAL PROVISIONS

Rule 16.301 Electronic document management system (EDMS). The clerk of court is responsible for maintaining an electronic court file in EDMS for all cases filed under this chapter, receiving case filings into EDMS by electronic transmission and scanning documents into EDMS for nonregistered parties.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.302 Electronic filing mandatory.

16.302(1) *Electronic registration and filing requirements.* All attorneys authorized to practice law in Iowa, all attorneys admitted pro hac vice, and all self-represented persons, except as this chapter provides, must register to use EDMS as provided in rule 16.304(1). Registered filers must electronically submit all documents to be filed with the court unless this chapter or the court otherwise requires or authorizes.

16.302(2) *Exceptions from electronic filing requirements.*

a. One-time exceptions. For good cause, the court at any time, or the clerk of court while the clerk of court office is open, will authorize any filer to submit a document on a one-time basis nonelectronically to the clerk for filing.

b. Self-represented defendants. A self-represented individual defendant who is not yet a registered filer is permitted to make that defendant's initial filing, such as an answer, in paper.

c. Duration of case exceptions. For good cause, the chief judge of the judicial district in which a case is pending, or the chief judge's designee, will excuse a self-represented individual party from registering to file electronically and from filing electronically throughout the case. For purposes of this paragraph, good cause includes lack of regular access to the Internet through a device suitable for reading documents maintained at the party's residence or on the party's person.

d. Court order requirement. Grants and denials of requests for exceptions from registering to file electronically throughout the case will be made by court order.

COMMENT:

Rule 16.302(2). Implementation of electronic filing in Iowa courts should not impede any person's access to justice. When there are legitimate reasons preventing a person from electronic filing, the court should grant that person an exception. A self-represented individual party not only needs to be able to make electronic filings, but also needs to be able to receive and read new electronic filings in a timely manner. Thus, if a party's only access to the Internet is through a public access terminal at a courthouse or through a public library, this should constitute good cause for an exception, if requested, from the requirements for electronic participation in a case. Other grounds may also constitute good cause for an exception from the EDMS registration requirement in a particular case. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.302(3) *Exceptions by rule.* The following persons are excused from the EDMS registration and electronic filing requirements without the necessity of a court order:

a. Self-represented criminal defendants. A self-represented criminal defendant is not required to be but may choose to be a registered filer.

b. Confined parties. A party who is confined pursuant to governmental authority, including but not limited to a person who is incarcerated or civilly committed, is excused from registering to file electronically.

c. Self-represented parents. Self-represented parents of a minor who are parties in a juvenile case are excused from registering to file electronically.

d. Excused persons may become registered filers. If a person excused under this rule chooses to register, the person waives the exception from registering to file electronically and is governed by these rules in the same manner as any registered filer. If the person later desires to be excused from registration, the person must apply for and receive an exception pursuant to the rules of this chapter.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.303 Submission of paper documents.

16.303(1) *Submission of paper documents for scanning.*

a. Delivery to clerk of court. If a court authorizes the clerk of court to scan a paper document, the document must be printed on only one side and delivered to the clerk with no tabs, staples, or permanent clips, but it may be organized with paperclips, clamps, or some other type of temporary fastener, or it may be delivered to the clerk in an appropriate file folder.

b. Redacted versions of paper documents containing protected information. If a paper document contains protected information, the filer must make the same redactions that rule 16.605 requires for electronic filings before filing the document in paper. For original documents that the filer has not created, the filer must deliver both a redacted version and the original version of the document to the clerk of court unless rule 16.605(2)(*c*) applies.

c. Civil cover sheets and confidential information forms. When a filing requires it under the Iowa Rules of Civil Procedure, a filer who is excused from registering to file electronically must complete a civil cover sheet and confidential information form in paper.

16.303(2) *Return of documents by mail.* If a filer wants the clerk to return an original document that was submitted in paper, the filer must provide the clerk of court a self-addressed, stamped envelope large enough to accommodate the document.

16.303(3) *Court retention of paper documents.* Except as otherwise provided in these rules, the court will not retain paper documents submitted to it. *See, e.g.*, rule 16.313(1) (items that may be filed nonelectronically).

16.303(4) *Paper court files.* Except as otherwise provided in these rules or as the court directs, the clerk of court will not maintain paper court files in cases commenced on or after the initiation of electronic filing in a particular county or in the appellate courts. *See, e.g.*, rule 16.313(1) (items that may be filed nonelectronically).

16.303(5) *Application of redaction rules for personal privacy protection.* The redaction rules for personal privacy protection in division VI of this chapter apply to paper documents submitted for scanning and electronic filing.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.304 Registration; logins; passwords.

16.304(1) *Registration.*

a. Registration requirement. Registration is required to file documents electronically in any case this chapter governs and to remotely access and download electronically filed documents. *See* rules 16.302(1) (electronic registration and filing requirements) and 16.502 (access to electronic court files).

b. Filer registration. To file documents with the court electronically, filers, self-represented litigants, and specialized nonparty filers must complete the EDMS registration process. Filers can request an account and obtain a login and password for EDMS in the electronic filing section of the Iowa Judicial Branch website. Filers can access the registration process with personal computers or by using public access terminals at county courthouses.

(1) *Requirements for pro hac vice registration.* Before registering to use EDMS, an out-of-state attorney must first make application for and be admitted pro hac vice pursuant to chapter 31 of the Iowa Court Rules, Admission to the Bar. The in-state attorney appearing with the out-of-state attorney in the proceeding must file the application for admission pro hac vice. If the court grants the application, the out-of-state attorney must complete the registration process in the electronic filing section of the Iowa Judicial Branch website and enter an appearance in the case.

(2) *Requirements for filing agent registration.* An officer, employee, or other nonattorney representative electronically filing for an entity such as a partnership, association, corporation, or tribe must register as a filing agent. If the filing agent appears on behalf of multiple entities under the rules of this chapter, the agent must register separately for each entity the agent represents. *See* rule 16.201(13) (definition of "filing agent").

(3) *Requirements for specialized nonparty filer registration.* Specialized nonparty filers must register to file electronically. Specialized nonparty filers may include bail bond agents, process servers, and other persons who generally are not considered parties but who need to file documents in multiple cases.

c. Law student and law graduate registration requirements.

(1) To use EDMS, a law student or law graduate qualified to engage in the practice of law or appear as counsel must contact EDMS Support at the number or email address located on the electronic filing

login page of the Iowa Judicial Branch website to obtain an application for registration. The student or graduate must submit a completed application, signed by a supervising attorney, to obtain a login and password.

(2) The student or graduate must enter an appearance in each case in which the student or graduate is practicing and must file to withdraw from each case when the student's or graduate's practice is completed.

(3) Upon termination of the supervision of the student's or graduate's practice, the supervising attorney must notify EDMS Support to have the student's or graduate's registration inactivated.

(4) A law student or law graduate in good standing who resumes practice before admittance to the bar must reinstate his or her former registration by submitting a new application for registration signed by a current supervising attorney.

(5) Once the student or graduate is licensed to practice law in Iowa, the new attorney must withdraw from the law student account and register with the attorney identification number (AT PIN) assigned by the office of professional regulation.

d. Registration requirements for specialized nonparty users and abstractors.

(1) To register, specialized nonparty users must request an application through EDMS Support at the telephone number or email address located on the electronic filing login page of the Iowa Judicial Branch website.

(2) Abstractors are specialized nonparty users. For the purpose of remote access to court documents and otherwise restricted information, an abstractor must either qualify as a "participating abstractor" as recognized by the Title Guaranty Division of the Iowa Finance Authority, be a licensed abstractor at such time that abstractors are licensed in the State of Iowa, or be substantially equivalent to a "participating abstractor" as determined by the state court administrator or the state court administrator's designee.

e. Changing passwords. Once registered, a registered filer must change the filer's password. If a registered person or entity believes the security of an existing password has been compromised, the person or entity must change the password immediately. The court may require password changes periodically.

f. Changes in filers' contact information. If a registered filer's email address, mailing address, or telephone number changes, the filer must promptly make the necessary changes to the registered filer's account information on the My Profile page in the filer's EDMS account. The filer must provide appropriate notice of changes in contact information to any nonregistered filer in every active case.

g. Duties of registered filers.

(1) *To update email.* Registered filers must maintain current registered email account information.

(2) *To monitor account.* Registered filers must monitor their accounts regularly and ensure that notifications sent to the account are timely opened.

(3) *To notify the court when no longer able to participate.* Registered filers who can no longer participate electronically in their cases must notify the court and request an exception from electronic filing in each case. *See* rule 16.302(2). When the registered filer has received an exception in each of the filer's open cases, the registered filer must withdraw from participation in electronic filing before the exceptions become effective.

h. Withdrawal from electronic filing. Registered filers may withdraw from participation in EDMS by logging in to the My Profile page of the filer's EDMS account or by contacting the clerk of court. Upon the withdrawal from electronic filing, the person's or entity's registration, login, and password are canceled and the filer's name is deleted from any applicable electronic service list. A registered filer's withdrawal from participation in EDMS is not authorization to file cases or documents nonelectronically. To file nonelectronically, the filer must obtain an exception from the electronic filing requirement from the chief judge of each judicial district where the filer has a case pending. The filer should obtain an exception from electronic filing before withdrawing from EDMS. A registered filer's withdrawal from participation in EDMS is not a withdrawal from a case.

16.304(2) *Logins and passwords.* Filers must use logins and passwords to file documents electronically.

a. Any electronic filing, downloading, or viewing of an electronic file or document is deemed to be made with the authorization of the person registered to use the login and password unless and until clear and convincing evidence proves otherwise.

b. A registered filer must not knowingly permit the filer's login and password to be used by any other person except:

(1) A registered attorney may permit the attorney's login and password to be used by an authorized member or staff of the attorney's law office.

(2) A registered filer for an entity or governmental agency may permit the filer's login and password to be used by an authorized member or staff of the entity or governmental agency.

c. If a login or password is lost, misappropriated, misused, or compromised in any way, the person registered to use that login or password must promptly contact EDMS Support at the number or email address located on the electronic filing login page of the Iowa Judicial Branch website. If a login or password is lost, misappropriated, misused, or compromised in any way, the court may cancel the registration. The registered person or entity may be required to apply for a new password and login by completing a new registration.

d. For good cause, the court may refuse to allow a user or a filer to electronically file or download information in EDMS. The affected user or filer may apply with the court to reregister. Improper use of electronic filing, such as an intentional misuse or reckless use of a password or login, may subject a person to court sanctions. A person prohibited from electronic filing is not excluded from using the court system, but the person must obtain authorization under rule 16.302(2) to submit paper documents to the clerk for filing.

e. For system security reasons, a registration may be immediately suspended.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.305 Signatures.

16.305(1) *Registered filers.* A registered filer's login and password required for submission of documents to EDMS, accompanied by a digitized, electronic, or nonelectronic signature representation and a signature block as described in rule 16.305(4)(*a*), serve as the registered filer's signature on all electronic documents filed with the court. These also serve as a signature for purposes of the Iowa Rules of Civil Procedure, any other applicable Iowa Court Rules, and for any other purpose for which a signature is required in connection with proceedings before the court.

16.305(2) *Nonelectronic signatures.* If a document contains a nonelectronic signature, the signed document must be scanned for electronic filing.

16.305(3) *Documents requiring oaths, affirmations, verifications, acknowledgements, or notarization.* Any document requiring that a signature be made under oath or affirmation or with verification or acknowledgement, or any document being notarized, must be either signed by the subscriber nonelectronically and scanned for electronic filing or signed by the subscriber with a digitized signature. The same requirements apply to any oath giver's or witness's signature.

COMMENT:

Rule 16.305(3). A notary signature cannot be an electronic /s/ signature; it must be a digitized or nonelectronic signature. The notary seal may be electronic pursuant to Iowa Code chapter 9B. If the law requires the document to be signed in the notary's presence, the oath giver's and witness's signatures must be either nonelectronic or digitized (applied by a mechanism such as a signature pad that captures an unaltered image of the signer's signature). *See* Iowa Secretary of State website for additional information on notarization. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.305(4) *Signature blocks.* Any filing requiring a signature must be signed with a signature representation authorized by these rules and accompanied by a block of identifying information.

a. The following identifying information about the person signing the filing, to the extent applicable, must be typewritten or printed under the person's signature representation:

1. Name.
2. Law firm or name of partnership, association, corporation, or tribe on behalf of which the filing agent is signing.
3. Mailing address.
4. Telephone number.
5. Email address.
6. The email addresses of any other persons at the law firm who are to be notified of additions or corrections to the electronic file.

b. Victims and protected persons may omit mailing addresses, telephone numbers, and email addresses from their signature block when necessary for their protection.

c. Registered filers are responsible for promptly updating the information in (1) through (6) of rule 16.305(4)(*a*) in their EDMS account. Nonregistered filers are responsible for informing the court of any changes in this information with respect to all cases in which they have appeared.

COMMENT:
Rule 16.305(4). Under the signature rules of chapter 16, the following signature blocks are valid:

/s/ Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515–555–5555
JAttorney@Law.gov

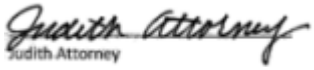
Or,

/s/ with name typed beside symbol as follows:
/s/ Judith Attorney
Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515–555–5555
JAttorney@Law.gov

Or,

/ Judith Attorney /
Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515–555–5555
JAttorney@Law.gov

Or,



Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515–555–5555
JAttorney@Law.gov

If the attorney logged in is not the attorney signing, the document must be signed by both, including a signature block for each attorney.

/s/ Judith Attorney
Judith Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515–555–5555
JAttorney@Law.gov

And

/s/ Andrew Attorney
Andrew Attorney
Attorney Law Firm
1111 Court Ave., Des Moines, IA 50209
515–555–5555
AAttorney@Law.gov
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.305(5) *Multiple signatures.*

a. By filing a document containing two or more signatures, the registered filer confirms that the content of the document is acceptable to all persons signing the document and that all such persons consent to having their signatures appear on the document.

b. To receive notice of the filing of subsequent documents in the case, any persons signing the document must be registered filers.

c. After following the requirements of this rule, the registered filer must either:

(1) Scan the original document, with all of the signatures attached, and file the document electronically; or

(2) Electronically file the document in a portable document format (.pdf) using a signature format set out in the comment to rule 16.305(4).

16.305(6) *Signatures presumed valid.*

a. A signature on an electronically filed document is presumed valid and authentic until established otherwise by clear and convincing evidence.

b. A digitized or nonelectronic signature on a document that a governmental agency electronically files for the purpose of obtaining court action or any other signature the court has approved is presumed valid even if the signature is not from a registered filer.

COMMENT:

Rule 16.305(6). This rule does not supersede any foundation or proof requirements contained in the Iowa Code or the Iowa Court Rules.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.305(7) *Disputing authenticity or validity of signatures.* An attorney or a party who disputes the authenticity or validity of any digitized, nonelectronic, or electronic signature on an electronically filed document must file an objection to the signature within 30 days after the attorney or party knew or should have known the signature was not authentic or valid.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.306 Electronic filing.

16.306(1) *Electronic cover sheets.*

a. A registered filer must complete an electronic cover sheet for each filing by entering the proper information into EDMS.

b. Governmental agencies may obtain state court administration approval to use alternative software to exchange electronic records with EDMS. The alternative method for filing or presenting documents must enable correct routing and docket entry of the documents to permit an exception to the electronic cover sheet requirement. The alternative method must also accommodate requests for expedited relief and requests to restrict access to documents.

COMMENT:

Rule 16.306(1). A filer must complete the electronic equivalent of a cover sheet when initiating a case or filing or presenting a document or group of documents for electronic filing. The electronic cover sheet is a series of web pages on which the filer enters information. These web pages differ depending on whether the document is related to a criminal or civil case or whether the document is being filed in a new case or an existing case. A properly completed electronic cover sheet will route the document to the correct electronic file and will create a correct docket entry for the document. The electronic cover sheet may also notify the court of a request for expedited relief or ensure that access to a document is properly restricted. An electronic cover sheet for a new civil case replaces the paper civil cover sheet required by Iowa Rule of Civil Procedure 1.301(2). Only parties excused from registration will file the paper form of the civil cover sheet and the confidential information form. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.306(2) *Filing.* A document is considered filed or presented at the time EDMS has received it, unless the clerk of court returns it.

COMMENT:

Rule 16.306(2). When EDMS receives a district court document, the file stamp records the date and time and generates a status update in the filer's EDMS account. The document is not considered received until the status of "received," "awaiting approval," or "filed" is displayed in the filer's EDMS account. EDMS will generate a status update upon case initiation or a notice of electronic filing or presentation in all other instances that confirms EDMS has received the document. Subject to security and jurisdictional rules, the system also generates a notice of electronic filing or presentation to indexed case parties. When the clerk of court reviews and approves the submission, the system generates a date and time stamp on the document that is the same as the date and time the system noted in the status update—the time EDMS first received the filer's submission in the system. This is the date and time of the official filing of the document with the court system. For example, a filer submits a document to the system at 9:58 p.m. on Thursday, March 30, 2016. Soon after, the status message on the filer's My Filings page will read "Received" and then "Awaiting approval" (for presented documents, the status will be "Filed"). The filer then knows the date and time that the court has received the filing. The following Monday morning the clerk reviews and approves the filing. The system will place a file stamp on the document of 9:58 p.m., March 30, 2016. The clerk of court may also return an incorrect submission with instructions to correct the filing. *See* rule 16.308(2)(*d*)(2). In this circumstance, the document is not filed and the date and time of filing that the system tracked are not retained. Upon resubmission of the document, a new date and time of filing are assigned and a new status update and notice of electronic filing or presentation are generated. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.306(3) *Emailing or faxing documents does not constitute electronic filing.* Emailing or faxing a document to the clerk of court or to the court will not generate a file stamp or a notice of electronic filing or presentation and will not result in the filing of the document.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.307 Electronic file stamp.

16.307(1) Each document electronically filed with the clerk of court receives a file stamp reflecting the date and time that it was initially received by EDMS.

16.307(2) Each document electronically filed with the clerk of the supreme court receives a file stamp reflecting the date that it was received by EDMS.

16.307(3) The date and time on the file stamp will be consistent with the notice of electronic filing or presentation on the filer's status update. The electronic file stamp becomes a part of the electronic document and is visible when the document is printed or viewed online. Electronic documents are not officially filed unless they have an electronic file stamp. Electronic file stamps have the same force and effect for electronic submissions as nonelectronic file stamps for nonelectronic submissions. *See* rule 16.201(12) (definition of "file stamp").

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.308 Docket entries.

16.308(1) *Selecting document types.* For each electronically filed document, a filer must choose an accurate document type from the options listed on the electronic cover sheet.

16.308(2) *Correcting document types.*

a. Clerk of court to correct document types. Once a document is submitted into EDMS, only the clerk of court may make corrections to the document type the filer has chosen.

b. Clerk of court to correct docket entries. If a docket entry is incorrect, only a clerk of court can correct the docket entry. The docket will reflect that the clerk made a change to a docket entry.

c. Errors that filers discover.

(1) If a filer discovers an error in the electronic filing or docketing of a document, the filer must contact the clerk of court as soon as possible. When contacting the clerk, the filer must have available the case number of the document that was filed or docketed erroneously.

(2) A filer may not refile or attempt to refile a document that has been erroneously filed or docketed unless the clerk of court specifically directs the filer to do so.

(3) To meet a deadline, a filer who discovers an error in the electronic filing or docketing of a document but who cannot immediately contact the clerk of court may resubmit a corrected document.

d. Errors that clerks of court discover.

(1) If the clerk of court discovers an error in the filing or docketing of a document, the clerk will ordinarily notify the filer of the error and advise the filer of what further action the filer must take, if any, to address the error.

(2) The clerk of court may return the submission to the filer with an explanation of the error and instructions to correct the filing. In such instances, it is the responsibility of the filer to keep a record of the notice EDMS generated to verify the date and time of the original submission. The rules of this chapter are not intended to address whether a filer who submits a corrected filing after return of the original submission may have the date and time of the corrected filing relate back to the date and time of the original submission.

(3) If the error is minor, the clerk of court may, with or without notifying the parties, either correct or disregard the error.

(4) An error in the filing or docketing of a document may be an error that adversely affects the proper processing of the document by EDMS, such as a document that is filed in the wrong case, a document that is filed with the wrong event code, or a document that is scanned incorrectly. It may also be an omission of information necessary to properly identify the parties initiating a new case or the subjects of a warrant, a failure to pay a required filing fee, an error that prevents the correct filing fee from being charged, or the omission of a signature from a filing that must be signed.

COMMENT:

Rule 16.308(2). This rule addresses instances when a filer selects an incorrect document type or submits documents that cannot be correctly filed or docketed. The clerk of court may return a submission to the filer for correction when, for example, a document is scanned upside down or sideways, is scanned in such a way that the file stamp cannot be applied, is improperly attached to other documents, or is submitted under the wrong docket entry such that EDMS cannot process the document correctly. It is the filer's responsibility to keep a record of the original submission date and time, as well as the reason for the return of the filing, contained in the Filing Status Reports available through the filer's EDMS account under My Filings. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.309 Date and time of filing; deadlines; technical difficulties.

16.309(1) *Date and time of filing; deadlines.*

a. An electronic filing may be made whenever EDMS is available, including holidays, weekends, and evenings. The availability of electronic filing, however, does not affect deadlines or the provisions for extension of deadlines in the Iowa Code or Iowa Court Rules. When a document is filed electronically, EDMS applies an electronic file stamp to the document reflecting the date or the date and time that the document was actually received by EDMS. *See* rule 16.306(2) and comment and rule 16.307.

(1) *Exceptions for trial informations and minutes of testimony.* Trial informations and accompanying minutes of testimony are not file stamped until the court approves them.

(2) *Submissions that the clerk of court returns.* A submission that the clerk of court returns unfiled because of an error is given a file stamp when the filer submits the corrected version.

b. The date and time of the electronic file stamp are considered the official filing date and time for purposes of computing relevant deadlines.

c. A document is timely filed if it is filed before midnight on the date the filing is due.

d. If a deadline established in these rules is different from a deadline established in a court order in a particular case, the deadline established in the court order controls.

16.309(2) *Technical difficulties.*

a. A party's technical difficulty or the unavailability of EDMS does not excuse a party from complying with a jurisdictional deadline.

b. If a registered filer is unable to meet a nonjurisdictional deadline due to a technical difficulty, the filer must file the document using the soonest available electronic or nonelectronic means. The filing is not timely unless the court determines it to be timely after the filer has had an opportunity to be heard on the matter.

16.309(3) *Notices of system unavailability.*

a. Scheduled maintenance. When EDMS will not be available due to scheduled maintenance, a notice of the date, time, and anticipated length of the unavailability will be posted on the Iowa Judicial Branch website and to other authorized social media.

b. Unexpected unavailability. When EDMS is unexpectedly unavailable, a notice of the problem will be posted on the Iowa Judicial Branch website and other authorized social media.

16.309(4) *Extended system unavailability; filing and service.* In the event of an extended period when EDMS is not available, the filer may take a paper document to the clerk of court during regular business hours for filing. In such instances, the filer is responsible for service of the document on case parties entitled to service.

16.309(5) *Court-generated documents; computation of deadlines.* Electronic filings by the court, such as court orders, may be made at any time. They will receive a file stamp reflecting the date and time when EDMS received the filing. The clerk of court will process such filings with reasonable promptness during regular weekday hours before the filing is served electronically on all registered filers. Regardless of when a party receives notice of electronic filing of a court-generated document, the date and time of the file stamp are the official filing date and time for purposes of computing all relevant deadlines.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.309. Electronic filing enables the filing of documents outside of normal business hours. A document filed before midnight on the date the filing is due is considered timely filed. Filers are cautioned, however, not to wait until the last moment to file documents electronically as EDMS may not always be available. Just as a jurisdictional deadline cannot be extended for a filer, who— due to vehicle or traffic problems, for example—arrives at the courthouse moments after the clerk of court office has closed, jurisdictional deadlines cannot be extended for the filer who encounters system or other technical difficulties between the time of close of business and a midnight filing deadline. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.310 Format of electronic documents. All documents filed electronically must be formatted according to applicable rules governing formatting of paper documents in the Iowa Rules of Civil Procedure and the Iowa Rules of Appellate Procedure. A document must be converted to a portable document format (.pdf) and must not be password protected before the document is filed electronically. The filer must ensure that the filing is an accurate, complete, and readable reproduction of the document.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.311 Attachments to electronic documents.

16.311(1) The following documents must be attached electronically to a filed electronic document without a separate electronic cover sheet:

a. When a court order is required to amend a previously filed document, the proposed amendment must be attached to a motion for leave to file that document.

b. Any item that is included as an exhibit to a document must be attached to the electronic document.

c. Any additional pages required to complete a court form must be attached to the electronic court form.

COMMENT:

Rule 16.311(1). Supporting materials attached to an application, motion, court form, or verification of account, etc., were called "exhibits" prior to electronic filing. In EDMS, those supporting materials are called "attachments," and the term "exhibit" is reserved for evidence entered into the record at a hearing or trial. Examples of documents that are attached to other documents include supporting documents that are attached to an adoption petition, a written notice of intention to file an application for default that must be attached to a request for default, additional pages completing a court form, and evidence or affidavits used to support an application or a motion. The filer uploads the application, form, or motion into EDMS, and then selects "Attachment" as the document type for the supporting materials. When the filer picks the "Attachment" document type, the system prompts the filer to pick the document to attach to. The document and attachment are then electronically linked and will show on the case docket as related. *See* rule 16.412(5) (exhibits to pleadings).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.311(2) Separate documents may be submitted at the same time but must be uploaded separately, with an individual document type selected for each document.

COMMENT:

Rule 16.311(2). Examples of such submissions are a petition for dissolution of marriage, a motion for temporary support, and a financial affidavit. There are, however, some documents that should not have other documents attached to them. For example, nothing should be attached to a proposed document. Also, a proposed order should not be attached to any other document, including the motion or application regarding that order. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.312 Hyperlinks and other electronic navigational aids.

16.312(1) Hyperlinks and other electronic navigational aids may be included in an electronically filed document as an aid to the court and the parties. Each hyperlink must contain a complete text reference to the target of the link. This text reference, when copied, must enable a user to reach the same target that would be reached by activating the hyperlink.

16.312(2) If an electronically filed document contains hyperlinks, the filer is responsible for creating and embedding the links in the document.

16.312(3) Material that can be reached through a hyperlink in an electronic filing is not considered part of the official record or filing unless already part of the record in the case.

16.312(4) Hyperlinks to cited authority may not replace standard citation format for constitutional citations, statutes, cases, rules, or other similarly cited materials.

16.312(5) Hyperlinks may provide an electronic link to other portions of the same document. It is not possible, however, to hyperlink from one document in the electronic court file to another document in the electronic court file.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.312. Use of hyperlinks for cited legal authorities is encouraged. Hyperlinks may also be used to refer the court to other information. Hyperlinks are not part of the filed document, so the filed document must comply with traditional citation requirements. Filers are cautioned, however, that links to external documents or websites may become invalid over time. Additionally, the functionality of hyperlinks will depend on the web browser or computer application used to view the document. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.313 Nonelectronic filings.

16.313(1) *Items that may be filed nonelectronically.* The following documents and other items may be filed nonelectronically and need not be maintained in the electronic court file unless these rules, the clerk of court, or the court otherwise require or authorize electronic filing:

a. The administrative record in cases in which the court is asked to rule based on that record, but all other documents, including the petition, answer, briefs, and motions, in the judicial review proceedings must be filed electronically and maintained in the electronic court file.

b. Transcripts of proceedings before the court that are not available in electronic format.

c. Any item that is not capable of being filed in an electronic format.

COMMENT:

Rule 16.313(1)(*a*). This rule addresses the cost and time concerns in administrative review cases by allowing the administrative record to be filed in a nonelectronic format. Besides their size, these records often contain sensitive information, such as information protected by federal HIPAA laws. This rule does not encompass cases covered by Iowa Code chapters 252C, 252F, and 252H. The documents generated in those cases should be filed electronically. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.313(2) *Service of notice of items filed nonelectronically.* For items filed nonelectronically pursuant to rule 16.313(1), the filer must file an electronic notice of filing the item.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.314 Original notice.

16.314(1) *Form of original notice.* When a party electronically files a new case, the party must submit an original notice as a separate document type along with the petition in the form the Iowa Rules of Civil Procedure require. In addition, the original notice—except in small claims actions—must:

a. State that the case has been filed electronically.

b. Direct the other party to this chapter of the Iowa Court Rules for general rules and information on electronic filing.

c. Refer the other party to division VI of this chapter of the Iowa Court Rules regarding the protection of personal or confidential information in court filings.

16.314(2) *Clerks of court affixing seal to original notice.* After a petition is filed, the clerk of court will electronically affix the clerk's seal to the original notice and electronically return a sealed and signed original notice to the registered filer.

16.314(3) *Service of original notices.* Original notices must be served upon the party against whom an action is brought in accordance with the Iowa Code and the Iowa Rules of Civil Procedure.

COMMENT:

Rule 16.314(3). Electronic service cannot be used to serve an original notice or any other document that is used to confer personal jurisdiction. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.314(4) *Return of service.* After the original notice is served, the filer must scan and electronically file the return of service. The return of service must contain a listing identifying the documents served.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; Court Order February 15, 2017, temporarily effective February 15, 2017, permanently effective April 17, 2017]

Rule 16.315 Electronic service of documents subsequent to original notice.

16.315(1) *Electronic service of documents filed by registered filers.*

a. Completing the registration process, *see* rule 16.304(1), constitutes a request for, and consent to, electronic service of court-generated documents and documents other parties file electronically.

b. When a document is electronically filed, EDMS serves the document on all parties who are registered filers. *See* rule 16.201(11) (definition of "electronic service"). Service occurs by the posting of a notice of electronic filing or presentation into the filer's EDMS account along with a link to the document or documents presented or filed. The posting of the notice of electronic filing or presentation constitutes service of the document for purposes of the Iowa Court Rules. No other service on those parties is required.

c. Notice of electronic filing or presentation will only be provided to registered filers and registered case parties who have filed an entry of appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor.

d. Notices of electronic filing or presentation will continue to be provided to a registered filer until the filer has filed a withdrawal from the case and, if applicable, obtained an order allowing the withdrawal.

e. Electronic service is not effective if the filer learns the notice of electronic filing or presentation was not transmitted to a party.

f. EDMS will not provide notices of electronic filing or presentation for documents filed pursuant to rule 16.405(4), 16.702, 16.703, or 16.802, or on documents that require personal service to confer jurisdiction. The filer is responsible for service of documents that must be personally served to confer jurisdiction in accordance with rule 16.315(2) on service to nonregistered filers.

COMMENT:

Rule 16.315(1)(*e*). Subject to the exceptions in rule 16.315(1)(*f*), when EDMS receives a filing covered by this rule, EDMS will automatically generate a notice of electronic filing or presentation, which contains a list of the parties who were served electronically and a list of the parties who must be served by other means. It is the responsibility of the filer to review the notice of electronic filing or presentation to ensure that all parties that require service have received it. If the filer learns of a delivery failure, the filer must provide service to that person by other means. A notice of electronic filing or presentation will not be generated on case initiation, on applications for warrants, on emergency applications (such as emergency removals or emergency detention in juvenile cases), or on documents proposed for restricted access or filed under an order restricting access. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.315(2) *Service of paper copies on parties.* Parties must serve a paper copy of any filed document on a party who is not a registered filer in a manner authorized by the Iowa Code or the Iowa Court Rules, unless the parties agree to another method of service. When serving paper copies of electronically filed documents in cases with multiple nonregistered filers other than criminal defendants, the filer must include a copy of the notice of electronic filing or presentation. The clerk of court will provide a copy of the notice of electronic filing or presentation upon a nonregistered filer's request.

16.315(3) *Service of documents that nonregistered filers file or present.*

a. Service on registered filers of documents that nonregistered filers file or present will be made by the clerk electronically through EDMS, except for service of restricted access documents filed under rule 16.405. *See* rule 16.201(11) (definition of "electronic service").

b. When a nonregistered filer submits a document to the clerk of court, the clerk will process the filing or presentation with reasonable promptness during regular weekday business hours before the filing is served electronically on all registered filers. In such event, the date and time on the file stamp are considered the official date and time of service for purposes of computing all relevant deadlines.

c. Nonregistered filers must serve a paper copy of documents they file with or present to the court on all persons entitled to service who are nonregistered filers in the manner the Iowa Rules of Civil Procedure or the Iowa Rules of Criminal Procedure require.

d. If a party receives a one-time exception to electronic filing pursuant to rule 16.302(2)(*a*), the procedures and requirements of rule 16.315(3) apply.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; Court Order February 15, 2017, temporarily effective February 15, 2017, permanently effective April 17, 2017]

Rule 16.316 Certificate of service. A certificate of service must be filed for all documents EDMS does not serve. These include documents that must be served on parties who are nonregistered filers, documents that must be served on persons or entities seeking to intervene in a confidential case, documents that persons or entities file pursuant to rule 16.319(2), and discovery materials. *See, e.g.*, rules 16.315(1)(*b*), 16.319(1)(*c*), and 16.401(1)(*a*). The certificate must be filed promptly and show the date and manner of service. The certificate of service may be included on the last page of the document.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.317 Additional time after electronic service. When service of a document is made electronically, the time to respond is computed in the same manner as the Iowa Rules of Civil Procedure and the Iowa Rules of Appellate Procedure require for service by mail, fax, or email.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.318 Service of court-generated documents.

16.318(1) *Electronic notice and service for registered filers.* EDMS will electronically serve any court-generated document on all registered filers entitled to service. *See* rule 16.201(11) (definition of "electronic service"). Posting the notice of electronic filing or presentation in the registered filer's EDMS account constitutes service or notice of the document. Notice of electronic filing or presentation will only be provided to registered parties who have entered an appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor. Notices of electronic filing or presentation will continue to be provided to a registered filer until the filer has filed a proper withdrawal of appearance in a case and, if applicable, obtained an order allowing the withdrawal.

16.318(2) *Nonelectronic notice and service for nonregistered filers.* The clerk of court will mail paper copies of electronically filed court-generated documents to nonregistered filers entitled to service. In cases with additional nonregistered filers, the clerk may include a copy of the notice of electronic filing or presentation with the paper copy of the document. The clerk will not mail paper copies to registered parties who have not properly filed an entry of appearance or filed an answer, filed a notice of case association, or filed an appearance as a court-approved intervenor. The clerk will not mail paper copies of court-generated documents to nonregistered parties represented by counsel unless the rules or a court order otherwise require it.

16.318(3) *Certificate of service.* For court-generated documents that EDMS does not electronically serve, the clerk of court may note on the docket the parties served and the method of service instead of filing a certificate of service.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.319 Filing by potential intervenors or by nonparties.

16.319(1) *Potential intervenor filers.*

a. Manner in which to intervene. A person or entity seeking to intervene to become a party to a case must electronically file the application to intervene and all related documents unless excused from EDMS registration under rule 16.302(2).

b. Access to court file.

(1) Until the court grants the application to intervene, the person or entity seeking to intervene cannot download or view any confidential part of the court file, and the person or entity will not receive a notice of electronic filing or presentation of any document filed in the case.

(2) If the court grants the application to intervene, the person or entity must promptly file an entry of appearance or a notice of case association.

(3) An entry of appearance or a notice of case association must be filed before the person or entity can receive a notice of electronic filing or presentation.

c. Service.

(1) The documents a person or entity seeking to intervene files must be served pursuant to rules 16.315(1)(*b*) and 16.315(2).

(2) The person or entity seeking to intervene is required to serve a paper copy of the document on parties who are nonregistered filers. *See* rule 16.315(2).

(3) If the court or a party files a document related to the application to intervene, a paper copy of the document must be served on the potential intervenor in the same manner as a nonregistered filer. *See* rules 16.315(2) and 16.318(1).

(4) If the application to intervene is granted, the intervenor will subsequently be served copies of filed documents pursuant to rules 16.315 and 16.318(2).

COMMENT:

Rule 16.319(1). Examples of a party seeking to intervene in a case include a grandparent or relative seeking to become a party in a chapter 232 Child-in-Need-of-Assistance case or an attorney for an interested party in an estate. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.319(2) *Nonparty filers.*

a. Filing. Nonparty persons or entities entitled to file documents in a case without becoming a party need not appear in order to file documents. However, a nonparty filer must use electronic filing unless excused from EDMS registration under rule 16.302(2).

b. Access to court files. A nonparty cannot access the case remotely or download or view any confidential part of the court file. Additionally, a nonparty will not receive a notice of electronic filing or presentation of any document filed in the case.

c. Service. EDMS will serve on registered parties any documents a nonparty files. *See* rule 16.315(1)(*b*). The nonparty, however, must serve a paper copy of the document on parties who are nonregistered filers. *See* rule 16.315(2). If service of a document on the nonparty is required, a paper copy of the document must be served on the nonparty in the same manner as on a nonregistered filer. *See* rules 16.315(2) and 16.318(2).

COMMENT:

Rule 16.319(2). This rule describes the filing and serving of documents when the filer does not intend to intervene to become a party to the case and will not enter an appearance or file an answer or a notice of case association in order to be indexed to the case by the clerk of court. An example of a nonparty filer who wishes to file on a case but not become a party to the

case is a person who seeks to quash a subpoena. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.320 Limited appearances.

16.320(1) *Entry of appearance.* An attorney whose role in a case is limited to one or more individual proceedings in the case must file a notice of limited appearance before or at the time of the proceeding. Upon the filing of this document, the attorney will receive electronic service of filed documents.

COMMENT:

Rule 16.320(1). An entry of limited appearance is made on behalf of a case party and gives the attorney full case access and electronic notifications on the case. If an attorney is not filing on behalf of an existing party, the attorney should file an application to intervene pursuant to rule 16.319(1) or file as a nonparty filer (rule 16.319(2)). Access to some confidential files or documents may require a court order. An example of an attorney filing an entry of limited appearance is an attorney hired by a petitioner in a dissolution case to represent that petitioner at a hearing on temporary custody. This rule is consistent with the Iowa Rules of Civil Procedure on limited appearances in that electronically filing the notice of limited appearance will cause EDMS to serve the notice on all registered parties. If there is a nonregistered party in the case, the filer must serve the notice on that party by other means. *See* chapter 32:1.2 Rules of Professional Conduct. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.320(2) *Termination of limited appearance.* At the conclusion of the matters covered by the limited appearance, the attorney must file a notice of completion of limited appearance. Upon the filing of this document, the attorney will no longer receive electronic service of documents filed in the case.

16.320(3) *Service on party.* During a limited appearance, the party on whose behalf the attorney has entered the appearance will continue to receive service of all documents.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.321 to **16.400** Reserved.

DIVISION IV
FILING PROCESS

Rule 16.401 Discovery.

16.401(1) *Service of discovery materials.*

a. Service. Parties may serve requests for discovery, responses to discovery, and notices of deposition by email on registered filers.

b. Time service occurs. When service is made by email, the time to respond is computed according to the Iowa Rules of Civil Procedure.

16.401(2) *Filing notice of discovery requests and responses.* Parties must file a notice with the court when serving a request for discovery, a response to discovery, or a notice of deposition on another party. The notice must identify the document served and include the date, manner of service, and the names and addresses of the persons served. This rule only requires the filing of a notice of deposition or a notice indicating that a discovery request or response was made. Parties should continue to follow the Iowa Rules of Civil Procedure with respect to the filing of discovery materials.

COMMENT:

Rule 16.401(2). This rule adds a layer of protection for parties. Registered filers' computer filters may occasionally filter out an emailed discovery request or response. Rule 16.401(2) ensures that registered filers will at least know they should have received a discovery document. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.402 Transcripts. Transcripts must be filed electronically in a secure format in accordance with rule 16.601(2), any administrative directive from the state court administrator, and the formatting requirements of Iowa Rule of Appellate Procedure 6.803(2). Transcripts of court proceedings on appeal from the district court must be electronically filed as searchable .pdf documents into the district court case file.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.403 Expedited relief. Requests for expedited relief must be noted on the electronic cover sheet.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.404 Briefs. Legal briefs and memoranda must be electronically filed.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.405 Restricting access to filings.

16.405(1) *Scope.* This rule covers restricting access to filings in the court system, including documents, exhibits, docket entries, cases, and other items or materials.

16.405(2) *Applications to restrict access.*

a. A filer seeking to restrict access to materials that are not deemed confidential by statute or rule must file an application to restrict access.

b. If a filer seeks to restrict access to a document or exhibit, the document or exhibit must not be attached to the application or the document or exhibit will become part of the public court file.

c. Documents or exhibits proposed for restricted access must be electronically presented to the court for review when reasonably practicable.

d. Either in the application to restrict access or in a proposed order presented with the application, the filer must clearly state who should have access to the materials.

e. If the court grants the application, restricted access will be placed on the materials at the security level specified in the order. If a document or exhibit is electronically presented with the application, the document or exhibit will be filed with the access specified in the order.

f. Rules governing electronic filing of restricted access documents in appeals to the Iowa Supreme Court are included in the Iowa Rules of Appellate Procedure.

COMMENT:

Rule 16.405(2)(*d*). For example: "Only attorneys and case parties should have access to this document." [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.405(2)(*e*). The court may approve the application and restrict access to the material to a specific level, or the court may deny the application and either order that the material be filed with public access or order that the material not be filed. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.405(3) *Documents or exhibits filed subsequent to order to restrict access.* If the court enters a protective order or an order directing or permitting the filing of documents or exhibits with restricted access, the parties must, without further order from the court, designate any document or exhibit filed under this rule as "Filed under order to restrict access" on the electronic cover sheet. All parties to the case must comply with any order restricting access. Any document or exhibit disclosing information that is subject to an order restricting access must also be filed with restricted access.

16.405(4) *Service of documents or exhibits proposed for restricted access or filed under order restricting access.* EDMS will not serve documents or exhibits that are proposed for restricted access or that are filed under an order restricting access. The filer is responsible for service under rule 16.315.

16.405(5) *System-restricted documents, exhibits, or cases.* Access to certain categories of documents, exhibits, or cases is restricted based on statutory or court rule requirements. Within EDMS, access is restricted automatically without application or an order of the court. A current list of system-restricted documents, exhibits, and cases is available from the clerk of court and is available on the Iowa Judicial Branch website.

16.405(6) *Access to restricted documents and docket entries.* EDMS restricts access to documents in three ways:

a. Some documents available only to certain parties and the court may be referenced in a docket entry available to the public. In civil cases, most restricted access documents are referenced in a docket entry available to the public, but only certain parties and the court may view the documents themselves.

b. Some documents available only to certain parties and the court may not be referenced in a docket entry available to the public.

c. Some documents available only to the court are not referenced in a docket entry available to the parties or the public.

COMMENT:

Rule 16.405(6)(*a*). Examples of these documents include presentence investigation reports, minutes of testimony, and

documents filed under restricted access pursuant to this rule. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.405(6)(*c*). Examples of these documents include applications for search warrants and search warrants that have not been executed. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.405(7) *Nonelectronic filings.* All nonelectronic filings with the court must conform to the personal privacy rules that apply to electronic documents.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.406 In camera inspection. When the court orders in camera inspection of material, such material may be electronically presented to the court. After the court has examined the material and has entered an order concerning the issues raised by the material, if the court does not order the material to be produced in whole or in part, the court will file the presented material and restrict access to the level of security available to clerks of court and judges only.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.407 Subpoenas. The clerk of court may electronically make subpoenas available to registered filers in accordance with the Iowa Rules of Civil Procedure and the Iowa Rules of Criminal Procedure.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.408 Clerk of court certification of documents. Certified copies of electronically filed documents may be obtained from the clerk of court electronically or nonelectronically. The fee for a certified copy is established in the Iowa Code and the Iowa Court Rules. The clerk may certify documents by digitized or electronic signature and seal.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.409 Proposed orders. A proposed order may be electronically presented with a motion or without a motion. The proposed order must be submitted in an editable format capable of being read by Microsoft Word. Acceptable fonts are: Arial, Times New Roman/Times, Courier New, Tahoma/Geneva, Helvetica, Calibri, and Cambria. The document must not be password protected.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.410 Court reporter notes. Court reporters who have computer-aided transcription capability must electronically file court reporter notes.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.411 Original documents.

16.411(1) *Generally.*

a. When the law requires the filing of an original document, such as a will, codicil, mortgage document, note payable, birth certificate, foreign judgment, or other certified or verified document, the filer must scan the original document and electronically file the scanned document.

b. The filer must retain the original document for a period of no less than two years or until the conclusion of the case, conclusion of the appeal, conclusion of the estate, or as required by other applicable law.

c. The filer must immediately deliver the original document to the court upon request of the court or a party for inspection and nonelectronic preservation.

d. When the document is an original will, codicil, or a document having physical characteristics that must be present for the document to be valid or enforceable, the filer may, after filing the document electronically, submit it to the clerk of court for nonelectronic preservation.

16.411(2) *Exceptions for authorized governmental agencies.* A governmental agency with statutory authority to destroy an original document after making an unaltered image or electronic

reproduction of the original document must retain and, upon request of the court or other party, immediately deliver an unaltered image or electronic reproduction of the original document to the court or other party for inspection and reproduction, if necessary.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.412 Exhibits.

16.412(1) *Maintenance of hearing and trial exhibits.*

a. Exhibits offered at a hearing or a trial must be maintained electronically for purposes of the record.

b. Exhibits offered at a hearing or a trial that cannot reasonably be maintained electronically may be maintained nonelectronically for purposes of the record.

c. Prior to offering an exhibit, the submitting party must redact the exhibit pursuant to division VI of this chapter (Personal Privacy Protection), except as provided in rule 16.601(3) (exhibits).

d. If the court requires a party to bring paper copies to trial for the court and jury, the paper copies must be marked as a copy.

16.412(2) *Electronic submission of proposed exhibits prior to hearing or trial.*

a. Mandatory. A party must submit proposed exhibits to the court prior to the hearing or trial in which the party intends to offer the proposed exhibits for admission into evidence. Upon submission through EDMS, each proposed exhibit will receive a file stamp. Case attorneys and self-represented case parties will have access to proposed exhibits. Exhibits offered or admitted into evidence are subject to the public access and personal privacy rules of divisions V and VI of this chapter.

b. Exceptions. The following exceptions apply to the requirement of submitting proposed exhibits electronically prior to hearing or trial.

(1) Prosecutors in a criminal case must submit proposed exhibits pursuant to this rule only if the exhibit has been disclosed to the opposing party through the discovery process.

(2) Criminal defendants may submit proposed exhibits prior to the hearing or trial but are not required to. The clerk of court will ensure criminal defense exhibits are maintained electronically. This rule does not supersede a defendant's obligations under Iowa Rule of Criminal Procedure 2.14.

(3) When a party could not reasonably anticipate use of an exhibit or when the exhibit is used as rebutting evidence, a party may be excused from electronically submitting the exhibit as a proposed exhibit prior to the hearing or trial.

(4) A party is excused from electronically submitting proposed exhibits prior to a hearing or trial if the party is excused from electronic filing under rule 16.302(2), 16.302(3), 16.701(3), or 16.801(2)(*b*).

c. Method.

(1) Each proposed exhibit must be a separate document.

(2) The filer must include the exhibit number and provide a description of the proposed exhibit in the "Exhibit Description" field. When an individual exhibit is filed in multiple parts, the filer must repeat the exhibit number and insert a description for each part into the "Exhibit Description" field.

(3) An exhibit that exceeds the required size limit for a submission as posted in the electronic filing section of the Iowa Judicial Branch website must be separated into parts of an acceptable size, and each part must be filed separately.

d. Exhibit Maintenance Order. At the conclusion of the hearing or trial, the court, except in juvenile court proceedings, must enter an exhibit maintenance order that states which proposed exhibits were offered and which were admitted into evidence. If no party files an objection to the exhibit maintenance order within 10 business days, the clerk of court may delete proposed exhibits that are not listed in the order.

e. Sanctions. If a party fails to submit a proposed exhibit as this rule requires, the court, upon its own motion or the motion of any party, may impose sanctions. A sanction imposed under this rule must be limited to that which will deter repetition of the conduct or comparable conduct by others. A sanction for violating this mandatory electronic submission rule may not include exclusion of the exhibits from the hearing or trial.

COMMENT:

Rule 16.412(2). Access to proposed exhibits filed before trial is restricted to self-represented case parties, attorneys indexed to the case, and the court. If an exhibit in a public case contains protected information, the party offering it, or the party filing it as proposed, must redact the protected information before the exhibit becomes public. Rule 16.601(3) allows the submitting party 14 days to redact the exhibit before it becomes public. Admitted exhibits that a party has not identified as containing protected information generally become public. Exhibits submitted in paper in all proceedings, including proceedings listed in rules 16.412(3) and 16.412(6), may remain in paper unless the matter is appealed, at which time the clerk of court will scan the

exhibits. Examples of descriptions in the "Exhibit Description" field for proposed exhibits include "Letter from Jane Doe" or "Photo of red car." Examples of "Exhibit Description" field entries for exhibits filed in multiple parts include "Contract (Part 1)" and "Contract (Part 2)." An exhibit description submission in EDMS would appear as follows:

Exhibit #	Exhibit Description
Def. Ex. A	Photo of red car

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; August 27, 2019, effective January 1, 2020]

16.412(3) *Exhibits offered at a hearing or a trial that were not submitted as proposed exhibits.* When offered or admitted at hearing or trial, an exhibit that can reasonably be maintained electronically, but that was not previously submitted as a proposed exhibit, will remain nonelectronic unless the court orders otherwise. Upon an appeal in the case, the clerk of court will electronically file the exhibit.

16.412(4) *Index of nonelectronic exhibits.* When a party offers one or more exhibits that will be maintained nonelectronically under rule 16.412(1)(*b*), the party must electronically file an index of the exhibits. The index should list and briefly describe the nonelectronic exhibits.

16.412(5) *Exhibits to pleadings.* Under rule 16.311(1), evidentiary material that is submitted with or attached to a motion or other pleading must be filed as an attachment and should not be submitted as a proposed exhibit.

16.412(6) *Submission of proposed exhibits in small claim, simple misdemeanor, traffic, and municipal infraction cases.* Proposed exhibits may be but are not required to be submitted electronically in small claim, simple misdemeanor, traffic, and municipal infraction cases. The submitting party must redact proposed exhibits, whether electronic or nonelectronic, pursuant to division VI of this chapter prior to submitting the proposed exhibits. Upon initiation of an appeal in the case types included in this rule, the clerk of court will convert exhibits admitted in nonelectronic form to an electronic form when possible.

16.412(7) *Submission of video and audio exhibits.*

a. Video exhibits. Video exhibits must be submitted in the following format: .avi, .flv, .mpeg, .mp4, .wms, or .mov; or the video exhibit must be submitted with a player application that allows the exhibit to be viewed. Video exhibits cannot be electronically filed but may be submitted to the court on a media storage device such as a CD, DVD, or flash drive. The media storage device must contain only the exhibit or exhibits and any required player application and no other files or applications. Upon initiation of an appeal, the clerk of court will provide any video exhibits to the appellate court.

b. Audio exhibits. Audio exhibits must be submitted in the following format: .wav, .mp3, or .wma; or the audio exhibit must be submitted with a player application that allows the exhibit to be heard. Audio exhibits cannot be electronically filed but may be submitted to the court on a media storage device such as a CD, DVD, or flash drive. The media storage device must contain only the exhibit or exhibits and any required player application and no other files or applications. Upon initiation of an appeal, the clerk of court will provide any audio exhibits to the appellate court.

c. Video and audio exhibits in an appeal to district court. Transcribed portions of a video or audio exhibit may be included in documents filed in an appeal to the district court, provided the transcribed material was properly admitted in the underlying court case. The parties must not embed or include actual audio or video in any documents filed in an appeal to the district court.

16.412(8) *Disposition of scanned exhibits.* Exhibits for which the clerk of court is responsible for scanning will be disposed of according to the requirements of the Iowa Rules of Civil Procedure and Iowa Rules of Criminal Procedure.

16.412(9) *Mistrial.* In the event of mistrial, the parties, the court, and the clerk of court must comply with all of the following:

a. Exhibit maintenance order. The court, except in juvenile court proceedings, must enter an exhibit maintenance order that states which proposed exhibits were offered or which were admitted into evidence. If no party files an objection to the exhibit maintenance order within 10 business days after the order's filing, the clerk of court may delete proposed exhibits that are not listed in the order.

b. Index of nonelectronic exhibits. When a party offers one or more exhibits that will be maintained nonelectronically under rule 16.412(1)(*b*), the party must within 10 business days after the offer electronically file an index of the exhibits. The index must list and briefly describe the nonelectronic exhibits.

c. Clerk of court to retain custody of exhibits. The clerk of court will retain custody of all exhibits offered or admitted during the trial, whether the exhibits are maintained electronically or nonelectronically.

d. Release of nonelectronic exhibits for use during retrial. Nonelectronic exhibits offered or admitted during the trial may not be released for use in a retrial except upon order of the court. The order must identify each nonelectronic exhibit to be released by number or letter and by a brief description, and the order shall specify to whose custody the exhibit is released.

e. Nonelectronic exhibits not offered or admitted during retrial. For nonelectronic exhibits released pursuant to this rule that are not offered or admitted during the retrial, the party to whom the exhibits were released must immediately return the exhibits to the clerk of court.

16.412(10) *Criminal codefendant's trial.* In the event nonelectronic exhibits are offered or admitted during a trial and then are needed for use in a codefendant's trial, the parties, the court, and the clerk of court must comply with the following provisions:

a. Clerk of court to retain custody of exhibits. The clerk of court will retain custody of all exhibits offered or admitted during the first defendant's trial, whether the exhibits are maintained electronically or nonelectronically.

b. Release of nonelectronic exhibits for use during codefendant's trial. Nonelectronic exhibits offered or admitted during the first defendant's trial may not be released for use in a codefendant's trial except upon order of the court. The order must identify each nonelectronic exhibit to be released by number or letter and by a brief description, and the order must specify to whose custody the exhibits are released.

c. Nonelectronic exhibits not offered or admitted during codefendant trial. For nonelectronic exhibits released pursuant to this rule that are not offered or admitted during the codefendant's trial, the party to whom the exhibits were released must immediately return the exhibits to the clerk of court.

16.412(11) *New trial.* If nonelectronic exhibits are offered or admitted during trial, and the district or appellate court has ordered a new trial, the parties and the court must comply with the following provisions:

a. Clerk of court to retain custody of exhibits. The clerk of court will retain custody of all exhibits offered or admitted during the prior trial, whether the exhibits are maintained electronically or nonelectronically.

b. Release of nonelectronic exhibits for use during new trial. Nonelectronic exhibits offered or admitted during the prior trial may not be released for use in the new trial except upon order of the court. The order must identify each nonelectronic exhibit to be released by number or letter and by a brief description, and the order must specify to whose custody the exhibits are released.

c. Nonelectronic exhibits not offered or admitted during new trial. If any nonelectronic exhibits released pursuant to this rule are not offered or admitted during the new trial, the party to whom the exhibits were released must immediately return the exhibits to the clerk of court.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017; August 27, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020]

Rules 16.413 to **16.500** Reserved.

DIVISION V
PUBLIC ACCESS

Rule 16.501 General rule. All filings in the Iowa court system are public unless system restricted or filed with restricted access. Electronic filing does not affect public access to court files.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.501. Electronic filing does not affect which documents or court files the public may access or which documents or files are deemed confidential. Any member of the general public may view a nonconfidential file or document from public access terminals located at the courthouse in which the case is pending. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.502 Access to electronic court files.

16.502(1) *Registered filers.*

a. Attorneys licensed to practice law in Iowa. Registered attorneys licensed to practice law in Iowa have remote access to all public documents in public court files except in juvenile delinquency cases prior to the child's being adjudicated delinquent. Registered attorneys who are licensed to practice law in Iowa have limited access to birth dates and names of children, which are normally considered protected information under rule 16.602, in public court files. Access to the birth dates and names of children in cases in which an attorney has not entered an appearance is limited to confirmation of the information the attorney supplies regarding the birth date or child's name in a particular case.

b. Attorneys admitted pro hac vice. Registered attorneys admitted pro hac vice have remote access only to the documents filed in the cases in which the attorneys are admitted pro hac vice.

c. Self-represented litigants and parties to a case. Registered self-litigants and parties to a case who have obtained a login and password have remote access only to documents filed in the cases in which they are a party.

16.502(2) *Abstractors.* Abstractors have remote access to all public documents in public court files. *See* rule 16.304(1)(*d*). Abstractors have limited access in public court files to birth dates and names of children, which are normally considered protected information under rule 16.602. Access to birth dates and names of children is limited to confirmation of information that the abstractor supplies regarding the birth date or child's name in a particular case.

16.502(3) *Specialized nonparty filers.* Specialized nonparty filers, *see* rule 16.304(1)(*b*), may file documents in cases in which they are not a party, but specialized nonparty filers do not have remote access to electronic court files.

16.502(4) *Members of the general public.*

a. Members of the general public may view electronic documents in public cases at public access terminals in the county courthouse in which the case is pending.

b. To view electronic documents in public cases on appeal to the Iowa Supreme Court, members of the general public may use a public access terminal located in the Judicial Branch Building in Des Moines, Iowa, or a public access terminal located in the county courthouse in which the underlying case originated.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.503 Public access terminals. The Iowa Judicial Branch will maintain at least one public access terminal in each county courthouse and in the Judicial Branch Building.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.504 Bulk distribution. The Iowa Judicial Branch may fulfill requests for copies or reproductions of public electronic documents or records filed in more than a single electronic case if fulfilling such requests will not impair or interrupt the regular operation and efficiency of EDMS and complies with administrative directives or approvals from the state court administrator.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.504. Such state court administrator directives or approvals may take into consideration the system, staffing, and equipment capacity of EDMS. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.505 to **16.600** Reserved.

DIVISION VI
PERSONAL PRIVACY PROTECTION

Rule 16.601 Responsibility to redact or mask protected or confidential information.

16.601(1) *Responsibility of filers generally.*

a. It is the responsibility of the filer to ensure that protected information is omitted or redacted from documents before the documents are filed. This responsibility exists even when the filer did not create the document.

b. The clerk of court will not review filings to determine whether appropriate omissions or redactions have been made. The clerk will not, on the clerk's own initiative, redact or restrict access to documents containing protected information.

c. A filer waives the protections of the rules in division VI of this chapter as to the filer's own information by filing the information without redaction.

16.601(2) *Transcripts.*

a. When a transcript is filed that contains protected information, the court reporter must also file a notice of transcript redaction along with a redacted version of the transcript in accordance with administrative directives from the state court administrator.

b. The parties to the action are also responsible for ensuring the appropriate information in the transcript is redacted. After the court reporter has filed a notice of transcript redaction, each party must within 21 days from the date of the filing of the notice of transcript redaction review the designated material and, if necessary, request additional designation of protected information or note where information was improperly redacted. To stipulate to additional redactions or corrected redactions, the parties must file the Stipulation Re: Transcript Redaction form found in the electronic filing section of the Iowa Judicial Branch website.

c. The court will resolve any disagreement on the designation of protected information.

d. The redacted transcript will not be available to the public until all requests for additional designation or claims of improper redaction are resolved.

e. A party's failure to file a response within 21 days from the date the notice of transcript redaction is filed is deemed the party's agreement that the transcript is properly redacted.

16.601(3) *Exhibits.*

a. Electronically submitted exhibits. If protected information must be included in an exhibit pursuant to rules 16.603(2) and 16.603(4), the submitting party must redact the proposed exhibit.

b. Nonelectronic exhibits offered at hearing or trial. If protected information is included in a nonelectronic exhibit that was offered at a hearing or trial, the offering party must inform the court of the inclusion of protected information and request that the exhibit be treated as a confidential document. Within 14 days of offering the nonelectronic exhibit identified as containing protected information, the offering party must electronically file a redacted copy of the exhibit that will be available to the public.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.601. The redaction rules in division VI apply to all documents filed electronically as well as to filings submitted to the court in paper on electronic cases, such as exhibits that are offered in paper at a hearing or trial or filings an excused filer submits in paper for the clerk of court to scan. The personal privacy protection rules, 16.601 through 16.609, assist in protecting certain identifying information from widespread dissemination and possible misuse. To provide greater protection, parties should not put this information in documents filed with the court unless it is required by law or is material to the proceedings. If the information is required by law or material to the proceedings, parties should carefully follow the redaction rules in division VI. Disclosure of protected information in orders and other court-generated documents that require enforcement or action by someone outside the court falls under rule 16.603(4).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.602 Protected information. Protected information includes the following:

1. Social security numbers.
2. Financial account numbers.
3. Dates of birth.
4. Names of minor children.
5. Individual taxpayer identification numbers.
6. Personal identification numbers.
7. Other unique identifying numbers.
8. Confidential information as defined in rule 16.201.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.603 Omission and redaction requirements.

16.603(1) *Protected information that is not required by law or is not material to the proceedings.* A filer may omit protected information from documents filed with the court when the information is not required by law or is not material to the proceedings.

16.603(2) *Protected information that is required by law or is material to the proceedings.* When protected information is required by law to be included or is material to the proceedings, a filer may record the protected information on a separate protected information form. *See* rule 16.606. The filer must ensure that the protected information is redacted from any other document before filing the document with the court. *See* rule 16.605 (manner in which to redact protected information).

16.603(3) *Restricted access documents.* Parties are not required to redact protected information from documents that are confidential by statute, rule, or court order. Redaction is required, however, for materials that are initially confidential but which later become public, such as documents in dissolution proceedings.

16.603(4) *Disclosure allowed.* A filer may disclose protected information only when that information is an essential or required part of the document or the court file. Disclosure of protected information must be as narrow as reasonably practicable.

a. All orders and other court-generated documents containing protected information that require enforcement or action by someone outside the court fall under rule 16.603(4).

b. Judicial officers may include protected information in a nonpublic court order to obtain required enforcement or action with a redacted public version of that order.

COMMENT:

Rule 16.603(4)(*a*). Such documents include, but are not limited to, the following: writs of execution that require a full financial account number; juvenile transportation orders and placement orders containing a child's full name and identifying information; letters of appointment with full names of minors in guardianship and conservatorship cases; qualified domestic relation orders; protective orders and other orders containing full names of juveniles; and applications, orders, and resulting arrest warrants, juvenile summons, and writs of mittimus containing a defendant's full name, date of birth, and social security number. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.603(5) *Full disclosure of the names of minor children.* The name of a minor child may be case information that is an essential or material part of the court record. *See* rule 16.801(2)(*a*) (regarding use of the full name of minors in juvenile delinquency cases).

COMMENT:

Rule 16.603(5). Examples of when the name of a minor child is essential to the court record include: the name of a minor child who is the ward in a guardianship or conservatorship case or who is the subject of a civil name change petition; or the name of a minor child who is a criminal defendant, defendant on a traffic citation or municipal infraction, or defendant in a domestic abuse or elder abuse case or other such case. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.603(6) *Redaction in cases after disposition.* A party must apply to the court to file a redaction of a document in a case in which judgment is final. The application must state the reasons for and manner of redaction. When the court has approved the application, the filer must electronically file the redaction.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.604 Information that may be redacted. A filer may redact the following information from documents available to the public unless the information is required by law or is material to the proceedings:

1. Driver's license numbers.
2. Information concerning medical treatment or diagnosis.
3. Employment history.
4. Personal financial information.
5. Proprietary or trade secret information.
6. Information concerning a person's cooperation with the government.
7. Information concerning crime victims.
8. Sensitive security information.
9. Home addresses.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.605 Manner in which to redact protected information.

16.605(1) *Documents created for filing with the court.* When protected information that is required by law or that is material to the proceedings must be included in a document that a filer is creating specifically for filing with the court, when reasonably practicable only a portion of the protected information should be used.

COMMENT:

Rule 16.605(1). Examples of portions of protected information include: if a Social Security number must be included in a document, only the last digit of that number is used; if financial account numbers are relevant, only incomplete numbers are recited in the document; if a person's date of birth is necessary, only the year is used; if a minor child's name must be mentioned, only the child's initials are used.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

16.605(2) *Original documents that are required to be filed with the court.*

a. When an original document contains protected information that is required by law or is material to the proceedings as specified in rule 16.602, the filer must redact that information.

b. The unredacted version of the original document must be filed if such filing is required by law or the redacted information may be material to the proceeding.

c. If an original document has multiple pages that contain entirely protected information, a single page may be submitted in the public version of the document.

d. If a paper document contains protected information, the filer is responsible for making the same redactions on paper before filing the document that are required for electronic filings in rule 16.605. For original documents that have not been created by the filer, the filer must deliver both a redacted version and the original version of the document to the clerk of court unless rule 16.605(2)(*c*) applies.

COMMENT:

Rule 16.605(2)(*a*) and (*b*). If the unredacted version must be filed, the filer must scan in and file the unredacted version. The filer then must scan and file the redacted version, selecting "Redaction" as the document type on the electronic cover sheet. The filer must then relate the redaction to the original document. EDMS will file the unredacted version as restricted access and the redacted version as the public version of the document. For example, when filing an original birth certificate into a change of name case, the filer makes a copy of the birth certificate, using a permanent marker to black out the date of birth on the copy. The filer then scans and files the original birth certificate as an exhibit or attachment, then scans and files the redacted copy as a redaction. Only the redacted copy will be available to the public. A filer should not rely on software to redact protected information as the information may in fact be retrievable. Documents redacted in this way may be alterable and the protected information revealed. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.606 Protected information form.

16.606(1) *Protected information form required.* When a filer is required to include protected information in a filed document, the filer may file a protected information form. The electronic filing section of the Iowa Judicial Branch website provides the form. The protected information form must contain the protected information in its entirety as well as the redacted version of the information used in the filed document. All references in the case to the redacted information included in the protected information form will be construed to refer to the corresponding complete protected information. The protected information form is not available to the public but is available to case parties.

16.606(2) *Supplementing protected information form.* When new information is needed to supplement the record or if information already contained in the protected information form needs to be updated or corrected, the parties must file an updated protected information form including all previously disclosed protected information plus any additions, changes, or corrections.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.607 Orders and other court-generated documents. All orders and other court-generated documents will follow the omission and redaction requirements in rule 16.603. Orders and other court-generated documents will use the redacted version of the protected information found in the protected information form that the parties file. *See* rule 16.606. Orders and other court-generated documents containing protected information that require enforcement or action by someone outside the court are governed by rule 16.603(4).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.608 Improperly included protected information.

16.608(1) A party may apply to the court to redact improperly included protected information from a filed document or court file and may request an immediate order to temporarily restrict access to the document or court file pending notice and opportunity to be heard by all parties.

16.608(2) If, after all parties have been provided an opportunity to be heard, the court finds protected information was improperly included in a filed document, the court may restrict access to the document and may order a properly redacted document to be filed.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.609 Sanctions. If a filer incorrectly files documents containing unredacted protected information, the court, upon its own motion or upon the motion of any party, may impose sanctions. A sanction imposed under this rule must be limited to that which will deter repetition of the conduct or comparable conduct by others. The sanction may include nonmonetary directives or an order to pay a penalty into court. If a party is required to file a motion to address a violation of division VI of this chapter, the court may award to the moving party reasonable attorney's fees and other expenses directly resulting from the violation.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.610 to **16.700** Reserved.

DIVISION VII
CRIMINAL CASES

Rule 16.701 Criminal cases generally.

16.701(1) *EDMS in criminal cases.* All criminal cases will be opened using EDMS.

16.701(2) *Applicability of other chapter 16 rules to criminal cases.* The rules in divisions I through VI of the Iowa Rules of Electronic Procedure, including rules on the protection of personal privacy, apply in criminal cases except as stated in this division.

16.701(3) *Self-represented criminal defendants.* A self-represented criminal defendant is not required to register but may choose to register for electronic filing. If a person excused from electronic filing chooses to register, the person waives the exception and is governed by these rules in the same manner as any registered filer. A person who subsequently desires to be excused must apply for and receive an exception pursuant to these rules.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.702 Warrants and other similar applications. When made during regular court hours, applications for search warrants, applications for arrest warrants, and other similar applications may be electronically presented to the court. Applications made when the courthouse is closed may be electronically presented to the court in the same manner as proposed orders are presented pursuant to rule 16.409. If the applicant or the court does not have immediate access to such technology, the application must be presented to the court in paper form and later scanned into EDMS.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.703 Documents initiating criminal cases.

16.703(1) *Trial informations and indictments.*

a. Trial informations. Trial informations must be electronically presented to the court for approval. If the court approves the trial information, the information is electronically file stamped and filed. If the court refuses to approve the trial information, the prosecuting attorney is electronically notified.

b. Indictments. Indictments containing a nonelectronic signature of a foreperson of a grand jury must be scanned before being electronically filed in EDMS.

16.703(2) *Complaints, traffic tickets, and similar citations.* Complaints, traffic tickets, or similar citations containing the electronic signature of an arresting officer or other person must be transmitted to EDMS in such a manner as to legibly reproduce an unaltered image of the required signature or display a realistic image of the signature.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.704 Signatures of criminal defendants. When a criminal defendant's signature is required on a document, the signature may be placed on the document in the following ways.

16.704(1) *Nonelectronic signature.* A criminal defendant may sign a document nonelectronically, and the document must be scanned for electronic filing.

16.704(2) *Computer tablet signature.* A criminal defendant may electronically sign a document using a computer tablet or similar technology.

16.704(3) *Login and password.* A criminal defendant who is a registered filer may sign the document using the defendant's login and password accompanied by a digitized or electronic signature. *See* rule 16.705 (documents requiring oaths, affirmations, or verifications).
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.705 Documents requiring oaths, affirmations, or verifications. Any document requiring a signature to be made under oath or affirmation or with verification may be signed either nonelectronically and scanned into EDMS or may be signed with a digitized signature.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.705. Uniform citations and complaints are examples of documents under rule 16.705. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.706 Copies of documents for self-represented defendants. The court will provide self-represented criminal defendants who have not registered for electronic filing paper copies of all documents submitted to the court or filed by the court.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.707 Written plea agreements. Written plea agreements may be electronically presented to the court but need not be filed prior to a plea proceeding. If the plea is accepted, the electronically presented plea agreement is filed.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.708 to **16.800** Reserved.

DIVISION VIII
JUVENILE CASES

Rule 16.801 Juvenile cases generally.

16.801(1) *EDMS in juvenile cases.* All juvenile cases, with the exception of waivers of parental notification, will be opened using EDMS.

16.801(2) *Applicability of other chapter 16 rules to juvenile cases.* The rules in divisions I through VI of the Iowa Rules of Electronic Procedure, including rules on the protection of personal privacy, apply in all juvenile cases except as stated in this division.

a. Exception to protected information rule 16.602 for the name of a minor child. The name of a minor child who is the subject of a petition or complaint alleging delinquency will not be disclosed and is considered protected information unless exempted under Iowa Code section 232.147.

b. Exception for nonregistered self-represented parents, guardians, or legal custodians. Nonregistered self-represented parents, guardians, or legal custodians of a minor child in a juvenile case are excused from registration and electronic filing.

c. Exception to exhibit maintenance order. The juvenile court may use but is not required to use the exhibit maintenance order in juvenile proceedings.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.802 Emergency applications. When made during regular court hours, applications for emergency orders may be electronically presented to the court. Applications made when the courthouse is closed may be electronically presented to the court in the same manner as proposed orders are presented pursuant to rule 16.409. If the applicant or the court does not have immediate access to such technology, the application may be presented to the court in paper form and later scanned into EDMS.
[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

COMMENT:

Rule 16.802. Examples of emergency applications include applications for placement in shelter care, placement in detention,

requests for emergency medical care, and removal from parental custody. [Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.803 Signatures. When the signature of a parent, guardian, custodian, child as defined in the Iowa Code, or adult within the jurisdiction of the juvenile court is required on a document, the signature may be placed on the document in one of the following ways:

16.803(1) *Nonelectronic signature.* The person may sign a document nonelectronically and the document must be scanned for electronic filing.

16.803(2) *Computer tablet signature.* The person may electronically sign a document using a computer tablet or similar technology.

16.803(3) *Login and password.* If the person is a registered filer, the person may sign the document using the person's login and password, accompanied by a digitized or electronic signature. *See* rule 16.804 (documents requiring oaths, affirmations, or verifications).

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rule 16.804 Documents requiring oaths, affirmations, or verifications. Any document requiring a signature to be made under oath or affirmation or with verification may be signed either nonelectronically and scanned into the electronic document management system or may be signed with a digitized signature.

[Court Order November 21, 2016, temporarily effective November 21, 2016, permanently effective February 1, 2017]

Rules 16.805 to **16.900** Reserved.

CHAPTER 32
IOWA RULES OF PROFESSIONAL CONDUCT

CHAPTER 32
IOWA RULES OF PROFESSIONAL CONDUCT

PREAMBLE AND SCOPE

PREAMBLE: A LAWYER'S RESPONSIBILITIES

[1] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice.

[2] As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

[3] In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these rules apply directly to lawyers who are or have served as third-party neutrals. *See, e.g.,* rules 32:1.12 and 32:2.4. In addition, there are rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. *See* rule 32:8.4.

[4] In all professional functions a lawyer should be competent, prompt, and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Iowa Rules of Professional Conduct or other law.

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

[6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law, and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

[7] Many of a lawyer's professional responsibilities are prescribed in the Iowa Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession, and to exemplify the legal profession's ideals of public service.

[8] A lawyer's responsibilities as a representative of clients, an officer of the legal system, and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest

because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

[9] In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system, and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Iowa Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous, and civil attitude toward all persons involved in the legal system.

[10] The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.

[11] To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

[12] The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to ensure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Iowa Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

[13] Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Iowa Rules of Professional Conduct, when properly applied, serve to define that relationship.

SCOPE

[14] The Iowa Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the rules are imperatives, cast in the terms "shall" or "shall not." These define proper conduct for purposes of professional discipline. Others, generally cast in the term "may," are permissive and define areas under the rules in which the lawyer has discretion to exercise professional judgment. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of such discretion. Other rules define the nature of relationships between the lawyer and others. The rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role. Many of the comments use the term "should." Comments do not add obligations to the rules but provide guidance for practicing in compliance with the rules.

[15] The rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers, and substantive and procedural law in general. The comments are sometimes used to alert lawyers to their responsibilities under such other law.

[16] Compliance with the rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion, and finally, when necessary, upon enforcement through disciplinary proceedings. The rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The rules simply provide a framework for the ethical practice of law.

[17] Furthermore, for purposes of determining the lawyer's authority and responsibility, principles of substantive law external to these rules determine whether a client-lawyer relationship exists. Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so. But there are some duties, such as that of confidentiality under rule 32:1.6, that attach when the lawyer agrees to consider whether a client-lawyer relationship shall be established. *See* rule 32:1.18. Whether a client-lawyer relationship exists for any specific purpose can depend on the circumstances and may be a question of fact.

[18] Under various legal provisions, including constitutional, statutory, and common law, the responsibilities of government lawyers may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide upon settlement or whether to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. These rules do not abrogate any such authority.

[19] Failure to comply with an obligation or prohibition imposed by a rule is a basis for invoking the disciplinary process. The rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors, and whether there have been previous violations.

[20] Violation of a rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer in pending litigation. The rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule. Nevertheless, since the rules do establish standards of conduct by lawyers, a lawyer's violation of a rule may be evidence of breach of the applicable standard of conduct.

[21] The comment accompanying each rule explains and illustrates the meaning and purpose of the rule. The Preamble and this note on Scope provide general orientation. The comments are intended as guides to interpretation, but the text of each rule is authoritative.

Rule 32:1.0 TERMINOLOGY

(a) *"Belief"* or *"believes"* denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

(b) *"Confirmed in writing,"* when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See paragraph (e) for the definition of "informed consent." If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.

(c) *"Firm"* or *"law firm"* denotes a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship, or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.

(d) *"Fraud"* or *"fraudulent"* denotes conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive.

(e) *"Informed consent"* denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and

reasonably available alternatives to the proposed course of conduct.

(f) *"Knowingly," "known,"* or *"knows"* denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

(g) *"Partner"* denotes a member of a partnership, a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.

(h) *"Reasonable"* or *"reasonably"* when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

(i) *"Reasonable belief"* or *"reasonably believes"* when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

(j) *"Reasonably should know"* when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

(k) *"Screened"* denotes the isolation of a lawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these rules or other law.

(l) *"Substantial"* when used in reference to degree or extent denotes a material matter of clear and weighty importance.

(m) *"Tribunal"* denotes a court, an arbitrator in a binding arbitration proceeding, or a legislative body, administrative agency, or other body acting in an adjudicative capacity. A legislative body, administrative agency, or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

(n) *"Writing"* or *"written"* denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording, and electronic communications. A "signed" writing includes an electronic sound, symbol, or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

Comment

Confirmed in Writing

[1] If it is not feasible to obtain or transmit a written confirmation at the time the client gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter. If a lawyer has obtained a client's informed consent, the lawyer may act in reliance on that consent so long as it is confirmed in writing within a reasonable time thereafter.

Firm

[2] Whether two or more lawyers constitute a firm within paragraph (c) can depend on the specific facts. For example, two practitioners who share office space and occasionally consult or assist each other ordinarily would not be regarded as constituting a firm. However, if they present themselves to the public in a way that suggests that they are a firm or conduct themselves as a firm, they should be regarded as a firm for purposes of the rules. The terms of any formal agreement between associated lawyers are relevant in determining whether they are a firm, as is the fact that they have mutual access to information concerning the clients they serve. Furthermore, it is relevant in doubtful cases to consider the underlying purpose of the rule that is involved. A group of lawyers could be regarded as a firm for purposes of the rule that the same lawyer should not represent opposing parties in litigation, while it might not be so regarded for purposes of the rule that information acquired by one lawyer is attributed to another.

[3] With respect to the law department of an organization, including the government, there is ordinarily no question that the members of the department constitute a firm within the meaning of the Iowa Rules of Professional Conduct. There can be uncertainty, however, as to the identity of the client. For example, it may not be clear whether the law department of a corporation represents a subsidiary or an affiliated corporation, as well as the corporation by which the members of the department are directly employed. A similar question can arise concerning an unincorporated association and its local affiliates.

[4] Similar questions can also arise with respect to lawyers in legal aid and legal services organizations. Depending upon the structure of the organization, the entire organization or different components of it may constitute a firm or firms for purposes of these rules.

Fraud

[5] When used in these rules, the terms "fraud" or "fraudulent" refer to conduct that is characterized as such under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive. This does not include merely negligent misrepresentation or negligent failure to apprise another of relevant information. For purposes of these rules, it is not necessary that anyone has suffered damages or relied on the misrepresentation or failure to inform.

Informed Consent

[6] Many of the Iowa Rules of Professional Conduct require the lawyer to obtain the informed consent of a client or other person (e.g., a former client or, under certain circumstances, a prospective client) before accepting or continuing representation or pursuing a course of conduct. *See, e.g.,* rules 32:1.2(c), 32:1.6(a), 32:1.7(b), 32:1.9(a), 32:1.11(a), 32:1.12(a), and 32:1.18(d). The communication necessary to obtain such consent will vary according to the rule involved and the circumstances giving rise to the need to obtain informed consent. The lawyer must make reasonable efforts to ensure that the client or other person possesses information reasonably adequate to make an informed decision. Ordinarily, this will require communication that includes a disclosure of the facts and circumstances giving rise to the situation, any explanation reasonably necessary to inform the client or other person of the material advantages and disadvantages of the proposed course of conduct, and a discussion of the client's or other person's options and alternatives. In some circumstances it may be appropriate for a lawyer to advise a client or other person to seek the advice of other counsel. A lawyer need not inform a client or other person of facts or implications already known to the client or other person; nevertheless, a lawyer who does not personally inform the client or other person assumes the risk that the client or other person is inadequately informed and the consent is invalid. In determining whether the information and explanation provided are reasonably adequate, relevant factors include whether the client or other person is experienced in legal matters generally and in making decisions of the type involved, and whether the client or other person is independently represented by other counsel in giving the consent. Normally, such persons need less information and explanation than others, and generally a client or other person who is independently represented by other counsel in giving the consent should be assumed to have given informed consent.

[7] Obtaining informed consent will usually require an affirmative response by the client or other person. In general, a lawyer may not assume consent from a client's or other person's silence. Consent may be inferred, however, from the conduct of a client or other person who has reasonably adequate information about the matter. A number of rules require that a person's consent be confirmed in writing. *See* rules 32:1.7(b), 32:1.9(a), 32:1.11(a), 32:1.12(a), and 32:1.18(d). For a definition of "writing" and "confirmed in writing," see paragraphs (n) and (b). Other rules require that a client's consent be obtained in a writing signed by the client. *See, e.g.,* rules 32:1.8(a) and (g). For a definition of "signed," see paragraph (n).

Screened

[8] This definition applies to situations where screening of a personally disqualified lawyer is permitted to remove imputation of a conflict of interest under rule 32:1.10, 32:1.11, 32:1.12, or 32:1.18.

[9] The purpose of screening is to assure the affected parties that confidential information known by the personally disqualified lawyer remains protected. The personally disqualified lawyer should acknowledge the obligation not to communicate with any of the other lawyers in the firm with respect to the matter. Similarly, other lawyers in the firm who are working on the matter should be informed that the screening is in place and that they may not communicate with the personally disqualified lawyer with respect to the matter. Additional screening measures that are appropriate for the particular matter will depend on the circumstances. To implement, reinforce, and remind all affected lawyers of the presence of the screening, it may be appropriate for the firm to undertake

such procedures as a written undertaking by the screened lawyer to avoid any communication with other firm personnel and any contact with any firm files or other information, including information in electronic form, relating to the matter, written notice and instructions to all other firm personnel forbidding any communication with the screened lawyer relating to the matter, denial of access by the screened lawyer to firm files or other information, including information in electronic form, relating to the matter, and periodic reminders of the screen to the screened lawyer and all other firm personnel.

[10] In order to be effective, screening measures must be implemented as soon as practical after a lawyer or law firm knows or reasonably should know that there is a need for screening.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

CLIENT-LAWYER RELATIONSHIP

Rule 32:1.1 COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

Comment

Legal Knowledge and Skill

[1] In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter, and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

[2] A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence, and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.

[3] In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill-considered action under emergency conditions can jeopardize the client's interest.

[4] A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. *See also* rule 32:6.2.

Thoroughness and Preparation

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. *See* rule 32:1.2(c).

Retaining or Contracting With Other Lawyers

[6] Before a lawyer retains or contracts with other lawyers outside the lawyer's own firm to provide or assist in the provision of legal services to a client, the lawyer should ordinarily obtain informed consent from the client and must reasonably believe that the other lawyers' services will contribute to the competent and ethical representation of the client. *See also* rules 32:1.2 (allocation of authority), 32:1.4 (communication with client), 32:1.5(3) (fee sharing), 32:1.6 (confidentiality), and 32:5.5(a) (unauthorized practice of law). The reasonableness of the decision to retain or contract with other lawyers outside the lawyer's own firm will depend upon the circumstances, including the education, experience, and reputation of the nonfirm lawyers; the nature of the services assigned to the nonfirm lawyers; and the legal protections, professional conduct rules, and ethical environments of the jurisdictions in which the services will be performed, particularly relating to confidential information.

[7] When lawyers from more than one law firm are providing legal services to the client on a particular matter, the lawyers ordinarily should consult with each other and the client about the scope of their respective representations and the allocation of responsibility among them. *See* rule 32:1.2. When making allocations of responsibility in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these rules.

Maintaining Competence

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education, and comply with all continuing legal education requirements to which the lawyer is subject.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

Rule 32:1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by rule 32:1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social, or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(1) The client's informed consent must be confirmed in writing unless:

(i) the representation of the client consists solely of telephone consultation;

(ii) the representation is provided by a lawyer employed by a nonprofit legal services program or participating in a nonprofit or court-annexed legal services program and the lawyer's representation consists solely of providing information and advice or the preparation of court-approved legal forms; or

(iii) the court appoints the attorney for a limited purpose that is set forth in the appointment order.

(2) If the client gives informed consent in a writing signed by the client, there shall be a presumption that:

(i) the representation is limited to the attorney and the services described in the writing; and

(ii) the attorney does not represent the client generally or in any matters other than those identified in the writing.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law.

Comment

Allocation of Authority between Client and Lawyer

[1] Paragraph (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. The decisions specified in paragraph (a), such as whether to settle a civil matter, must also be made by the client. See rule 32:1.4(a)(1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by rule 32:1.4(a)(2) and may take such action as is impliedly authorized to carry out the representation.

[2] On occasion, however, a lawyer and a client may disagree about the means to be used to accomplish the client's objectives. Clients normally defer to the special knowledge and skill of their lawyer with respect to the means to be used to accomplish their objectives, particularly with respect to technical, legal, and tactical matters. Conversely, lawyers usually defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. Because of the varied nature of the matters about which a lawyer and client might disagree and because the actions in question may implicate the interests of a tribunal or other persons, this rule does not prescribe how such disagreements are to be resolved. Other law, however, may be applicable and should be consulted by the lawyer. The lawyer should also consult with the client and seek a mutually acceptable resolution of the disagreement. If such efforts are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer may withdraw from the representation. *See* rule 32:1.16(b)(4). Conversely, the client may resolve the disagreement by discharging the lawyer. *See* rule 32:1.16(a)(3).

[3] At the outset of a representation, the client may authorize the lawyer to take specific action on the client's behalf without further consultation. Absent a material change in circumstances and subject to rule 32:1.4, a lawyer may rely on such an advance authorization. The client may, however, revoke such authority at any time.

[4] In a case in which the client appears to be suffering diminished capacity, the lawyer's duty to abide by the client's decisions is to be guided by reference to rule 32:1.14.

Independence from Client's Views or Activities

[5] Legal representation should not be denied to people who are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval. By the same token, representing a client does not constitute approval of the client's views or activities.

Agreements Limiting Scope of Representation

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

See rule 32:1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Iowa Rules of Professional Conduct and other law. *See, e.g.,* rules 32:1.1, 32:1.8, and 32:5.6.

Criminal, Fraudulent, and Prohibited Transactions

[9] Paragraph (d) prohibits a lawyer from knowingly counseling or assisting a client to commit a crime or fraud. This prohibition, however, does not preclude the lawyer from giving an honest opinion about the actual consequences that appear likely to result from a client's conduct. Nor does the fact that a client uses advice in a course of action that is criminal or fraudulent of itself make a lawyer a party to the course of action. There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity.

[10] When the client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer is required to avoid assisting the client, for example, by drafting or delivering documents that the lawyer knows are fraudulent or by suggesting how the wrongdoing might be concealed. A lawyer may not continue assisting a client in conduct that the lawyer originally supposed was legally proper but then discovers is criminal or fraudulent. The lawyer must, therefore, withdraw from the representation of the client in the matter. *See* rule 32:1.16(a). In some cases, withdrawal alone might be insufficient. It may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm any opinion, document, affirmation, or the like. *See* rule 32:4.1.

[11] Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

[12] Paragraph (d) applies whether or not the defrauded party is a party to the transaction. Hence, a lawyer must not participate in a transaction to effectuate criminal or fraudulent avoidance of tax liability. Paragraph (d) does not preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise. The last clause of paragraph (d) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities.

[13] If a lawyer comes to know or reasonably should know that a client expects assistance not permitted by the Iowa Rules of Professional Conduct or other law or if the lawyer intends to act contrary to the client's instructions, the lawyer must consult with the client regarding the limitations on the lawyer's conduct. *See* rule 32:1.4(a)(5).

[Court Order April 20, 2005, effective July 1, 2005; March 12, 2007]

Rule 32:1.3 DILIGENCE

A lawyer shall act with reasonable diligence and promptness in representing a client.

Comment

[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. *See* rule 32:1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect. *See* Iowa Ct. R. ch. 33.

[2] A lawyer's work load must be controlled so that each matter can be handled competently.

[3] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness.

A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

[4] Unless the relationship is terminated as provided in rule 32:1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client and the lawyer and the client have not agreed that the lawyer will handle the matter on appeal, the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. *See* rule 32:1.4(a)(2). Whether the lawyer is obligated to prosecute the appeal for the client depends on the scope of the representation the lawyer has agreed to provide to the client or other applicable law. *See* rule 32:1.2. *See, e.g.,* Iowa R. Crim. P. 2.29(6); Iowa Rs. App. P. 6.102(1)(*b*) and 6.201, 6.109(4) and 6.109(5).

[5] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action. *See* Iowa Ct. R. 35.17(6) and 35.18 (where reasonable necessity exists, the local chief judge shall appoint a lawyer to serve as trustee to inventory files, sequester client funds, and take any other appropriate action to protect the interests of the clients and other affected persons of a deceased, suspended, or disabled lawyer).

[Court Order April 20, 2005, effective July 1, 2005; February 20, 2012]

Rule 32:1.4 COMMUNICATION

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in rule 32:1.0(e), is required by these rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Iowa Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Comment

[1] Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation.

Communicating with Client

[2] If these rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. *See* rule 32:1.2(a).

[3] Paragraph (a)(2) requires the lawyer to reasonably consult with the client about the means to be used to accomplish the client's objectives. The lawyer should also discuss relevant provisions of the Standards for Professional Conduct and indicate the lawyer's intent to follow those Standards

whenever possible. *See* Iowa Ct. R. ch. 33. In some situations–depending on both the importance of the action under consideration and the feasibility of consulting with the client–this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

[4] A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, paragraph (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. A lawyer should promptly respond to or acknowledge client communications.

Explaining Matters

[5] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in rule 32:1.0(e).

[6] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity. *See* rule 32:1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. *See* rule 32:1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

Withholding Information

[7] In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold information to serve the lawyer's own interest or convenience or the interests or convenience of another person. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. Rule 32:3.4(c) directs compliance with such rules or orders.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

Rule 32:1.5 FEES

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses, or violate any restrictions imposed by law. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment

will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial, or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(d) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof; or

(2) a contingent fee for representing a defendant in a criminal case.

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

(1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;

(2) the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and

(3) the total fee is reasonable.

Comment

Reasonableness and Legality of Fee and Expenses

[1] Paragraph (a) requires that lawyers charge fees that are reasonable under the circumstances. The factors specified in (1) through (8) are not exclusive. Nor will each factor be relevant in each instance. Paragraph (a) also requires that expenses for which the client will be charged must be reasonable. A lawyer may seek reimbursement for the cost of services performed in-house, such as copying, or for other expenses incurred in-house, such as telephone charges, either by charging a reasonable amount to which the client has agreed in advance or by charging an amount that reasonably reflects the cost incurred by the lawyer. A fee that is otherwise reasonable may be subject to legal limitations, of which the lawyer should be aware. For example, a lawyer must comply with restrictions imposed by statute or court rule on the timing and amount of fees in probate.

Basis or Rate of Fee

[2] When the lawyer has regularly represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee and the expenses for which the client will be responsible. In a new client-lawyer relationship, however, an understanding as to fees and expenses must be promptly established. Generally, it is desirable to furnish the client with at least a simple memorandum or copy of the lawyer's customary fee arrangements that states the general nature of

the legal services to be provided, the basis, rate, or total amount of the fee, and whether and to what extent the client will be responsible for any costs, expenses, or disbursements in the course of the representation. A written statement concerning the terms of the engagement reduces the possibility of misunderstanding.

[3] Contingent fees, like any other fees, are subject to the reasonableness standard of paragraph (a) of this rule. In determining whether a particular contingent fee is reasonable, or whether it is reasonable to charge any form of contingent fee, a lawyer must consider the factors that are relevant under the circumstances. Applicable law may impose limitations on contingent fees, such as a ceiling on the percentage allowable, or may require a lawyer to offer clients an alternative basis for the fee. Applicable law also may apply to situations other than a contingent fee, for example, government regulations regarding fees in certain tax matters.

Terms of Payment

[4] A lawyer may require advance payment of a fee, but is obliged to return any unearned portion. *See* rule 32:1.16(d). A lawyer may accept property in payment for services, such as an ownership interest in an enterprise, providing this does not involve acquisition of a proprietary interest in the cause of action or subject matter of the litigation contrary to rule 32:1.8(i). However, a fee paid in property instead of money may be subject to the requirements of rule 32:1.8(a) because such fees often have the essential qualities of a business transaction with the client.

[5] An agreement may not be made whose terms might induce the lawyer improperly to curtail services for the client or perform them in a way contrary to the client's interest. For example, a lawyer should not enter into an agreement whereby services are to be provided only up to a stated amount when it is foreseeable that more extensive services probably will be required, unless the situation is adequately explained to the client. Otherwise, the client might have to bargain for further assistance in the midst of a proceeding or transaction. However, it is proper to define the extent of services in light of the client's ability to pay. A lawyer should not exploit a fee arrangement based primarily on hourly charges by using wasteful procedures.

Prohibited Contingent Fees

[6] Paragraph (d) prohibits a lawyer from charging a contingent fee in a domestic relations matter when payment is contingent upon the securing of a divorce or upon the amount of alimony or support or property settlement to be obtained. This provision does not preclude a contract for a contingent fee for legal representation in connection with the recovery of post-judgment balances due under support, alimony, or other financial orders because such contracts do not implicate the same policy concerns.

Division of Fee

[7] A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist. Paragraph (e) permits the lawyers to divide a fee either on the basis of the proportion of services they render or if each lawyer assumes responsibility for the representation as a whole. In addition, the client must agree to the arrangement, including the share that each lawyer is to receive, and the agreement must be confirmed in writing. Contingent fee agreements must be in a writing signed by the client and must otherwise comply with paragraph (c) of this rule. Joint responsibility for the representation entails financial and ethical responsibility for the representation as if the lawyers were associated in a partnership. A lawyer should only refer a matter to a lawyer whom the referring lawyer reasonably believes is competent to handle the matter. *See* rule 32:1.1.

[8] Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.

Disputes over Fees

[9] If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by the bar, the lawyer must comply with the procedure when it is mandatory, and, even when it is voluntary, the lawyer should conscientiously consider submitting to it. Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled to such a fee and a lawyer representing another party concerned with the fee should comply with the prescribed procedure.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:1.6 CONFIDENTIALITY OF INFORMATION

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b) or required by paragraph (c).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm;

(2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;

(3) to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;

(4) to secure legal advice about the lawyer's compliance with these rules;

(5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or

(6) to comply with other law or a court order; or

(7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

(c) A lawyer shall reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent imminent death or substantial bodily harm.

(d) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

Comment

[1] This rule governs the disclosure by a lawyer of information relating to the representation of a client during the lawyer's representation of the client. See rule 32:1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, rule 32:1.9(c)(2) for the lawyer's duty not to reveal information relating to the lawyer's prior representation of a former client, and rules 32:1.8(b) and 32:1.9(c)(1) for the lawyer's duties with respect to the use of such information to the disadvantage of clients and former clients.

[2] A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation. See rule 32:1.0(e) for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex of laws and regulations, deemed to be legal and correct. Based upon experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

[3] The principle of client-lawyer confidentiality is given effect by related bodies of law: the attorney-client privilege, the work product doctrine, and the rule of confidentiality established in professional ethics. The attorney-client privilege and work-product doctrine apply in judicial and

other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Iowa Rules of Professional Conduct or other law. *See also* Scope.

[4] Paragraph (a) prohibits a lawyer from revealing information relating to the representation of a client. This prohibition also applies to disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person. A lawyer's use of a hypothetical to discuss issues relating to the representation is permissible so long as there is no reasonable likelihood that the listener will be able to ascertain the identity of the client or the situation involved.

Authorized Disclosure

[5] Except to the extent that the client's instructions or special circumstances limit that authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation. In some situations, for example, a lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or to make a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose to each other information relating to a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

Permissive Disclosure Adverse to Client

[6] Although the public interest is usually best served by a strict rule requiring lawyers to preserve the confidentiality of information relating to the representation of their clients, the confidentiality rule is subject to limited exceptions. Paragraph (b)(1) recognizes the overriding value of life and physical integrity and permits disclosure reasonably necessary to prevent reasonably certain death or substantial bodily harm. Such harm is reasonably certain to occur if it will be suffered in the near future or if there is a present and substantial threat that a person will suffer such harm at a later date if the lawyer fails to take action necessary to eliminate the threat. Thus, a lawyer who knows that a client has accidentally discharged toxic waste into a town's water supply may reveal this information to the authorities if there is a present and substantial risk that a person who drinks the water will contract a life-threatening or debilitating disease and the lawyer's disclosure is necessary to eliminate the threat or reduce the number of victims.

[7] Paragraph (b)(2) is a limited exception to the rule of confidentiality that permits the lawyer to reveal information to the extent necessary to enable affected persons or appropriate authorities to prevent the client from committing a crime or fraud, as defined in rule 32:1.0(d), that is reasonably certain to result in substantial injury to the financial or property interests of another and in furtherance of which the client has used or is using the lawyer's services. Such a serious abuse of the client-lawyer relationship by the client forfeits the protection of this rule. The client can, of course, prevent such disclosure by refraining from the wrongful conduct. Although paragraph (b)(2) does not require the lawyer to reveal the client's misconduct, the lawyer may not counsel or assist the client in conduct the lawyer knows is criminal or fraudulent. *See* rule 32:1.2(d). See also rule 32:1.16 with respect to the lawyer's obligation or right to withdraw from the representation of the client in such circumstances, and rule 32:1.13(c), which permits the lawyer, where the client is an organization, to reveal information relating to the representation in limited circumstances.

[8] Paragraph (b)(3) addresses the situation in which the lawyer does not learn of the client's crime or fraud until after it has been consummated. Although the client no longer has the option of preventing disclosure by refraining from the wrongful conduct, there will be situations in which the loss suffered by the affected person can be prevented, rectified, or mitigated. In such situations, the lawyer may disclose information relating to the representation to the extent necessary to enable the affected persons to prevent or mitigate reasonably certain losses or to attempt to recoup their losses. Paragraph (b)(3) does not apply when a person who has committed a crime or fraud thereafter employs a lawyer for representation concerning that offense.

[9] A lawyer's confidentiality obligations do not preclude a lawyer from securing confidential legal advice about the lawyer's personal responsibility to comply with these rules. In most situations, disclosing information to secure such advice will be impliedly authorized for the lawyer to carry out the representation. Even when the disclosure is not impliedly authorized, paragraph (b)(4) permits such disclosure because of the importance of a lawyer's compliance with the Iowa Rules of Professional Conduct.

[10] Where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond to the extent the lawyer reasonably believes necessary to establish a defense. The same is true with respect to a claim involving the conduct or representation of a former client. Such a charge can arise in a civil, criminal, disciplinary, or other proceeding and can be based on a wrong allegedly committed by the lawyer against the client or on a wrong alleged by a third person, for example, a person claiming to have been defrauded by the lawyer and client acting together. The lawyer's right to respond arises when an assertion of such complicity has been made. Paragraph (b)(5) does not require the lawyer to await the commencement of an action or proceeding that charges such complicity, so that the defense may be established by responding directly to a third party who has made such an assertion. The right to defend also applies, of course, where a proceeding has been commenced.

[11] A lawyer entitled to a fee is permitted by paragraph (b)(5) to prove the services rendered in an action to collect it. This aspect of the rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary.

[12] Other law may require that a lawyer disclose information about a client. Whether such a law supersedes rule 32:1.6 is a question of law beyond the scope of these rules. When disclosure of information relating to the representation appears to be required by other law, the lawyer must discuss the matter with the client to the extent required by rule 32:1.4. If, however, the other law supersedes this rule and requires disclosure, paragraph (b)(6) permits the lawyer to make such disclosures as are necessary to comply with the law.

Detection of Conflicts of Interest

[13] Paragraph (b)(7) recognizes that lawyers in different firms may need to disclose limited information to each other to detect and resolve conflicts of interest, such as when a lawyer is considering an association with another firm, two or more firms are considering a merger, or a lawyer is considering the purchase of a law practice. *See* rule 32:1.17, comment [7]. Under these circumstances, lawyers and law firms are permitted to disclose limited information, but only once substantive discussions regarding the new relationship have occurred. Any such disclosure should ordinarily include no more than the identity of the persons and entities involved in a matter, a brief summary of the general issues involved, and information about whether the matter has terminated. Even this limited information, however, should be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship. Moreover, the disclosure of any information is prohibited if it would compromise the attorney-client privilege or otherwise prejudice the client (e.g., the fact that a corporate client is seeking advice on a corporate takeover that has not been publicly announced; that a person has consulted a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse; or that a person has consulted a lawyer about a criminal investigation that has not led to a public charge). Under those circumstances, paragraph (a) prohibits disclosure unless the client or former client gives informed consent. A lawyer's fiduciary duty to the lawyer's firm may also govern a lawyer's conduct when exploring an association with another firm and is beyond the scope of these rules.

[14] Any information disclosed pursuant to paragraph (b)(7) may be used or further disclosed only to the extent necessary to detect and resolve conflicts of interest. Paragraph (b)(7) does not restrict the use of information acquired by means independent of any disclosure pursuant to paragraph (b)(7). Paragraph (b)(7) also does not affect the disclosure of information within a law firm when the disclosure is otherwise authorized, *see* comment [5], such as when a lawyer in a firm discloses information to another lawyer in the same firm to detect and resolve conflicts of interest that could arise in connection with undertaking a new representation.

[15] A lawyer may be ordered to reveal information relating to the representation of a client by a court or by another tribunal or governmental entity claiming authority pursuant to other law to

compel the disclosure. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all nonfrivolous claims that the order is not authorized by other law or that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. In the event of an adverse ruling, the lawyer must consult with the client about the possibility of appeal to the extent required by rule 32:1.4. Unless review is sought, however, paragraph (b)(6) permits the lawyer to comply with the court's order.

[16] Paragraph (b) permits disclosure only to the extent the lawyer reasonably believes the disclosure is necessary to accomplish one of the purposes specified. Where practicable, the lawyer should first seek to persuade the client to take suitable action to obviate the need for disclosure. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to accomplish the purpose. If the disclosure will be made in connection with a judicial proceeding, the disclosure should be made in a manner that limits access to the information to the tribunal or other persons having a need to know it and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

[17] Paragraph (b) permits but does not require the disclosure of information relating to a client's representation to accomplish the purposes specified in paragraphs (b)(1) through (b)(6). In exercising the discretion conferred by this rule, the lawyer may consider such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction, and factors that may extenuate the conduct in question. A lawyer's decision not to disclose as permitted by paragraph (b) does not violate this rule. Disclosure may be required, however, by other rules. Some rules require disclosure only if such disclosure would be permitted by paragraph (b). *See* rules 32:1.2(d), 32:4.1(b), 32:8.1, and 32:8.3. Rule 32:3.3, on the other hand, requires disclosure in some circumstances regardless of whether such disclosure is permitted by this rule. *See* rule 32:3.3(c).

Acting Competently to Preserve Confidentiality

[18] Paragraph (c) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. *See* rules 32:1.1, 32:5.1, and 32:5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to forgo security measures that would otherwise be required by this rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see rule 32:5.3, comments [3]-[4].

[19] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this rule. Whether a lawyer may be required to take additional steps in order to comply with other laws, such as state and federal laws that govern data privacy, is

beyond the scope of these rules.

Former Client

[20] The duty of confidentiality continues after the client-lawyer relationship has terminated. *See* rule 32:1.9(c)(2). See rule 32:1.9(c)(1) for the prohibition against using such information to the disadvantage of the former client.

Required Disclosure Adverse to Client

[21] Rule 32:1.6(c) requires a lawyer to reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent imminent death or substantial bodily harm. Rule 32:1.6(c) differs from rule 32:1.6(b)(1) in that rule 32:1.6(b)(1) permits, but does not require, disclosure in situations where death or substantial bodily harm is deemed to be reasonably certain rather than imminent. For purposes of rule 32:1.6, "reasonably certain" includes situations where the lawyer knows or reasonably believes the harm will occur, but there is still time for independent discovery and prevention of the harm without the lawyer's disclosure. For purposes of this rule, death or substantial bodily harm is "imminent" if the lawyer knows or reasonably believes it is unlikely that the death or harm can be prevented unless the lawyer immediately discloses the information.
[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

Rule 32:1.7 CONFLICT OF INTEREST: CURRENT CLIENTS

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing.

(c) In no event shall a lawyer represent both parties in dissolution of marriage proceedings.

Comment

General Principles

[1] Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. Concurrent conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third person, or from the lawyer's own interests. For specific rules regarding certain concurrent conflicts of interest, see rule 32:1.8. For former client conflicts of interest, see rule 32:1.9. For conflicts of interest involving prospective clients, see rule 32:1.18. For definitions of "informed consent" and "confirmed in writing," see rule 32:1.0(e) and (b).

[2] Resolution of a conflict of interest problem under this rule requires the lawyer to: 1) clearly identify the client or clients; 2) determine whether a conflict of interest exists; 3) decide whether the representation may be undertaken despite the existence of a conflict, i.e., whether the conflict is consentable; and 4) if so, consult with the clients affected under paragraph (a) and obtain their informed consent, confirmed in writing. The clients affected under paragraph (a) include both of the clients referred to in paragraph (a)(1) and the one or more clients whose representation might be

materially limited under paragraph (a)(2).

[3] A conflict of interest may exist before representation is undertaken, in which event the representation must be declined, unless the lawyer obtains the informed consent of each client under the conditions of paragraph (b). To determine whether a conflict of interest exists, a lawyer should adopt reasonable procedures, appropriate for the size and type of firm and practice, to determine in both litigation and non-litigation matters the persons and issues involved. *See also* comment to rule 32:5.1. Ignorance caused by a failure to institute such procedures will not excuse a lawyer's violation of this rule. As to whether a client-lawyer relationship exists or, having once been established, is continuing, see comment to rule 32:1.3 and Scope.

[4] If a conflict arises after representation has been undertaken, the lawyer ordinarily must withdraw from the representation, unless the lawyer has obtained the informed consent of the client under the conditions of paragraph (b). *See* rule 32:1.16. Where more than one client is involved, whether the lawyer may continue to represent any of the clients is determined both by the lawyer's ability to comply with duties owed to the former client and by the lawyer's ability to represent adequately the remaining client or clients, given the lawyer's duties to the former client. *See* rule 32:1.9. *See also* comments [5] and [29].

[5] Unforeseeable developments, such as changes in corporate and other organizational affiliations or the addition or realignment of parties in litigation, might create conflicts in the midst of a representation, as when a company sued by the lawyer on behalf of one client is bought by another client represented by the lawyer in an unrelated matter. Depending on the circumstances, the lawyer may have the option to withdraw from one of the representations in order to avoid the conflict. The lawyer must seek court approval where necessary and take steps to minimize harm to the clients. *See* rule 32:1.16. The lawyer must continue to protect the confidences of the client from whose representation the lawyer has withdrawn. *See* rule 32:1.9(c).

Identifying Conflicts of Interest: Directly Adverse

[6] Loyalty to a current client prohibits undertaking representation directly adverse to that client without that client's informed consent. Thus, absent consent, a lawyer may not act as an advocate in one matter against a person the lawyer represents in some other matter, even when the matters are wholly unrelated. The client as to whom the representation is directly adverse is likely to feel betrayed, and the resulting damage to the client-lawyer relationship is likely to impair the lawyer's ability to represent the client effectively. In addition, the client on whose behalf the adverse representation is undertaken reasonably may fear that the lawyer will pursue that client's case less effectively out of deference to the other client, i.e., that the representation may be materially limited by the lawyer's interest in retaining the current client. Similarly, a directly adverse conflict may arise when a lawyer is required to cross-examine a client who appears as a witness in a lawsuit involving another client, as when the testimony will be damaging to the client who is represented in the lawsuit. On the other hand, simultaneous representation in unrelated matters of clients whose interests are only economically adverse, such as representation of competing economic enterprises in unrelated litigation, does not ordinarily constitute a conflict of interest and thus may not require consent of the respective clients.

[7] Directly adverse conflicts can also arise in transactional matters. For example, if a lawyer is asked to represent the seller of a business in negotiations with a buyer represented by the lawyer, not in the same transaction but in another, unrelated matter, the lawyer could not undertake the representation without the informed consent of each client.

Identifying Conflicts of Interest: Material Limitation

[8] Even where there is no direct adverseness, a conflict of interest exists if there is a significant risk that a lawyer's ability to consider, recommend, or carry out an appropriate course of action for the client will be materially limited as a result of the lawyer's other responsibilities or interests. For example, a lawyer asked to represent several individuals seeking to form a joint venture is likely to be materially limited in the lawyer's ability to recommend or advocate all possible positions that each might take because of the lawyer's duty of loyalty to the others. The conflict in effect forecloses alternatives that would otherwise be available to the client. The mere possibility of subsequent harm does not itself require disclosure and consent. The critical questions are the likelihood that

a difference in interests will eventuate and, if it does, whether it will materially interfere with the lawyer's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of the client.

Lawyer's Responsibilities to Former Clients and Other Third Persons

[9] In addition to conflicts with other current clients, a lawyer's duties of loyalty and independence may be materially limited by responsibilities to former clients under rule 32:1.9 or by the lawyer's responsibilities to other persons, such as fiduciary duties arising from a lawyer's service as a trustee, executor, or corporate director.

Personal Interest Conflicts

[10] The lawyer's own interests should not be permitted to have an adverse effect on representation of a client. For example, if the probity of a lawyer's own conduct in a transaction is in serious question, it may be difficult or impossible for the lawyer to give a client detached advice. Similarly, when a lawyer has discussions concerning possible employment with an opponent of the lawyer's client, or with a law firm representing the opponent, such discussions could materially limit the lawyer's representation of the client. In addition, a lawyer may not allow related business interests to affect representation, for example, by referring clients to an enterprise in which the lawyer has an undisclosed financial interest. See rule 32:1.8 for specific rules pertaining to a number of personal interest conflicts, including business transactions with clients. *See also* rule 32:1.10 (personal interest conflicts under rule 32:1.7 ordinarily are not imputed to other lawyers in a law firm).

[11] When lawyers representing different clients in the same matter or in substantially related matters are closely related by blood or marriage, there may be a significant risk that client confidences will be revealed and that the lawyer's family relationship will interfere with both loyalty and independent professional judgment. As a result, each client is entitled to know of the existence and implications of the relationship between the lawyers before the lawyer agrees to undertake the representation. Thus, a lawyer related to another lawyer, e.g., a parent, child, sibling, spouse, cohabiting partner, or lawyer related in any other familial or romantic capacity, ordinarily may not represent a client in a matter where that lawyer is representing another party, unless each client gives informed consent. The disqualification arising from a close family relationship is personal and ordinarily is not imputed to members of firms with whom the lawyers are associated. *See* rule 32:1.10.

[12] A lawyer is prohibited from engaging in sexual relationships with a client unless the sexual relationship predates the formation of the client-lawyer relationship. *See* rule 32:1.8(j).

Interest of Person Paying for a Lawyer's Service

[13] A lawyer may be paid from a source other than the client, including a co-client, if the client is informed of that fact and consents and the arrangement does not compromise the lawyer's duty of loyalty or independent judgment to the client. *See* rule 32:1.8(f). If acceptance of the payment from any other source presents a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's own interest in accommodating the person paying the lawyer's fee or by the lawyer's responsibilities to a payer who is also a co-client, then the lawyer must comply with the requirements of paragraph (b) before accepting the representation, including determining whether the conflict is consentable and, if so, that the client has adequate information about the material risks of the representation.

[13a] Where a lawyer has been retained by an insurer to represent the insured pursuant to the insurer's obligations under a liability insurance policy, the lawyer may comply with reasonable cost-containment litigation guidelines proposed by the insurer if such guidelines do not materially interfere with the lawyer's duty to exercise independent professional judgment to protect the reasonable interests of the insured, do not regulate the details of the lawyer's performance, and do not materially limit the professional discretion and control of the lawyer. The lawyer may provide the insurer with a description of the services rendered and time spent, but the lawyer may not agree to provide detailed information that would undermine the protection of confidential client-lawyer information, if the insurer will share such information with a third party. If the lawyer believes that

guidelines proposed by the insurer prevent the lawyer from exercising independent professional judgment or from protecting confidential client information, the lawyer shall identify and explain the conflict of interest to the insurer and insured and also advise the insured of the right to seek independent legal counsel. If the conflict is not eliminated but the insured wants the lawyer to continue the representation, the lawyer may proceed if the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation and the insured's informed consent is obtained pursuant to paragraph (b)(4).

Prohibited Representations

[14] Ordinarily, clients may consent to representation notwithstanding a conflict. However, as indicated in paragraph (b), some conflicts are nonconsentable, meaning that the lawyer involved cannot properly ask for such agreement or provide representation on the basis of the client's consent. When the lawyer is representing more than one client, the question of consentability must be resolved as to each client.

[15] Consentability is typically determined by considering whether the interests of the clients will be adequately protected if the clients are permitted to give their informed consent to representation burdened by a conflict of interest. Thus, under paragraph (b)(1), representation is prohibited if in the circumstances the lawyer cannot reasonably conclude that the lawyer will be able to provide competent and diligent representation. *See* rule 32:1.1 (competence) and rule 32:1.3 (diligence).

[16] Paragraph (b)(2) describes conflicts that are nonconsentable because the representation is prohibited by applicable law.

[17] Paragraph (b)(3) describes conflicts that are nonconsentable because of the institutional interest in vigorous development of each client's position when the clients are aligned directly against each other in the same litigation or other proceeding before a tribunal. Whether clients are aligned directly against each other within the meaning of this paragraph requires examination of the context of the proceeding. Paragraph (c) provides a specific example of such a nonconsentable conflict, that is, where a lawyer is asked to represent both parties in a marriage dissolution proceeding. Although this paragraph does not preclude a lawyer's multiple representation of adverse parties to a mediation (because mediation is not a proceeding before a "tribunal" under rule 32:1.0(m)), such representation may be precluded by paragraph (b)(1).

Informed Consent

[18] Informed consent requires that each affected client be aware of the relevant circumstances and of the material and reasonably foreseeable ways that the conflict could have adverse effects on the interests of that client. *See* rule 32:1.0(e) (informed consent). The information required depends on the nature of the conflict and the nature of the risks involved. When representation of multiple clients in a single matter is undertaken, the information must include the implications of the common representation, including possible effects on loyalty, confidentiality, and the attorney-client privilege and the advantages and risks involved. *See* comments [30] and [31] (effect of common representation on confidentiality).

[19] Under some circumstances it may be impossible to make the disclosure necessary to obtain consent. For example, when the lawyer represents different clients in related matters and one of the clients refuses to consent to the disclosure necessary to permit the other client to make an informed decision, the lawyer cannot properly ask the latter to consent. In some cases the alternative to common representation can be that each party may have to obtain separate representation with the possibility of incurring additional costs. These costs, along with the benefits of securing separate representation, are factors that may be considered by the affected client in determining whether common representation is in the client's interests.

Consent Confirmed in Writing

[20] Paragraph (b) requires the lawyer to obtain the informed consent of the client, confirmed in writing. Such a writing may consist of a document executed by the client or one that the lawyer promptly records and transmits to the client following an oral consent. *See* rule 32:1.0(b). *See also* rule 32:1.0(n) (writing includes electronic transmission). If it is not feasible to obtain or transmit the

writing at the time the client gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter. *See* rule 32:1.0(b). The requirement of a writing does not supplant the need in most cases for the lawyer to talk with the client, to explain the risks and advantages, if any, of representation burdened with a conflict of interest, as well as reasonably available alternatives, and to afford the client a reasonable opportunity to consider the risks and alternatives and to raise questions and concerns. Rather, the writing is required in order to impress upon clients the seriousness of the decision the client is being asked to make and to avoid disputes or ambiguities that might later occur in the absence of a writing.

Revoking Consent

[21] A client who has given consent to a conflict may revoke the consent and, like any other client, may terminate the lawyer's representation at any time. Whether revoking consent to the client's own representation precludes the lawyer from continuing to represent other clients depends on the circumstances, including the nature of the conflict, whether the client revoked consent because of a material change in circumstances, the reasonable expectations of the other clients, and whether material detriment to the other clients or the lawyer would result.

Consent to Future Conflict

[22] Whether a lawyer may properly request a client to waive conflicts that might arise in the future is subject to the test of paragraph (b). The effectiveness of such waivers is generally determined by the extent to which the client reasonably understands the material risks that the waiver entails. The more comprehensive the explanation of the types of future representations that might arise and the actual and reasonably foreseeable adverse consequences of those representations, the greater the likelihood that the client will have the requisite understanding. Thus, if the client agrees to consent to a particular type of conflict with which the client is already familiar, then the consent ordinarily will be effective with regard to that type of conflict. If the consent is general and open-ended, then the consent ordinarily will be ineffective, because it is not reasonably likely that the client will have understood the material risks involved. On the other hand, if the client is an experienced user of the legal services involved and is reasonably informed regarding the risk that a conflict may arise, such consent is more likely to be effective, particularly if, e.g., the client is independently represented by other counsel in giving consent and the consent is limited to future conflicts unrelated to the subject of the representation. In any case, advance consent cannot be effective if the circumstances that materialize in the future are such as would make the conflict nonconsentable under paragraph (b).

Conflicts in Litigation

[23] Paragraphs (b)(3) and (c) prohibit representation of opposing parties in the same litigation, regardless of the clients' consent. On the other hand, simultaneous representation of parties whose interests in litigation may conflict, such as coplaintiffs or codefendants, is governed by paragraph (a)(2). A conflict may exist by reason of substantial discrepancy in the parties' testimony, incompatibility in positions in relation to an opposing party or the fact that there are substantially different possibilities of settlement of the claims or liabilities in question. Such conflicts can arise in criminal cases as well as civil. The potential for conflict of interest in representing multiple defendants in a criminal case is so grave that ordinarily a lawyer should decline to represent more than one codefendant. On the other hand, common representation of persons having similar interests in civil litigation is proper if the requirements of paragraph (b) are met.

[24] Ordinarily a lawyer may take inconsistent legal positions in different tribunals at different times on behalf of different clients. The mere fact that advocating a legal position on behalf of one client might create precedent adverse to the interests of a client represented by the lawyer in an unrelated matter does not create a conflict of interest. A conflict of interest exists, however, if there is a significant risk that a lawyer's action on behalf of one client will materially limit the lawyer's effectiveness in representing another client in a different case; for example, when a decision favoring one client will create a precedent likely to seriously weaken the position taken on behalf of the other client. Factors relevant in determining whether the clients need to be advised of the risk include: where the cases are pending, whether the issue is substantive or procedural, the temporal

relationship between the matters, the significance of the issue to the immediate and long-term interests of the clients involved, and the clients' reasonable expectations in retaining the lawyer. If there is significant risk of material limitation, then absent informed consent of the affected clients, the lawyer must refuse one of the representations or withdraw from one or both matters.

[25] When a lawyer represents or seeks to represent a class of plaintiffs or defendants in a class-action lawsuit, unnamed members of the class are ordinarily not considered to be clients of the lawyer for purposes of applying paragraph (a)(1) of this rule. Thus, the lawyer does not typically need to get the consent of such a person before representing a client suing the person in an unrelated matter. Similarly, a lawyer seeking to represent an opponent in a class action does not typically need the consent of an unnamed member of the class whom the lawyer represents in an unrelated matter.

Nonlitigation Conflicts

[26] Conflicts of interest under paragraphs (a)(1) and (a)(2) arise in contexts other than litigation. For a discussion of directly adverse conflicts in transactional matters, see comment [7]. Relevant factors in determining whether there is significant potential for material limitation include the duration and intimacy of the lawyer's relationship with the client or clients involved, the functions being performed by the lawyer, the likelihood that disagreements will arise, and the likely prejudice to the client from the conflict. The question is often one of proximity and degree. *See* comment [8].

[27] For example, conflict questions may arise in estate planning and estate administration. A lawyer may be called upon to prepare wills for several family members, such as husband and wife, and, depending upon the circumstances, a conflict of interest may be present. In order to comply with conflict of interest rules, the lawyer should make clear the lawyer's relationship to the parties involved.

[28] Whether a conflict is consentable depends on the circumstances. For example, a lawyer may not represent multiple parties to a negotiation whose interests are fundamentally antagonistic to each other, but common representation is permissible where the clients are generally aligned in interest even though there is some difference in interest among them. Thus, a lawyer may seek to establish or adjust a relationship between clients on an amicable and mutually advantageous basis; for example, in helping to organize a business in which two or more clients are entrepreneurs, working out the financial reorganization of an enterprise in which two or more clients have an interest, or arranging a property distribution in settlement of an estate. The lawyer seeks to resolve potentially adverse interests by developing the parties' mutual interests. Otherwise, each party might have to obtain separate representation, with the possibility of incurring additional cost, complication, or even litigation. Given these and other relevant factors, the clients may prefer that the lawyer act for all of them.

Special Considerations in Common Representation

[29] In considering whether to represent multiple clients in the same matter, a lawyer should be mindful that if the common representation fails because the potentially adverse interests cannot be reconciled, the result can be additional cost, embarrassment, and recrimination. Ordinarily, the lawyer will be forced to withdraw from representing all of the clients if the common representation fails. In some situations, the risk of failure is so great that multiple representation is plainly impossible. For example, a lawyer cannot undertake common representation of clients where contentious litigation or negotiations between them are imminent or contemplated. Moreover, because the lawyer is required to be impartial between commonly represented clients, representation of multiple clients is improper when it is unlikely that impartiality can be maintained. Generally, if the relationship between the parties has already assumed antagonism, the possibility that the clients' interests can be adequately served by common representation is not very good. Other relevant factors are whether the lawyer subsequently will represent both parties on a continuing basis and whether the situation involves creating or terminating a relationship between the parties.

[30] A particularly important factor in determining the appropriateness of common representation is the effect on client-lawyer confidentiality and the attorney-client privilege. With regard to the attorney-client privilege, the prevailing rule is that, as between commonly represented clients, the privilege does not attach. Hence, it must be assumed that if litigation eventuates between the clients, the privilege will not protect any such communications, and the clients should be so advised.

[31] As to the duty of confidentiality, continued common representation will almost certainly be inadequate if one client asks the lawyer not to disclose to the other client information relevant to the common representation. This is so because the lawyer has an equal duty of loyalty to each client, and each client has the right to be informed of anything bearing on the representation that might affect that client's interests and the right to expect that the lawyer will use that information to that client's benefit. *See* rule 32:1.4. The lawyer should, at the outset of the common representation and as part of the process of obtaining each client's informed consent, advise each client that information will be shared and that the lawyer will have to withdraw if one client decides that some matter material to the representation should be kept from the other. In limited circumstances, it may be appropriate for the lawyer to proceed with the representation when the clients have agreed, after being properly informed, that the lawyer will keep certain information confidential. For example, the lawyer may reasonably conclude that failure to disclose one client's trade secrets to another client will not adversely affect representation involving a joint venture between the clients and agree to keep that information confidential with the informed consent of both clients.

[32] When seeking to establish or adjust a relationship between clients, the lawyer should make clear that the lawyer's role is not that of partisanship normally expected in other circumstances and, thus, that the clients may be required to assume greater responsibility for decisions than when each client is separately represented. Any limitations on the scope of the representation made necessary as a result of the common representation should be fully explained to the clients at the outset of the representation. *See* rule 32:1.2(c).

[33] Subject to the above limitations, each client in the common representation has the right to loyal and diligent representation and the protection of rule 32:1.9 concerning the obligations to a former client. The client also has the right to discharge the lawyer as stated in rule 32:1.16.

Organizational Clients

[34] A lawyer who represents a corporation or other organization does not, by virtue of that representation, necessarily represent any constituent or affiliated organization, such as a parent or subsidiary. *See* rule 32:1.13(a). Thus, the lawyer for an organization is not barred from accepting representation adverse to an affiliate in an unrelated matter, unless the circumstances are such that the affiliate should also be considered a client of the lawyer, there is an understanding between the lawyer and the organizational client that the lawyer will avoid representation adverse to the client's affiliates, or the lawyer's obligations to either the organizational client or the new client are likely to limit materially the lawyer's representation of the other client.

[35] A lawyer for a corporation or other organization who is also a member of its board of directors should determine whether the responsibilities of the two roles may conflict. The lawyer may be called on to advise the corporation in matters involving actions of the directors. Consideration should be given to the frequency with which such situations may arise, the potential intensity of the conflict, the effect of the lawyer's resignation from the board, and the possibility of the corporation's obtaining legal advice from another lawyer in such situations. If there is material risk that the dual role will compromise the lawyer's independence of professional judgment, the lawyer should not serve as a director or should cease to act as the corporation's lawyer when conflicts of interest arise. The lawyer should advise the other members of the board that in some circumstances matters discussed at board meetings while the lawyer is present in the capacity of director might not be protected by the attorney-client privilege and that conflict of interest considerations might require the lawyer's recusal as a director or might require the lawyer and the lawyer's firm to decline representation of the corporation in a matter.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these rules.

(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, child, sibling, grandchild, parent, grandparent, or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.

(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and

(2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

(1) the client gives informed consent;

(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and

(3) information relating to representation of a client is protected as required by rule 32:1.6.

(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client gives informed consent, in a writing signed by the client. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.

(h) A lawyer shall not:

(1) make an agreement prospectively limiting the lawyer's liability to a client for malpractice; or

(2) settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.

(i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

(1) acquire a lien authorized by law to secure the lawyer's fee or expenses; and

(2) contract with a client for a reasonable contingent fee in a civil case.

(j) A lawyer shall not have sexual relations with a client, or a representative of a client, unless the person is the spouse of the lawyer or the sexual relationship predates the initiation of the client-lawyer relationship. Even in these provisionally exempt relationships, the lawyer should strictly scrutinize the lawyer's behavior for any conflicts of interest to determine if any harm may result to the client or to the representation. If there is any reasonable possibility that the legal representation of the client may be impaired, or the client harmed by the continuation of the sexual relationship, the lawyer should immediately withdraw from the legal representation.

(k) While lawyers are associated in a firm, a prohibition in the foregoing paragraphs (a) through (i) that applies to any one of them shall apply to all of them.

(l) A lawyer related to another lawyer shall not represent a client whose interests are directly adverse to a person whom the lawyer knows is represented by the related lawyer except upon the client's informed consent, confirmed in a writing signed by the client. Even if the client's interests do not appear to be directly adverse, the lawyer should not undertake the representation of a client if there is a significant risk that the related lawyer's involvement will interfere with the lawyer's loyalty and exercise of independent judgment, or will create

a significant risk that client confidences will be revealed. For purposes of this paragraph, "related lawyer" includes a parent, child, sibling, spouse, cohabiting partner, or lawyer related in any other familial or romantic capacity.

Comment

Business Transactions Between Client and Lawyer

[1] A lawyer's legal skill and training, together with the relationship of trust and confidence between lawyer and client, create the possibility of overreaching when the lawyer participates in a business, property, or financial transaction with a client, for example, a loan or sales transaction or a lawyer investment on behalf of a client. The requirements of paragraph (a) must be met even when the transaction is not closely related to the subject matter of the representation, as when a lawyer drafting a will for a client learns that the client needs money for unrelated expenses and offers to make a loan to the client. The rule applies to lawyers engaged in the sale of goods or services related to the practice of law, for example, the sale of investment services to existing clients of the lawyer's legal practice. *See* rule 32:5.7. It also applies to lawyers purchasing property from estates they represent. It does not apply to ordinary fee arrangements between client and lawyer, which are governed by rule 32:1.5, although its requirements must be met when the lawyer accepts an interest in the client's business or other nonmonetary property as payment of all or part of a fee. In addition, the rule does not apply to standard commercial transactions between the lawyer and the client for products or services that the client generally markets to others, for example, banking or brokerage services, medical services, products manufactured or distributed by the client, and utilities' services. In such transactions, the lawyer has no advantage in dealing with the client, and the restrictions in paragraph (a) are unnecessary and impracticable.

[2] Paragraph (a)(1) requires that the transaction itself be fair to the client and that its essential terms be communicated to the client, in writing, in a manner that can be reasonably understood. Paragraph (a)(2) requires that the client also be advised, in writing, of the desirability of seeking the advice of independent legal counsel. It also requires that the client be given a reasonable opportunity to obtain such advice. Paragraph (a)(3) requires that the lawyer obtain the client's informed consent, in a writing signed by the client, both to the essential terms of the transaction and to the lawyer's role. When necessary, the lawyer should discuss both the material risks of the proposed transaction, including any risk presented by the lawyer's involvement, and the existence of reasonably available alternatives and should explain why the advice of independent legal counsel is desirable. *See* rule 32:1.0(e) (definition of informed consent).

[3] The risk to a client is greatest when the client expects the lawyer to represent the client in the transaction itself or when the lawyer's financial interest otherwise poses a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's financial interest in the transaction. Here the lawyer's role requires that the lawyer must comply, not only with the requirements of paragraph (a), but also with the requirements of rule 32:1.7. Under that rule, the lawyer must disclose the risks associated with the lawyer's dual role as both legal adviser and participant in the transaction, such as the risk that the lawyer will structure the transaction or give legal advice in a way that favors the lawyer's interests at the expense of the client. Moreover, the lawyer must obtain the client's informed consent. In some cases, the lawyer's interest may be such that rule 32:1.7 will preclude the lawyer from seeking the client's consent to the transaction.

[4] If the client is independently represented in the transaction, paragraph (a)(2) of this rule is inapplicable, and the paragraph (a)(1) requirement for full disclosure is satisfied either by a written disclosure by the lawyer involved in the transaction or by the client's independent counsel. The fact that the client was independently represented in the transaction is relevant in determining whether the agreement was fair and reasonable to the client as paragraph (a)(1) further requires.

Use of Information Related to Representation

[5] Use of information relating to the representation to the disadvantage of the client violates the lawyer's duty of loyalty. Paragraph (b) applies when the information is used to benefit either the lawyer or a third person, such as another client or business associate of the lawyer. For example, if a lawyer learns that a client intends to purchase and develop several parcels of land, the lawyer

may not use that information to purchase one of the parcels in competition with the client or to recommend that another client make such a purchase. The rule does not prohibit uses that do not disadvantage the client. For example, a lawyer who learns a government agency's interpretation of trade legislation during the representation of one client may properly use that information to benefit other clients. Paragraph (b) prohibits disadvantageous use of client information unless the client gives informed consent, except as permitted or required by these rules. *See* rules 32:1.2(d), 32:1.6, 32:1.9(c), 32:3.3, 32:4.1(b), 32:8.1, and 32:8.3.

Gifts to Lawyers

[6] A lawyer may accept a gift from a client, if the transaction meets general standards of fairness. For example, a simple gift such as a present given at a holiday or as a token of appreciation is permitted. If a client offers the lawyer a more substantial gift, paragraph (c) does not prohibit the lawyer from accepting it, although such a gift may be voidable by the client under the doctrine of undue influence, which treats client gifts as presumptively fraudulent. In any event, due to concerns about overreaching and imposition on clients, a lawyer may not suggest that a substantial gift be made to the lawyer or for the lawyer's benefit, except where the lawyer is related to the client as set forth in paragraph (c).

[7] If effectuation of a substantial gift requires preparing a legal instrument such as a will or conveyance the client should have the detached advice that another lawyer can provide. The sole exception to this rule is where the client is a relative of the donee.

[8] This rule does not prohibit a lawyer from seeking to have the lawyer or a partner or associate of the lawyer named as executor of the client's estate or to another potentially lucrative fiduciary position. Nevertheless, such appointments will be subject to the general conflict of interest provision in rule 32:1.7 when there is a significant risk that the lawyer's interest in obtaining the appointment will materially limit the lawyer's independent professional judgment in advising the client concerning the choice of an executor or other fiduciary. In obtaining the client's informed consent to the conflict, the lawyer should advise the client concerning the nature and extent of the lawyer's financial interest in the appointment, as well as the availability of alternative candidates for the position.

Literary Rights

[9] An agreement by which a lawyer acquires literary or media rights concerning the conduct of the representation creates a conflict between the interests of the client and the personal interests of the lawyer. Measures suitable in the representation of the client may detract from the publication value of an account of the representation. Paragraph (d) does not prohibit a lawyer representing a client in a transaction concerning literary property from agreeing that the lawyer's fee shall consist of a share in ownership in the property, if the arrangement conforms to rule 32:1.5 and paragraphs (a) and (i).

Financial Assistance

[10] Lawyers may not subsidize lawsuits or administrative proceedings brought on behalf of their clients, including making or guaranteeing loans to their clients for living expenses, because to do so would encourage clients to pursue lawsuits that might not otherwise be brought and because such assistance gives lawyers too great a financial stake in the litigation. These dangers do not warrant a prohibition on a lawyer lending a client court costs and litigation expenses, including the expenses of medical examination and the costs of obtaining and presenting evidence, because these advances are virtually indistinguishable from contingent fees and help ensure access to the courts. Similarly, an exception allowing lawyers representing indigent clients to pay court costs and litigation expenses regardless of whether these funds will be repaid is warranted.

Person Paying for a Lawyer's Services

[11] Lawyers are frequently asked to represent a client under circumstances in which a third person will compensate the lawyer, in whole or in part. The third person might be a relative or

friend, an indemnitor (such as a liability insurance company), or a co-client (such as a corporation sued along with one or more of its employees). Because third-party payers frequently have interests that differ from those of the client, including interests in minimizing the amount spent on the representation and in learning how the representation is progressing, lawyers are prohibited from accepting or continuing such representations unless the lawyer determines that there will be no interference with the lawyer's independent professional judgment and there is informed consent from the client. *See also* rule 32:5.4(c) (prohibiting interference with a lawyer's professional judgment by one who recommends, employs, or pays the lawyer to render legal services for another).

[12] Sometimes, it will be sufficient for the lawyer to obtain the client's informed consent regarding the fact of the payment and the identity of the third-party payer. If, however, the fee arrangement creates a conflict of interest for the lawyer, then the lawyer must comply with rule 32:1.7. The lawyer must also conform to the requirements of rule 32:1.6 concerning confidentiality. Under rule 32:1.7(a), a conflict of interest exists if there is significant risk that the lawyer's representation of the client will be materially limited by the lawyer's own interest in the fee arrangement or by the lawyer's responsibilities to the third-party payer (for example, when the third-party payer is a co-client). Under rule 32:1.7(b), the lawyer may accept or continue the representation with the informed consent of each affected client, unless the conflict is nonconsentable under that paragraph. Under rule 32:1.7(b), the informed consent must be confirmed in writing.

[12a] When the lawyer is publicly-compensated, such as in the case of a public defender in a criminal case or a guardian appointed in a civil case or when civil legal services are provided by a legal aid organization, the fee arrangement ordinarily does not pose the same risk of interference with the lawyer's independent professional judgment that exists in other contexts. Under paragraph (f), such a lawyer must disclose the fact that the lawyer is being compensated through public funding or that legal services are being provided as part of a legal aid organization; however, formal consent by the client to the fee arrangement is not required under such circumstances given the limited ability of an indigent client as a practical matter to refuse the services of the lawyer being compensated through public funding or through legal aid.

Aggregate Settlements

[13] Differences in willingness to make or accept an offer of settlement are among the risks of common representation of multiple clients by a single lawyer. Under rule 32:1.7, this is one of the risks that should be discussed before undertaking the representation, as part of the process of obtaining the clients' informed consent. In addition, rule 32:1.2(a) protects each client's right to have the final say in deciding whether to accept or reject an offer of settlement and in deciding whether to enter a guilty or nolo contendere plea in a criminal case. The rule stated in this paragraph is a corollary of both these rules and provides that, before any settlement offer or plea bargain is made or accepted on behalf of multiple clients, the lawyer must inform each of them about all the material terms of the settlement, including what the other clients will receive or pay if the settlement or plea offer is accepted. *See also* rule 32:1.0(e) (definition of informed consent). Lawyers representing a class of plaintiffs or defendants, or those proceeding derivatively, may not have a full client-lawyer relationship with each member of the class; nevertheless, such lawyers must comply with applicable rules regulating notification of class members and other procedural requirements designed to ensure adequate protection of the entire class.

Limiting Liability and Settling Malpractice Claims

[14] Agreements prospectively limiting a lawyer's liability for malpractice are prohibited because they are likely to undermine competent and diligent representation. Also, many clients are unable to evaluate the desirability of making such an agreement before a dispute has arisen, particularly if they are then represented by the lawyer seeking the agreement. This paragraph does not, however, prohibit a lawyer from entering into an agreement with the client to arbitrate legal malpractice claims, provided such agreements are enforceable and the client is fully informed of the scope and effect of the agreement. Nor does this paragraph limit the ability of lawyers to practice in the form of a limited-liability entity, where permitted by law, provided that each lawyer remains personally liable to the client for his or her own conduct and the firm complies with any conditions required by law, such as provisions requiring client notification or maintenance of adequate liability insurance.

Nor does it prohibit an agreement in accordance with rule 32:1.2 that defines the scope of the representation, although a definition of scope that makes the obligations of representation illusory will amount to an attempt to limit liability.

[15] Agreements settling a claim or a potential claim for malpractice are not prohibited by this rule. Nevertheless, in view of the danger that a lawyer will take unfair advantage of an unrepresented client or former client, the lawyer must first advise such a person in writing of the appropriateness of independent representation in connection with such a settlement. In addition, the lawyer must give the client or former client a reasonable opportunity to find and consult independent counsel.

Acquiring Proprietary Interest in Litigation

[16] Paragraph (i) states the traditional general rule that lawyers are prohibited from acquiring a proprietary interest in litigation. Like paragraph (e), the general rule has its basis in common law champerty and maintenance and is designed to avoid giving the lawyer too great an interest in the representation. In addition, when the lawyer acquires an ownership interest in the subject of the representation, it will be more difficult for a client to discharge the lawyer if the client so desires. The rule is subject to specific exceptions developed in decisional law and continued in these rules. The exception for certain advances of the costs of litigation is set forth in paragraph (e). In addition, paragraph (i) sets forth exceptions for liens authorized by law to secure the lawyer's fees or expenses and contracts for reasonable contingent fees. Iowa law determines which liens are authorized. These may include liens granted by statute and liens acquired by contract with the client. When a lawyer acquires by contract a security interest in property other than that recovered through the lawyer's efforts in the litigation, such an acquisition is a business or financial transaction with a client and is governed by the requirements of paragraph (a). Contracts for contingent fees in civil cases are governed by rule 32:1.5.

Client-Lawyer Sexual Relationships

[17] The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. The relationship is almost always unequal; thus, a sexual relationship between lawyer and client can involve unfair exploitation of the lawyer's fiduciary role, in violation of the lawyer's basic ethical obligation not to use the trust of the client to the client's disadvantage. In addition, such a relationship presents a significant danger that, because of the lawyer's emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict to what extent client confidences will be protected by the attorney-client evidentiary privilege, since client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. Because of the significant danger of harm to client interests and because the client's own emotional involvement renders it unlikely that the client could give adequate informed consent, this rule prohibits the lawyer from having sexual relations with a client regardless of whether the relationship is consensual and regardless of the absence of prejudice to the client.

[18] Sexual relationships that predate the client-lawyer relationship are not prohibited. Issues relating to the exploitation of the fiduciary relationship and client dependency are diminished when the sexual relationship existed prior to the commencement of the client-lawyer relationship. However, before proceeding with the representation in these circumstances, the lawyer should consider whether the lawyer's ability to represent the client will be materially limited by the relationship. *See* rule 32:1.7(a)(2).

[19] When the client is an organization, paragraph (j) of this rule prohibits a lawyer for the organization (whether inside counsel or outside counsel) from having a sexual relationship with a constituent of the organization who supervises, directs, or regularly consults with that lawyer concerning the organization's legal matters.

Imputation of Prohibitions

[20] Under paragraph (k), a prohibition on conduct by an individual lawyer in paragraphs (a) through (i) also applies to all lawyers associated in a firm with the personally prohibited lawyer.

For example, one lawyer in a firm may not enter into a business transaction with a client of another member of the firm without complying with paragraph (a), even if the first lawyer is not personally involved in the representation of the client. The prohibitions set forth in paragraphs (j) and (l) are personal and are not applied to associated lawyers.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:1.9 DUTIES TO FORMER CLIENTS

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

(b) A lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client

(1) whose interests are materially adverse to that person, and

(2) about whom the lawyer had acquired information protected by rules 32:1.6 and 32:1.9(c) that is material to the matter, unless the former client gives informed consent, confirmed in writing.

(c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

(1) use information relating to the representation to the disadvantage of the former client except as these rules would permit or require with respect to a client, or when the information has become generally known; or

(2) reveal information relating to the representation except as these rules would permit or require with respect to a client.

Comment

[1] After termination of a client-lawyer relationship, a lawyer has certain continuing duties with respect to confidentiality and conflicts of interest and thus may not represent another client except in conformity with this rule. Under this rule, for example, a lawyer could not properly seek to rescind on behalf of a new client a contract drafted on behalf of the former client. So also a lawyer who has prosecuted an accused person could not properly represent the accused in a subsequent civil action against the government concerning the same transaction. Nor could a lawyer who has represented multiple clients in a matter represent one of the clients against the others in the same or a substantially related matter after a dispute arose among the clients in that matter, unless all affected clients give informed consent. *See* comment [9]. Current and former government lawyers must comply with this rule to the extent required by rule 32:1.11.

[2] The scope of a "matter" for purposes of this rule depends on the facts of a particular situation or transaction. The lawyer's involvement in a matter can also be a question of degree. When a lawyer has been directly involved in a specific transaction, subsequent representation of other clients with materially adverse interests in that transaction clearly is prohibited. On the other hand, a lawyer who recurrently handled a type of problem for a former client is not precluded from later representing another client in a factually distinct problem of that type even though the subsequent representation involves a position adverse to the prior client. Similar considerations can apply to the reassignment of military lawyers between defense and prosecution functions within the same military jurisdictions. The underlying question is whether the lawyer was so involved in the matter that the subsequent representation can be justly regarded as a changing of sides in the matter in question.

[3] Matters are "substantially related" for purposes of this rule if they involve the same transaction or legal dispute or if there otherwise is a substantial risk that confidential factual information as would normally have been obtained in the prior representation would materially advance the client's position in the subsequent matter. For example, a lawyer who has represented a businessperson and learned extensive private financial information about that person may not then represent that person's spouse in seeking a divorce. Similarly, a lawyer who has previously represented a client in securing environmental permits to build a shopping center would be precluded from representing neighbors seeking to oppose rezoning of the property on the basis of environmental considerations; however, the lawyer would not be precluded, on the grounds of substantial relationship, from defending a

tenant of the completed shopping center in resisting eviction for nonpayment of rent. Information that has been disclosed to the public or to other parties adverse to the former client ordinarily will not be disqualifying. Information acquired in a prior representation may have been rendered obsolete by the passage of time, a circumstance that may be relevant in determining whether two representations are substantially related. In the case of an organizational client, general knowledge of the client's policies and practices ordinarily will not preclude a subsequent representation; on the other hand, knowledge of specific facts gained in a prior representation that are relevant to the matter in question ordinarily will preclude such a representation. A former client is not required to reveal the confidential information learned by the lawyer in order to establish a substantial risk that the lawyer has confidential information to use in the subsequent matter. A conclusion about the possession of such information may be based on the nature of the services the lawyer provided the former client and information that would in ordinary practice be learned by a lawyer providing such services.

Lawyers Moving Between Firms

[4] When lawyers have been associated within a firm but then end their association, the question of whether a lawyer should undertake representation is more complicated. There are several competing considerations. First, the client previously represented by the former firm must be reasonably assured that the principle of loyalty to the client is not compromised. Second, the rule should not be so broadly cast as to preclude other persons from having reasonable choice of legal counsel. Third, the rule should not unreasonably hamper lawyers from forming new associations and taking on new clients after having left a previous association. In this connection, it should be recognized that today many lawyers practice in firms, that many lawyers to some degree limit their practice to one field or another, and that many move from one association to another several times in their careers. If the concept of imputation were applied with unqualified rigor, the result would be radical curtailment of the opportunity of lawyers to move from one practice setting to another and of the opportunity of clients to change counsel.

[5] Paragraph (b) operates to disqualify the lawyer only when the lawyer involved has actual knowledge of information protected by rules 32:1.6 and 32:1.9(c). Thus, if a lawyer while with one firm acquired no knowledge or information relating to a particular client of the firm, and that lawyer later joined another firm, neither the lawyer individually nor the second firm is disqualified from representing another client in the same or a related matter even though the interests of the two clients conflict. See rule 32:1.10(b) for the restrictions on a firm once a lawyer has terminated association with the firm.

[6] Application of paragraph (b) depends on a situation's particular facts, aided by inferences, deductions, or working presumptions that reasonably may be made about the way in which lawyers work together. A lawyer may have general access to files of all clients of a law firm and may regularly participate in discussions of their affairs; it should be inferred that such a lawyer in fact is privy to all information about all the firm's clients. In contrast, another lawyer may have access to the files of only a limited number of clients and participate in discussions of the affairs of no other clients; in the absence of information to the contrary, it should be inferred that such a lawyer in fact is privy to information about the clients actually served but not those of other clients. In such an inquiry, the burden of proof should rest upon the firm whose disqualification is sought.

[7] Independent of the question of disqualification of a firm, a lawyer changing professional association has a continuing duty to preserve confidentiality of information about a client formerly represented. *See* rules 32:1.6 and 32:1.9(c).

[8] Paragraph (c) provides that information acquired by the lawyer in the course of representing a client may not subsequently be used or revealed by the lawyer to the disadvantage of the client. However, the fact that a lawyer has once served a client does not preclude the lawyer from using generally known information about that client when later representing another client.

[9] The provisions of this rule are for the protection of former clients and can be waived if the client gives informed consent, which consent must be confirmed in writing under paragraphs (a) and (b). *See* rule 32:1.0(e). With regard to the effectiveness of an advance waiver, see comment [22] to rule 32:1.7. With regard to disqualification of a firm with which a lawyer is or was formerly associated, see rule 32:1.10.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:1.10 IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by rule 32:1.7 or 32:1.9, unless

(1) the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm; or

(2) the prohibition is based upon rule 32:1.9(a) or (b) and arises out of the disqualified lawyer's association with a prior firm, and

(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom;

(ii) written notice is promptly given to any affected former client to enable the former client to ascertain compliance with the provisions of this rule, which shall include a description of the screening procedures employed; a statement of the firm's and of the screened lawyer's compliance with these rules; a statement that review may be available before a tribunal; and an agreement by the firm to respond promptly to any written inquiries or objections by the former client about the screening procedures; and

(iii) certifications of compliance with these rules and with the screening procedures are provided to the former client by the screened lawyer and by a partner of the firm, at reasonable intervals upon the former client's written request and upon termination of the screening procedures.

(b) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless:

(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(2) any lawyer remaining in the firm has information protected by rules 32:1.6 and 32:1.9(c) that is material to the matter.

(c) A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in rule 32:1.7.

(d) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by rule 32:1.11.

Comment

Definition of "Firm"

[1] For purposes of the Iowa Rules of Professional Conduct, the term "firm" denotes lawyers in a law partnership, professional corporation, sole proprietorship, or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization. *See* rule 32:1.0(c). Whether two or more lawyers constitute a firm within this definition can depend on the specific facts. *See* rule 32:1.0, comments [2] - [4].

Principles of Imputed Disqualification

[2] The rule of imputed disqualification stated in paragraph (a) gives effect to the principle of loyalty to the client as it applies to lawyers who practice in a law firm. Such situations can be considered from the premise that a firm of lawyers is essentially one lawyer for purposes of the rules governing loyalty to the client, or from the premise that each lawyer is vicariously bound by the obligation of loyalty owed by each lawyer with whom the lawyer is associated. Paragraph (a)(1) operates only among the lawyers currently associated in a firm. When a lawyer moves from one firm to another, the situation is governed by rules 32:1.9(b), 32:1.10(a), and 32:1.10(b).

[3] The rule in paragraph (a) does not prohibit representation where neither questions of client loyalty nor protection of confidential information are presented. Where one lawyer in a firm could not effectively represent a given client because of strong political beliefs, for example, but that

lawyer will do no work on the case and the personal beliefs of the lawyer will not materially limit the representation by others in the firm, the firm should not be disqualified. On the other hand, if an opposing party in a case were owned by a lawyer in the law firm, and others in the firm would be materially limited in pursuing the matter because of loyalty to that lawyer, the personal disqualification of the lawyer would be imputed to all others in the firm.

[4] The rule in paragraph (a) also does not prohibit representation by others in the law firm where the person prohibited from involvement in a matter is a nonlawyer, such as a paralegal or legal secretary. Nor does paragraph (a) prohibit representation if the lawyer is prohibited from acting because of events before the person became a lawyer, for example, work that the person did while a law student. Such persons, however, ordinarily must be screened from any personal participation in the matter to avoid communication to others in the firm of confidential information that both the nonlawyers and the firm have a legal duty to protect. *See* rules 32:1.0(k) and 32:5.3.

[5] Rule 32:1.10(b) operates to permit a law firm, under certain circumstances, to represent a person with interests directly adverse to those of a client represented by a lawyer who formerly was associated with the firm. The rule applies regardless of when the formerly associated lawyer represented the client. However, the law firm may not represent a person with interests adverse to those of a present client of the firm, which would violate rule 32:1.7. Moreover, the firm may not represent the person where the matter is the same or substantially related to that in which the formerly associated lawyer represented the client and any other lawyer currently in the firm has material information protected by rules 32:1.6 and 32:1.9(c).

[6] Rule 32:1.10(c) removes imputation with the informed consent of the affected client or former client under the conditions stated in rule 32:1.7. The conditions stated in rule 32:1.7 require the lawyer to determine that the representation is not prohibited by rule 32:1.7(b) and that each affected client or former client has given informed consent to the representation, confirmed in writing. In some cases, the risk may be so severe that the conflict may not be cured by client consent. For a discussion of the effectiveness of client waivers of conflicts that might arise in the future, see rule 32:1.7, comment [22]. For a definition of informed consent, see rule 32:1.0(e).

[7] Rule 32:1.10(a)(2) similarly removes the imputation otherwise required by rule 32:1.10(a), but unlike section (c), it does so without requiring that there be informed consent by the former client. Instead, it requires that the procedures laid out in sections (a)(2)(i)-(iii) be followed. A description of effective screening mechanisms appears in rule 32:1.0(k). Lawyers should be aware, however, that, even where screening mechanisms have been adopted, tribunals may consider additional factors in ruling upon motions to disqualify a lawyer from pending litigation.

[8] Paragraph (a)(2)(i) does not prohibit the screened lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.

[9] The notice required by paragraph (a)(2)(ii) generally should include a description of the screened lawyer's prior representation and be given as soon as practicable after the need for screening becomes apparent. It also should include a statement by the screened lawyer and the firm that the client's material confidential information has not been disclosed or used in violation of the rules. The notice is intended to enable the former client to evaluate and comment upon the effectiveness of the screening procedures.

[10] The certifications required by paragraph (a)(2)(iii) give the former client assurance that the client's material confidential information has not been disclosed or used inappropriately, either prior to timely implementation of a screen or thereafter. If compliance cannot be certified, the certificate must describe the failure to comply.

[11] Where a lawyer has joined a private firm after having represented the government, imputation is governed by rule 32:1.11(b) and (c), not this rule. Under rule 32:1.11(d), where a lawyer represents the government after having served clients in private practice, nongovernmental employment, or in another government agency, former-client conflicts are not imputed to government lawyers associated with the individually disqualified lawyer.

[12] Where a lawyer is prohibited from engaging in certain transactions under rule 32:1.8, paragraph (k) of that rule, and not this rule, determines whether that prohibition also applies to other lawyers associated in a firm with the personally prohibited lawyer.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

Rule 32:1.11 SPECIAL CONFLICTS OF INTEREST FOR FORMER AND CURRENT GOVERNMENT OFFICERS AND EMPLOYEES

(a) Except as law may otherwise expressly permit, a lawyer who has formerly served as a public officer or employee of the government:

(1) is subject to rule 32:1.9(c); and

(2) shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.

(b) When a lawyer is disqualified from representation under paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:

(1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this rule.

(c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person, acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. As used in this rule, the term "confidential government information" means information that has been obtained under governmental authority and which, at the time this rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom.

(d) Except as law may otherwise expressly permit, a lawyer currently serving as a public officer or employee:

(1) is subject to rules 32:1.7 and 32:1.9; and

(2) shall not:

(i) participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless the appropriate government agency gives its informed consent, confirmed in writing; or

(ii) negotiate for private employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially, except that a lawyer serving as a law clerk to a judge, other adjudicative officer, or arbitrator may negotiate for private employment as permitted by rule 32:1.12(b) and subject to the conditions stated in rule 32:1.12(b).

(e) As used in this rule, the term "matter" includes:

(1) any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties, and

(2) any other matter covered by the conflict of interest rules of the appropriate government agency.

(f) Prosecutors for the state or county shall not engage in the defense of an accused in any criminal matter during the time they are engaged in such public responsibilities. However, this paragraph does not apply to a lawyer not regularly employed as a prosecutor for the state or county who serves as a special prosecutor for a specific criminal case, provided that the employment does not create a conflict of interest or the lawyer complies with the requirements of rule 32:1.7(b).

Comment

[1] A lawyer who has served or is currently serving as a public officer or employee is personally subject to the Iowa Rules of Professional Conduct, including the prohibition against concurrent conflicts of interest stated in rule 32:1.7. In addition, such a lawyer may be subject to statutes and government regulations regarding conflict of interest. Such statutes and regulations may circumscribe the extent to which the government agency may give consent under this rule. See rule

32:1.0(e) for the definition of informed consent.

[2] Paragraphs (a)(1), (a)(2), and (d)(1) restate the obligations of an individual lawyer who has served or is currently serving as an officer or employee of the government toward a former government or private client. Rule 32:1.10 is not applicable to the conflicts of interest addressed by this rule. Rather, paragraph (b) sets forth a special imputation rule for former government lawyers that provides for screening and notice. Because of the special problems raised by imputation within a government agency, paragraph (d) does not impute the conflicts of a lawyer currently serving as an officer or employee of the government to other associated government officers or employees, although ordinarily it will be prudent to screen such lawyers.

[3] Paragraphs (a)(2) and (d)(2) apply regardless of whether a lawyer is adverse to a former client and are thus designed not only to protect the former client, but also to prevent a lawyer from exploiting public office for the advantage of another client. For example, a lawyer who has pursued a claim on behalf of the government may not pursue the same claim on behalf of a later private client after the lawyer has left government service, except when authorized to do so by the government agency under paragraph (a). Similarly, a lawyer who has pursued a claim on behalf of a private client may not pursue the claim on behalf of the government, except when authorized to do so by paragraph (d). As with paragraphs (a)(1) and (d)(1), rule 32:1.10 is not applicable to the conflicts of interest addressed by these paragraphs.

[4] This rule represents a balancing of interests. On the one hand, where the successive clients are a government agency and another client, public or private, the risk exists that power or discretion vested in that agency might be used for the special benefit of the other client. A lawyer should not be in a position where benefit to the other client might affect performance of the lawyer's professional functions on behalf of the government. Also, unfair advantage could accrue to the other client by reason of access to confidential government information about the client's adversary obtainable only through the lawyer's government service. On the other hand, the rules governing lawyers presently or formerly employed by a government agency should not be so restrictive as to inhibit transfer of employment to and from the government. The government has a legitimate need to attract qualified lawyers as well as to maintain high ethical standards. Thus a former government lawyer is disqualified only from particular matters in which the lawyer participated personally and substantially. The provisions for screening and waiver in paragraph (b) are necessary to prevent the disqualification rule from imposing too severe a deterrent against entering public service. The limitation of disqualification in paragraphs (a)(2) and (d)(2) to matters involving a specific party or parties, rather than extending disqualification to all substantive issues on which the lawyer worked, serves a similar function.

[5] When a lawyer has been employed by one government agency and then moves to a second government agency, it may be appropriate to treat that second agency as another client for purposes of this rule, as when a lawyer is employed by a city and subsequently is employed by a federal agency. However, because the conflict of interest is governed by paragraph (d), the latter agency is not required to screen the lawyer as paragraph (b) requires a law firm to do. The question of whether two government agencies should be regarded as the same or different clients for conflict of interest purposes is beyond the scope of these rules. *See* rule 32:1.13 comment [9].

[6] Paragraphs (b) and (c) contemplate a screening arrangement. *See* rule 32:1.0(k) (requirements for screening procedures). These paragraphs do not prohibit a lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly relating the lawyer's compensation to the fee in the matter in which the lawyer is disqualified.

[7] Notice, including a description of the screened lawyer's prior representation and of the screening procedures employed, generally should be given as soon as practicable after the need for screening becomes apparent.

[8] Paragraph (c) operates only when the lawyer in question has knowledge of the information, which means actual knowledge; it does not operate with respect to information that merely could be imputed to the lawyer.

[9] Paragraphs (a) and (d) do not prohibit a lawyer from jointly representing a private party and a government agency when doing so is permitted by rule 32:1.7 and is not otherwise prohibited by law.

[10] For purposes of paragraph (e) of this rule, a "matter" may continue in another form. In determining whether two particular matters are the same, the lawyer should consider the extent to which the matters involve the same basic facts, the same or related parties, and the time elapsed.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:1.12 FORMER JUDGE, ARBITRATOR, MEDIATOR, OR OTHER THIRD-PARTY NEUTRAL

(a) Except as stated in paragraph (d), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer or law clerk to such a person or as an arbitrator, mediator, or other third-party neutral, unless all parties to the proceeding give informed consent, confirmed in writing.

(b) A lawyer shall not negotiate for employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially as a judge or other adjudicative officer or as an arbitrator, mediator, or other third-party neutral. A lawyer serving as a law clerk to a judge or other adjudicative officer may negotiate for employment with a party or lawyer involved in a matter in which the law clerk is participating personally and substantially, but only after the law clerk has notified the judge or other adjudicative officer.

(c) If a lawyer is disqualified by paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:

(1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) written notice is promptly given to the parties and any appropriate tribunal to enable them to ascertain compliance with the provisions of this rule.

(d) An arbitrator selected as a partisan of a party in a multimember arbitration panel is not prohibited from subsequently representing that party.

Comment

[1] This rule generally parallels rule 32:1.11. The term "personally and substantially" signifies that a judge who was a member of a multimember court, and thereafter left judicial office to practice law, is not prohibited from representing a client in a matter pending in the court, but in which the former judge did not participate. So also the fact that a former judge exercised administrative responsibility in a court does not prevent the former judge from acting as a lawyer in a matter where the judge had previously exercised remote or incidental administrative responsibility that did not affect the merits. Compare the comment to rule 32:1.11. The term "adjudicative officer" includes such officials as judges pro tempore, referees, special masters, hearing officers, and other parajudicial officers, and also lawyers who serve as part-time judges. Application section III(B) of the Iowa Code of Judicial Conduct provides that a magistrate or other continuing part-time judge "shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto." Although phrased differently from this rule, that rule corresponds in meaning.

[2] Like former judges, lawyers who have served as arbitrators, mediators, or other third-party neutrals may be asked to represent a client in a matter in which the lawyer participated personally and substantially. This rule forbids such representation unless all of the parties to the proceedings give their informed consent, confirmed in writing. *See* rule 32:1.0(e) and (b). Other law or codes of ethics governing third-party neutrals may impose more stringent standards of personal or imputed disqualification. *See* rule 32:2.4.

[3] Although lawyers who serve as third-party neutrals do not have information concerning the parties that is protected under rule 32:1.6, they typically owe the parties an obligation of confidentiality under law or codes of ethics governing third-party neutrals. Thus, paragraph (c) provides that conflicts of the personally disqualified lawyer will be imputed to other lawyers in a law firm unless the conditions of this paragraph are met.

[4] Requirements for screening procedures are stated in rule 32:1.0(k). Paragraph (c)(1) does not prohibit the screened lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.

[5] Notice, including a description of the screened lawyer's prior representation and of the screening procedures employed, generally should be given as soon as practicable after the need for screening becomes apparent.

[Court Order April 20, 2005, effective July 1, 2005; April 30, 2010, effective May 3, 2010]

Rule 32:1.13 ORGANIZATION AS CLIENT

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee, or other person associated with the organization is engaged in action, intends to act, or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances to the highest authority that can act on behalf of the organization as determined by applicable law.

(c) Except as provided in paragraph (d), if

(1) despite the lawyer's efforts in accordance with paragraph (b) the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action, or a refusal to act, that is clearly a violation of law, and

(2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization,

then the lawyer may reveal information relating to the representation whether or not rule 32:1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.

(d) Paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law, or to defend the organization or an officer, employee, or other constituent associated with the organization against a claim arising out of an alleged violation of law.

(e) A lawyer who reasonably believes that the lawyer has been discharged because of the lawyer's actions taken pursuant to paragraphs (b) or (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs, shall proceed as the lawyer reasonably believes necessary to ensure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

(f) In dealing with an organization's directors, officers, employees, members, shareholders, or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders, or other constituents, subject to the provisions of rule 32:1.7. If the organization's consent to the dual representation is required by rule 32:1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

Comment

The Entity as the Client

[1] An organizational client is a legal entity, but it cannot act except through its officers, directors, employees, shareholders, and other constituents. Officers, directors, employees, and shareholders are the constituents of the corporate organizational client. The duties defined in this comment apply equally to unincorporated associations. "Other constituents" as used in this comment means the positions equivalent to officers, directors, employees, and shareholders held by persons acting for organizational clients that are not corporations.

[2] When one of the constituents of an organizational client communicates with the organization's lawyer in that person's organizational capacity, the communication is protected by rule 32:1.6. Thus, by way of example, if an organizational client requests its lawyer to investigate allegations of wrongdoing, interviews made in the course of that investigation between the lawyer and the client's employees or other constituents are covered by rule 32:1.6. This does not mean, however, that

constituents of an organizational client are the clients of the lawyer. The lawyer may not disclose to such constituents information relating to the representation except for disclosures explicitly or impliedly authorized by the organizational client in order to carry out the representation or as otherwise permitted by rule 32:1.6.

[3] When constituents of the organization make decisions for it, the decisions ordinarily must be accepted by the lawyer even if their utility or prudence is doubtful. Decisions concerning policy and operations, including ones entailing serious risk, are not as such in the lawyer's province. Paragraph (b) makes clear, however, that when the lawyer knows that the organization is likely to be substantially injured by action of an officer or other constituent that violates a legal obligation to the organization or is in violation of law that might be imputed to the organization, the lawyer must proceed as is reasonably necessary in the best interest of the organization. As defined in rule 32:1.0(f), knowledge can be inferred from circumstances, and a lawyer cannot ignore the obvious.

[4] In determining how to proceed under paragraph (b), the lawyer should give due consideration to the seriousness of the violation and its consequences, the responsibility in the organization and the apparent motivation of the person involved, the policies of the organization concerning such matters, and any other relevant considerations. Ordinarily, referral to a higher authority would be necessary. In some circumstances, however, it may be appropriate for the lawyer to ask the constituent to reconsider the matter; for example, if the circumstances involve a constituent's innocent misunderstanding of law and subsequent acceptance of the lawyer's advice, the lawyer may reasonably conclude that the best interest of the organization does not require that the matter be referred to higher authority. If a constituent persists in conduct contrary to the lawyer's advice, it will be necessary for the lawyer to take steps to have the matter reviewed by a higher authority in the organization. If the matter is of sufficient seriousness and importance or urgency to the organization, referral to higher authority in the organization may be necessary even if the lawyer has not communicated with the constituent. Any measures taken should, to the extent practicable, minimize the risk of revealing information relating to the representation to persons outside the organization. Even in circumstances where a lawyer is not obligated by rule 32:1.13 to proceed, a lawyer may bring to the attention of an organizational client, including its highest authority, matters that the lawyer reasonably believes to be of sufficient importance to warrant doing so in the best interest of the organization.

[5] Paragraph (b) also makes clear that when it is reasonably necessary to enable the organization to address the matter in a timely and appropriate manner, the lawyer must refer the matter to higher authority, including, if warranted by the circumstances, the highest authority that can act on behalf of the organization under applicable law. The organization's highest authority to whom a matter may be referred ordinarily will be the board of directors or similar governing body. However, applicable law may prescribe that under certain conditions the highest authority reposes elsewhere, for example, in the independent directors of a corporation.

Relation to Other Rules

[6] The authority and responsibility provided in this rule are concurrent with the authority and responsibility provided in other rules. In particular, this rule does not limit or expand the lawyer's responsibility under rule 32:1.8, 32:1.16, 32:3.3, or 32:4.1. Paragraph (c) of this rule supplements rule 32:1.6(b) by providing an additional basis upon which the lawyer may reveal information relating to the representation, but does not modify, restrict, or limit the provisions of rule 32:1.6(b)(1) - (6). Under paragraph (c) the lawyer may reveal such information only when the organization's highest authority insists upon or fails to address threatened or ongoing action that is clearly a violation of law, and then only to the extent the lawyer reasonably believes necessary to prevent reasonably certain substantial injury to the organization. It is not necessary that the lawyer's services be used in furtherance of the violation, but it is required that the matter be related to the lawyer's representation of the organization. If the lawyer's services are being used by an organization to further a crime or fraud by the organization, rules 32:1.6(b)(2) and 32:1.6(b)(3) may permit the lawyer to disclose confidential information. In such circumstances rule 32:1.2(d) may also be applicable, in which event, withdrawal from the representation under rule 32:1.16(a)(1) may be required.

[7] Paragraph (d) makes clear that the authority of a lawyer to disclose information relating to a representation in circumstances described in paragraph (c) does not apply with respect to information

relating to a lawyer's engagement by an organization to investigate an alleged violation of law or to defend the organization or an officer, employee, or other person associated with the organization against a claim arising out of an alleged violation of law. This is necessary in order to enable organizational clients to enjoy the full benefits of legal counsel in conducting an investigation or defending against a claim.

[8] A lawyer who reasonably believes that the lawyer has been discharged because of the lawyer's actions taken pursuant to paragraph (b) or (c), or who withdraws in circumstances that require or permit the lawyer to take action under either of these paragraphs, must proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

Government Agency

[9] The duty defined in this rule applies to governmental organizations. Defining precisely the identity of the client and prescribing the resulting obligations of such lawyers may be more difficult in the government context and is a matter beyond the scope of these rules. *See* Scope [18]. Although in some circumstances the client may be a specific agency, it may also be a branch of government, such as the executive branch, or the government as a whole. For example, if the action or failure to act involves the head of a bureau, either the department of which the bureau is a part or the relevant branch of government may be the client for purposes of this rule. Moreover, in a matter involving the conduct of government officials, a government lawyer may have authority under applicable law to question such conduct more extensively than that of a lawyer for a private organization in similar circumstances. Thus, when the client is a governmental organization, a different balance may be appropriate between maintaining confidentiality and ensuring that the wrongful act is prevented or rectified, for public business is involved. In addition, duties of lawyers employed by the government or lawyers in military service may be defined by statutes and regulation. This rule does not limit that authority. For example, the provisions of Iowa Code sections 232.90 and 232.114 adequately accommodate the potentially conflicting roles of county attorneys in criminal prosecutions and child in need of assistance or termination of parental rights proceedings. *See* Scope.

Clarifying the Lawyer's Role

[10] There are times when the organization's interest may be or become adverse to those of one or more of its constituents. In such circumstances the lawyer should advise any constituent, whose interest the lawyer finds adverse to that of the organization, of the conflict or potential conflict of interest, that the lawyer cannot represent such constituent, and that such person may wish to obtain independent representation. Care must be taken to ensure that the individual understands that, when there is such adversity of interest, the lawyer for the organization cannot provide legal representation for that constituent individual, and that discussions between the lawyer for the organization and the individual may not be privileged.

[11] Whether such a warning should be given by the lawyer for the organization to any constituent individual may turn on the facts of each case.

Dual Representation

[12] Paragraph (g) recognizes that a lawyer for an organization may also represent a principal officer or major shareholder.

Derivative Actions

[13] Under generally prevailing law, the shareholders or members of a corporation may bring suit to compel the directors to perform their legal obligations in the supervision of the organization. Members of unincorporated associations have essentially the same right. Such an action may be brought nominally by the organization, but usually is, in fact, a legal controversy over management of the organization.

[14] The question can arise whether counsel for the organization may defend such an action. The proposition that the organization is the lawyer's client does not alone resolve the issue.

Most derivative actions are a normal incident of an organization's affairs, to be defended by the organization's lawyer like any other suit. However, if the claim involves serious charges of wrongdoing by those in control of the organization, a conflict may arise between the lawyer's duty to the organization and the lawyer's relationship with the board. In those circumstances, rule 32:1.7 governs who should represent the directors and the organization.
[Court Order April 20, 2005, effective July 1, 2005; June 13, 2013]

Rule 32:1.14 CLIENT WITH DIMINISHED CAPACITY

(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment, or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken, and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator, or guardian.

(c) Information relating to the representation of a client with diminished capacity is protected by rule 32:1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under rule 32:1.6 to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

Comment

[1] The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters. When the client is a minor or suffers from a diminished mental capacity, however, maintaining the ordinary client-lawyer relationship may not be possible in all respects. In particular, a severely incapacitated person may have no power to make legally binding decisions. Nevertheless, a client with diminished capacity often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client's own well-being. For example, children as young as five or six years of age, and certainly those of ten or twelve, are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody. So also, it is recognized that some persons of advanced age can be quite capable of handling routine financial matters while needing special legal protection concerning major transactions.

[2] The fact that a client suffers a disability does not diminish the lawyer's obligation to treat the client with attention and respect. Even if the person has a legal representative, the lawyer should as far as possible accord the represented person the status of client, particularly in maintaining communication.

[3] The client may wish to have family members or other persons participate in discussions with the lawyer. When necessary to assist in the representation, the presence of such persons generally does not affect the applicability of the attorney-client evidentiary privilege. Nevertheless, the lawyer must keep the client's interests foremost and, except for protective action authorized under paragraph (b), must look to the client, and not family members, to make decisions on the client's behalf.

[4] If a legal representative has already been appointed for the client, the lawyer should ordinarily look to the representative for decisions on behalf of the client. In matters involving a minor, whether the lawyer should look to the parents as natural guardians may depend on the type of proceeding or matter in which the lawyer is representing the minor. If the lawyer represents the guardian as distinct from the ward, and is aware that the guardian is acting adversely to the ward's interest, the lawyer may have an obligation to prevent or rectify the guardian's misconduct. *See* rule 32:1.2(d).

Taking Protective Action

[5] If a lawyer reasonably believes that a client is at risk of substantial physical, financial, or other harm unless action is taken, and that a normal client-lawyer relationship cannot be maintained as provided in paragraph (a) because the client lacks sufficient capacity to communicate or to make

adequately considered decisions in connection with the representation, then paragraph (b) permits the lawyer to take protective measures deemed necessary. Such measures could include: consulting with family members, using a reconsideration period to permit clarification or improvement of circumstances, using voluntary surrogate decisionmaking tools such as durable powers of attorney, or consulting with support groups, professional services, adult-protective agencies, or other individuals or entities that have the ability to protect the client. In taking any protective action, the lawyer should be guided by such factors as the wishes and values of the client to the extent known, the client's best interests, and the goals of intruding into the client's decisionmaking autonomy to the least extent feasible, maximizing client capacities, and respecting the client's family and social connections.

[6] In determining the extent of the client's diminished capacity, the lawyer should consider and balance such factors as: the client's ability to articulate reasoning leading to a decision, variability of state of mind, and ability to appreciate consequences of a decision; the substantive fairness of a decision; and the consistency of a decision with the known long-term commitments and values of the client. In appropriate circumstances, the lawyer may seek guidance from an appropriate diagnostician.

[7] If a legal representative has not been appointed, the lawyer should consider whether appointment of a guardian ad litem, conservator, or guardian is necessary to protect the client's interests. Thus, if a client with diminished capacity has substantial property that should be sold for the client's benefit, effective completion of the transaction may require appointment of a legal representative. In addition, rules of procedure in litigation sometimes provide that minors or persons with diminished capacity must be represented by a guardian or next friend if they do not have a general guardian. In many circumstances, however, appointment of a legal representative may be more expensive or traumatic for the client than circumstances in fact require. Evaluation of such circumstances is a matter entrusted to the professional judgment of the lawyer. In considering alternatives, however, the lawyer should be aware of any law that requires the lawyer to advocate the least restrictive action on behalf of the client.

Disclosure of the Client's Condition

[8] Disclosure of the client's diminished capacity could adversely affect the client's interests. For example, raising the question of diminished capacity could, in some circumstances, lead to proceedings for involuntary commitment. Information relating to the representation is protected by rule 32:1.6. Therefore, unless authorized to do so, the lawyer may not disclose such information. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized to make the necessary disclosures, even when the client directs the lawyer to the contrary. Nevertheless, given the risks of disclosure, paragraph (c) limits what the lawyer may disclose in consulting with other individuals or entities or seeking the appointment of a legal representative. At the very least, the lawyer should determine whether it is likely that the person or entity consulted with will act adversely to the client's interests before discussing matters related to the client. The lawyer's position in such cases is an unavoidably difficult one.

Emergency Legal Assistance

[9] In an emergency where the health, safety, or a financial interest of a person with seriously diminished capacity is threatened with imminent and irreparable harm, a lawyer may take legal action on behalf of such a person even though the person is unable to establish a client-lawyer relationship or to make or express considered judgments about the matter, when the person or another acting in good faith on that person's behalf has consulted with the lawyer. Even in such an emergency, however, the lawyer should not act unless the lawyer reasonably believes that the person has no other lawyer, agent, or other representative available. The lawyer should take legal action on behalf of the person only to the extent reasonably necessary to maintain the status quo or otherwise avoid imminent and irreparable harm. A lawyer who undertakes to represent a person in such an exigent situation has the same duties under these rules as the lawyer would with respect to a client.

[10] A lawyer who acts on behalf of a person with seriously diminished capacity in an emergency should keep the confidences of the person as if dealing with a client, disclosing them only to the extent necessary to accomplish the intended protective action. The lawyer should disclose to any tribunal involved and to any other counsel involved the nature of his or her relationship with the

person. The lawyer should take steps to regularize the relationship or implement other protective solutions as soon as possible. Normally, a lawyer would not seek compensation for such emergency actions taken.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:1.15 SAFEKEEPING PROPERTY

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of six years after termination of the representation.

(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

(f) All client trust accounts shall be governed by chapter 45 of the Iowa Court Rules.

Comment

[1] A lawyer should hold property of others with the care required of a professional fiduciary. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property that is the property of clients or third persons, including prospective clients, must be kept separate from the lawyer's business and personal property and, if monies, in one or more trust accounts. Separate trust accounts may be warranted when administering estate monies or acting in similar fiduciary capacities. A lawyer should maintain on a current basis books and records in accordance with generally accepted accounting practice and comply with any recordkeeping rules established by law or court order. *See,* Iowa Ct. R. ch 45.

[2] While normally it is impermissible to commingle the lawyer's own funds with client funds, paragraph (b) provides that it is permissible when necessary to pay bank service charges on that account. Accurate records must be kept regarding which part of the funds are the lawyer's.

[3] Lawyers often receive funds from which the lawyer's fee will be paid. The lawyer is not required to remit to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds must be kept in a trust account and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

[4] Paragraph (e) also recognizes that third parties may have lawful claims against specific funds or other property in a lawyer's custody, such as a client's creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client. In such cases, when the third-party claim is not frivolous under applicable law, the lawyer must refuse to surrender the property to the client until the claims are resolved. A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party; but when there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.

[5] The obligations of a lawyer under this rule are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves only as an escrow agent is governed

by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction and is not governed by this rule.

[6] A lawyers' fund for client protection provides a means through the collective efforts of the bar to reimburse persons who have lost money or property as a result of dishonest conduct of a lawyer. Such a fund has been established in Iowa, and lawyer participation is mandatory to the extent required by chapter 39 of the Iowa Court Rules.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:1.16 DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the Iowa Rules of Professional Conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(3) the client has used the lawyer's services to perpetrate a crime or fraud;

(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by law.

Comment

[1] A lawyer should not accept representation in a matter unless it can be performed competently, promptly, without improper conflict of interest, and to completion. Ordinarily, a representation in a matter is completed when the agreed-upon assistance has been concluded. *See* rules 32:1.2(c) and 32:6.5. *See also* rule 32:1.3, comment [4].

Mandatory Withdrawal

[2] A lawyer ordinarily must decline or withdraw from representation if the client demands that the lawyer engage in conduct that is illegal or violates the Iowa Rules of Professional Conduct or other law. The lawyer is not obliged to decline or withdraw simply because the client suggests such a course of conduct; a client may make such a suggestion in the hope that a lawyer will not be constrained by a professional obligation.

[3] When a lawyer has been appointed to represent a client, withdrawal ordinarily requires approval of the appointing authority. *See also* rule 32:6.2. Similarly, court approval or notice to the court is often required by applicable law before a lawyer withdraws from pending litigation. Difficulty may be encountered if withdrawal is based on the client's demand that the lawyer engage

in unprofessional conduct. The court may request an explanation for the withdrawal, while the lawyer may be bound to keep confidential the facts that would constitute such an explanation. The lawyer's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient. Lawyers should be mindful of their obligations to both clients and the court under rules 32:1.6 and 32:3.3.

Discharge

[4] A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer's services. Where future dispute about the withdrawal may be anticipated, it may be advisable to prepare a written statement reciting the circumstances.

[5] Whether a client can discharge appointed counsel may depend on applicable law. A client seeking to do so should be given a full explanation of the consequences. These consequences may include a decision by the appointing authority that appointment of successor counsel is unjustified, thus requiring self-representation by the client.

[6] If the client has severely diminished capacity, the client may lack the legal capacity to discharge the lawyer, and in any event the discharge may be seriously adverse to the client's interests. The lawyer should make special effort to help the client consider the consequences and may take reasonably necessary protective action as provided in rule 32:1.14.

Optional Withdrawal

[7] A lawyer may withdraw from representation in some circumstances. The lawyer has the option to withdraw if the withdrawal can be accomplished without material adverse effect on the client's interests. Withdrawal is also justified if the client persists in a course of action that the lawyer reasonably believes is criminal or fraudulent, for a lawyer is not required to be associated with such conduct even if the lawyer does not further it. Withdrawal is also permitted if the lawyer's services were misused in the past even if that would materially prejudice the client. The lawyer may also withdraw where the client insists on taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement.

[8] A lawyer may withdraw if the client refuses to abide by the terms of an agreement relating to the representation, such as an agreement concerning fees or court costs or an agreement limiting the objectives of the representation.

Assisting the Client upon Withdrawal

[9] Even if the lawyer has been unfairly discharged by the client, a lawyer must take all reasonable steps to mitigate the consequences to the client. The lawyer may retain papers as security for a fee to the extent permitted by Iowa Code section 602.10116 or other law. *See* rule 32:1.15.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:1.17 SALE OF LAW PRACTICE

A lawyer or a law firm may sell or purchase a law practice, or an area of law practice, including good will, if the following conditions are satisfied:

(a) The seller ceases to engage in the private practice of law, or in the area of practice that has been sold, in the geographic area in which the practice has been conducted;

(b) The entire practice, or the entire area of practice, is sold to one or more lawyers or law firms;

(c) The seller gives written notice to each of the seller's clients regarding:

(1) the proposed sale;

(2) the client's right to retain other counsel or to take possession of the file; and

(3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within 90 days of receipt of the notice.

If a client cannot be given notice, the representation of that client may be transferred to the purchaser only upon entry of an order so authorizing by a court having jurisdiction. The seller may disclose to the court in camera information relating to the representation only to the

extent necessary to obtain an order authorizing the transfer of a file.

(d) The fees charged clients shall not be increased by reason of the sale.

Comment

[1] The practice of law is a profession, not merely a business. Clients are not commodities that can be purchased and sold at will. Pursuant to this rule, when a lawyer or an entire firm ceases to practice, or ceases to practice in an area of law, and other lawyers or firms take over the representation, the selling lawyer or firm may obtain compensation for the reasonable value of the practice as may withdrawing partners of law firms. *See* rules 32:5.4 and 32:5.6.

Termination of Practice by the Seller

[2] The requirement that all of the private practice, or all of an area of practice, be sold is satisfied if the seller in good faith makes the entire practice, or the area of practice, available for sale to the purchasers. The fact that a number of the seller's clients decide not to be represented by the purchasers but take their matters elsewhere, therefore, does not result in a violation. Return to private practice as a result of an unanticipated change in circumstances does not necessarily result in a violation. For example, a lawyer who has sold the practice to accept an appointment to judicial office does not violate the requirement that the sale be attendant to cessation of practice if the lawyer later resumes private practice upon being defeated in a retention election for the office or resigns from a judiciary position.

[3] The requirement that the seller cease to engage in the private practice of law does not prohibit employment as a lawyer on the staff of a public agency or a legal services entity that provides legal services to the poor, or as in-house counsel to a business.

[4] This rule contemplates that a lawyer who sells an entire practice may continue in the practice of law in Iowa provided that the lawyer practices in another geographic area of the state.

[5] This rule also permits a lawyer or law firm to sell an area of practice. If an area of practice is sold and the lawyer remains in the active practice of law, the lawyer must cease accepting any matters in the area of practice that has been sold, either as counsel or co-counsel or by assuming joint responsibility for a matter in connection with the division of a fee with another lawyer as would otherwise be permitted by rule 32:1.5(e). For example, a lawyer with a substantial number of estate planning matters and a substantial number of probate administration cases may sell the estate planning portion of the practice but remain in the practice of law by concentrating on probate administration; however, that practitioner may not thereafter accept any estate planning matters. Although a lawyer who leaves a geographical area typically would sell the entire practice, this rule permits the lawyer to limit the sale to one or more areas of the practice, thereby preserving the lawyer's right to continue practice in the areas of the practice that were not sold.

Sale of Entire Practice or Entire Area of Practice

[6] The rule requires that the seller's entire practice, or an entire area of practice, be sold. The prohibition against sale of less than an entire practice area protects those clients whose matters are less lucrative and who might find it difficult to secure other counsel if a sale could be limited to substantial fee-generating matters. The purchasers are required to undertake all client matters in the practice or practice area, subject to client consent. This requirement is satisfied, however, even if a purchaser is unable to undertake a particular client matter because of a conflict of interest.

Client Confidences, Consent, and Notice

[7] Negotiations between seller and prospective purchaser prior to disclosure of information relating to a specific representation of an identifiable client no more violate the confidentiality provisions of rule 32:1.6 than do preliminary discussions concerning the possible association of another lawyer or mergers between firms, with respect to which client consent is not required. *See* rule 32:1.6(b)(7). Providing the purchaser access to detailed information relating to the representation, such as the client's file, however, requires client consent. The rule provides that before such information can be disclosed by the seller to the purchaser the client must be given

actual written notice of the contemplated sale, including the identity of the purchaser, and must be told that the decision to consent or make other arrangements must be made within 90 days. If nothing is heard from the client within that time, consent to the sale is presumed.

[8] A lawyer or law firm ceasing to practice cannot be required to remain in practice because some clients cannot be given actual notice of the proposed purchase. Since these clients cannot themselves consent to the purchase or direct any other disposition of their files, the rule requires an order from a court having jurisdiction authorizing their transfer or other disposition. The court can be expected to determine whether reasonable efforts to locate the client have been exhausted, and whether the absent client's legitimate interests will be served by authorizing the transfer of the file so that the purchaser may continue the representation. Preservation of client confidences requires that the petition for a court order be considered in camera.

[9] All elements of client autonomy, including the client's absolute right to discharge a lawyer and transfer the representation to another, survive the sale of the practice or area of practice.

Fee Arrangements Between Client and Purchaser

[10] The sale may not be financed by increases in fees charged the clients of the practice. Existing arrangements between the seller and the client as to fees and the scope of the work must be honored by the purchaser.

Other Applicable Ethical Standards

[11] Lawyers participating in the sale of a law practice or a practice area are subject to the ethical standards applicable to involving another lawyer in the representation of a client. These include, for example, the seller's obligation to exercise competence in identifying a purchaser qualified to assume the practice and the purchaser's obligation to undertake the representation competently (*see* rule 32:1.1); the obligation to avoid disqualifying conflicts, and to secure the client's informed consent for those conflicts that can be agreed to (*see* rule 32:1.7 regarding conflicts and rule 32:1.0(e) for the definition of informed consent); and the obligation to protect information relating to the representation (*see* rules 32:1.6 and 32:1.9).

[12] If approval of the substitution of the purchasing lawyer for the selling lawyer is required by the rules of any tribunal in which a matter is pending, such approval must be obtained before the matter can be included in the sale. *See* rule 32:1.16.

Applicability of the Rule

[13] This rule applies to the sale of a law practice of a deceased, disabled, or disappeared lawyer. Thus, the seller may be represented by a nonlawyer representative not subject to these rules. Since, however, no lawyer may participate in a sale of a law practice that does not conform to the requirements of this rule, the representatives of the seller as well as the purchasing lawyer can be expected to see to it that they are met.

[14] Admission to or retirement from a law partnership or professional association, retirement plans and similar arrangements, and a sale of tangible assets of a law practice, do not constitute a sale or purchase governed by this rule.

[15] This rule does not apply to the transfers of legal representation between lawyers when such transfers are unrelated to the sale of a practice or an area of practice.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

Rule 32:1.18 DUTIES TO PROSPECTIVE CLIENT

(a) A person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as rule 32:1.9 would permit with respect to information of a former client.

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to

that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:

(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or;

(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and

(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(ii) written notice is promptly given to the prospective client.

Comment

[1] Prospective clients, like clients, may disclose information to a lawyer, place documents or other property in the lawyer's custody, or rely on the lawyer's advice. A lawyer's consultations with a prospective client usually are limited in time and depth and leave both the prospective client and the lawyer free (and sometimes required) to proceed no further. Hence, prospective clients should receive some but not all of the protection afforded clients.

[2] A person becomes a prospective client by consulting with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter. Whether communications, including written, oral, or electronic communications, constitute a consultation depends on the circumstances. For example, a consultation is likely to have occurred if a lawyer, either in person or through the lawyer's advertising in any medium, specifically requests or invites the submission of information about a potential representation without clear and reasonably understandable warnings and cautionary statements that limit the lawyer's obligations, and a person provides information in response. *See* comment [4]. In contrast, a consultation does not occur if a person provides information to a lawyer in response to advertising that merely describes the lawyer's education, experience, areas of practice, and contact information, or provides legal information of general interest. Such a person communicates information unilaterally to a lawyer, without any reasonable expectation that the lawyer is willing to discuss the possibility of forming a client-lawyer relationship, and is thus not a "prospective client." Moreover, a person who communicates with a lawyer for the purpose of disqualifying the lawyer is not a "prospective client."

[3] It is often necessary for a prospective client to reveal information to the lawyer during an initial consultation prior to the decision about formation of a client-lawyer relationship. The lawyer often must learn such information to determine whether there is a conflict of interest with an existing client and whether the matter is one that the lawyer is willing to undertake. Paragraph (b) prohibits the lawyer from using or revealing that information, except as permitted by rule 32:1.9, even if the client or lawyer decides not to proceed with the representation. The duty exists regardless of how brief the initial conference may be.

[4] In order to avoid acquiring disqualifying information from a prospective client, a lawyer considering whether or not to undertake a new matter should limit the initial consultation to only such information as reasonably appears necessary for that purpose. Where the information indicates that a conflict of interest or other reason for nonrepresentation exists, the lawyer should so inform the prospective client or decline the representation. If the prospective client wishes to retain the lawyer, and if consent is possible under rule 32:1.7, then consent from all affected present or former clients must be obtained before accepting the representation.

[5] A lawyer may condition a consultation with a prospective client on the person's informed consent that no information disclosed during the consultation will prohibit the lawyer from representing a different client in the matter. See rule 32:1.0(e) for the definition of informed consent. If the agreement expressly so provides, the prospective client may also consent to the lawyer's subsequent use of information received from the prospective client.

[6] Even in the absence of an agreement, under paragraph (c), the lawyer is not prohibited from representing a client with interests adverse to those of the prospective client in the same or a

substantially related matter unless the lawyer has received from the prospective client information that could be significantly harmful if used in the matter.

[7] Under paragraph (c), the prohibition in this rule is imputed to other lawyers as provided in rule 32:1.10, but, under paragraph (d)(1), imputation may be avoided if the lawyer obtains the informed consent, confirmed in writing, of both the prospective and affected clients. In the alternative, imputation may be avoided if the conditions of paragraph (d)(2) are met and all disqualified lawyers are timely screened and written notice is promptly given to the prospective client. *See* rule 32:1.0(k) (requirements for screening procedures). Paragraph (d)(2)(i) does not prohibit the screened lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.

[8] Notice, including a general description of the subject matter about which the lawyer was consulted, and of the screening procedures employed, generally should be given as soon as practicable after the need for screening becomes apparent.

[9] For the duty of competence of a lawyer who gives assistance on the merits of a matter to a prospective client, see rule 32:1.1. For a lawyer's duties when a prospective client entrusts valuables or papers to the lawyer's care, see rule 32:1.15.

[Court Order April 20, 2005, effective July 1, 2005; August 29, 2012, effective January 1, 2013; October 15, 2015]

COUNSELOR

Rule 32:2.1 ADVISOR

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social, and political factors, that may be relevant to the client's situation.

Comment

Scope of Advice

[1] A client is entitled to straightforward advice expressing the lawyer's honest assessment. Legal advice often involves unpleasant facts and alternatives that a client may be disinclined to confront. In presenting advice, a lawyer endeavors to sustain the client's morale and may put advice in as acceptable a form as honesty permits. However, a lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.

[2] Advice couched in narrow legal terms may be of little value to a client, especially where practical considerations, such as cost or effects on other people, are predominant. Purely technical legal advice, therefore, can sometimes be inadequate. It is proper for a lawyer to refer to relevant moral and ethical considerations in giving advice. Although a lawyer is not a moral advisor as such, moral and ethical considerations impinge upon most legal questions and may decisively influence how the law will be applied. In the final analysis, the lawyer should always remember that the decision whether to pursue or forgo legally available objectives or methods because of nonlegal factors is ultimately for the client and not for the lawyer.

[3] A client may expressly or impliedly ask the lawyer for purely technical advice. When such a request is made by a client experienced in legal matters, the lawyer may accept it at face value. When such a request is made by a client inexperienced in legal matters, however, the lawyer's responsibility as advisor may include indicating that more may be involved than strictly legal considerations.

[4] Matters that go beyond strictly legal questions may also be in the domain of another profession. Family matters can involve problems within the professional competence of psychiatry, clinical psychology, or social work; business matters can involve problems within the competence of the accounting profession or of financial specialists. Where consultation with a professional in another field is itself something a competent lawyer would recommend, the lawyer should make such a recommendation. At the same time, a lawyer's advice at its best often consists of recommending a course of action in the face of conflicting recommendations of experts.

Offering Advice

[5] In general, a lawyer is not expected to give advice until asked by the client. However, when a lawyer knows that a client proposes a course of action that is likely to result in substantial adverse legal consequences to the client, the lawyer's duty to the client under rule 32:1.4 may require that the lawyer offer advice if the client's course of action is related to the representation. Similarly, when a matter is likely to involve litigation, it may be necessary under rule 32:1.4 to inform the client of forms of dispute resolution that might constitute reasonable alternatives to litigation. A lawyer ordinarily has no duty to initiate investigation of a client's affairs or to give advice that the client has indicated is unwanted, but a lawyer may initiate advice to a client when doing so appears to be in the client's interest.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:2.2 (RESERVED)

Rule 32:2.3 EVALUATION FOR USE BY THIRD PERSONS

(a) A lawyer may provide an evaluation of a matter affecting a client for the use of someone other than the client if the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer's relationship with the client.

(b) When the lawyer knows or reasonably should know that the evaluation is likely to affect the client's interests materially and adversely, the lawyer shall not provide the evaluation unless the client gives informed consent.

(c) Except as disclosure is authorized in connection with a report of an evaluation, information relating to the evaluation is otherwise protected by rule 32:1.6.

Comment

Definition

[1] An evaluation may be performed at the client's direction or when impliedly authorized in order to carry out the representation. *See* rule 32:1.2. Such an evaluation may be for the primary purpose of establishing information for the benefit of third parties; for example, an opinion concerning the title of property rendered at the behest of a vendor for the information of a prospective purchaser, or at the behest of a borrower for the information of a prospective lender. In some situations, the evaluation may be required by a government agency; for example, an opinion concerning the legality of the securities registered for sale under the securities laws. In other instances, the evaluation may be required by a third person, such as a purchaser of a business.

[2] A legal evaluation should be distinguished from an investigation of a person with whom the lawyer does not have a client-lawyer relationship. For example, a lawyer retained by a purchaser to analyze a vendor's title to property does not have a client-lawyer relationship with the vendor. So also, an investigation into a person's affairs by a government lawyer, or by special counsel employed by the government, is not an evaluation as that term is used in this rule. The question is whether the lawyer is retained by the person whose affairs are being examined. When the lawyer is retained by that person, the general rules concerning loyalty to client and preservation of confidences apply, which is not the case if the lawyer is retained by someone else. For this reason, it is essential to identify the person by whom the lawyer is retained. This should be made clear not only to the person under examination, but also to others to whom the results are to be made available.

Duties Owed to Third Person and Client

[3] When the evaluation is intended for the information or use of a third person, a legal duty to that person may or may not arise. That legal question is beyond the scope of this rule. However, since such an evaluation involves a departure from the normal client-lawyer relationship, careful analysis of the situation is required. The lawyer must be satisfied as a matter of professional judgment that making the evaluation is compatible with other functions undertaken in behalf of the client. For example, if the lawyer is acting as advocate in defending the client against charges of fraud, it would normally be incompatible with that responsibility for the lawyer to perform an evaluation for others

concerning the same or a related transaction. Assuming no such impediment is apparent, however, the lawyer should advise the client of the implications of the evaluation, particularly the lawyer's responsibilities to third persons and the duty to disseminate the findings.

Access to and Disclosure of Information

[4] The quality of an evaluation depends on the freedom and extent of the investigation upon which it is based. Ordinarily a lawyer should have whatever latitude of investigation seems necessary as a matter of professional judgment. Under some circumstances, however, the terms of the evaluation may be limited. For example, certain issues or sources may be categorically excluded, or the scope of search may be limited by time constraints or the noncooperation of persons having relevant information. Any such limitations that are material to the evaluation should be described in the report. If after a lawyer has commenced an evaluation, the client refuses to comply with the terms upon which it was understood the evaluation was to have been made, the lawyer's obligations are determined by law, having reference to the terms of the client's agreement and the surrounding circumstances. In no circumstances is the lawyer permitted to knowingly make a false statement of material fact or law in providing an evaluation under this rule. *See* rule 32:4.1.

Obtaining Client's Informed Consent

[5] Information relating to an evaluation is protected by rule 32:1.6. In many situations, providing an evaluation to a third party poses no significant risk to the client; thus, the lawyer may be impliedly authorized to disclose information to carry out the representation. *See* rule 32:1.6(a). Where, however, it is reasonably likely that providing the evaluation will affect the client's interests materially and adversely, the lawyer must first obtain the client's consent after the client has been adequately informed concerning the important possible effects on the client's interests. *See* rules 32:1.6(a) and 32:1.0(e).

Financial Auditor's Requests for Information

[6] When a question concerning the legal situation of a client arises at the instance of the client's financial auditor and the question is referred to the lawyer, the lawyer's response may be made in accordance with procedures recognized in the legal profession. Such a procedure is set forth in the American Bar Association Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information, adopted in 1975.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:2.4 LAWYER SERVING AS THIRD-PARTY NEUTRAL

(a) A lawyer serves as a third-party neutral when the lawyer assists two or more persons who are not clients of the lawyer to reach a resolution of a dispute or other matter that has arisen between them. Service as a third-party neutral may include service as an arbitrator, a mediator, or in such other capacity as will enable the lawyer to assist the parties to resolve the matter.

(b) A lawyer serving as a third-party neutral shall inform unrepresented parties that the lawyer is not representing them. When the lawyer knows or reasonably should know that a party does not understand the lawyer's role in the matter, the lawyer shall explain the difference between the lawyer's role as a third-party neutral and a lawyer's role as one who represents a client.

Comment

[1] Alternative dispute resolution has become a substantial part of the civil justice system. Aside from representing clients in dispute-resolution processes, lawyers often serve as third-party neutrals. A third-party neutral is a person, such as a mediator, arbitrator, conciliator, or evaluator, who assists the parties, represented or unrepresented, in the resolution of a dispute or in the arrangement of a transaction. Whether a third-party neutral serves primarily as a facilitator, evaluator, or decision maker depends on the particular process that is either selected by the parties or mandated by a court.

[2] The role of a third-party neutral is not unique to lawyers, although, in some court-connected contexts, only lawyers are allowed to serve in this role or to handle certain types of cases. In performing this role, the lawyer may be subject to court rules or other laws that apply either to third-party neutrals generally or to lawyers serving as third-party neutrals. Lawyer-neutrals may also be subject to various codes of ethics, such as the Code of Ethics for Arbitration in Commercial Disputes prepared by a joint committee of the American Bar Association and the American Arbitration Association or the Model Standards of Conduct for Mediators jointly prepared by the American Bar Association, the American Arbitration Association, and the Society of Professionals in Dispute Resolution. In 1987, the supreme court adopted the Rules Governing Standards of Practice for Lawyer Mediators in Family Disputes, chapter 11 of the Iowa Court Rules. Lawyers engaged in family law mediation should carefully review these rules because they address matters of special concern and state different and more restrictive rules on conflicts of interest.

[3] Unlike nonlawyers who serve as third-party neutrals, lawyers serving in this role may experience unique problems as a result of differences between the role of a third-party neutral and a lawyer's service as a client representative. The potential for confusion is significant when the parties are unrepresented in the process. Thus, paragraph (b) requires a lawyer-neutral to inform unrepresented parties that the lawyer is not representing them. For some parties, particularly parties who frequently use dispute-resolution processes, this information will be sufficient. For others, particularly those who are using the process for the first time, more information will be required. Where appropriate, the lawyer should inform unrepresented parties of the important differences between the lawyer's role as third-party neutral and a lawyer's role as a client representative, including the inapplicability of the attorney-client evidentiary privilege. The extent of disclosure required under this paragraph will depend on the particular parties involved and the subject matter of the proceeding, as well as the particular features of the dispute-resolution process selected.

[4] A lawyer who serves as a third-party neutral subsequently may be asked to serve as a lawyer representing a client in the same matter. The conflicts of interest that arise for both the individual lawyer and the lawyer's law firm are addressed in rule 32:1.12.

[5] Lawyers who represent clients in alternative dispute-resolution processes are governed by the Iowa Rules of Professional Conduct. When the dispute-resolution process takes place before a tribunal, as in binding arbitration (*See* rule 32:1.0(m)), the lawyer's duty of candor is governed by rule 32:3.3. Otherwise, the lawyer's duty of candor toward both the third-party neutral and other parties is governed by rule 32:4.1.

[Court Order April 20, 2005, effective July 1, 2005]

ADVOCATE

Rule 32:3.1 MERITORIOUS CLAIMS AND CONTENTIONS

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

Comment

[1] The advocate has a duty to use legal procedure for the fullest benefit of the client's cause, but also a duty not to abuse legal procedure. The law, both procedural and substantive, establishes the limits within which an advocate may proceed. However, the law is not always clear and never is static. Accordingly, in determining the proper scope of advocacy, account must be taken of the law's ambiguities and potential for change.

[2] The filing of an action, defense, or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. What is required of lawyers, however, is that they inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good faith arguments in support of their clients' positions. Such action is not frivolous even though the lawyer believes that the client's position ultimately will not prevail. The action is frivolous, however,

if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification, or reversal of existing law.

[3] The lawyer's obligations under this rule are subordinate to federal or state constitutional law that entitles a defendant in a criminal matter to the assistance of counsel in presenting a claim or contention that otherwise would be prohibited by this rule.

[4] When an applicable rule or order prohibits an appellate attorney from withdrawing on the ground that the appeal is frivolous, the lawyer is permitted to advocate grounds on appeal that the lawyer believes are ultimately without merit. The lawyer must, of course, comply with the remaining rules of this chapter, including rule 32:3.3.

[Court Order April 20, 2005, effective July 1, 2005; May 21, 2012]

Rule 32:3.2 EXPEDITING LITIGATION

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

Comment

[1] Dilatory practices bring the administration of justice into disrepute. Although there will be occasions when a lawyer may properly seek a postponement for personal reasons, it is not proper for a lawyer to routinely fail to expedite litigation solely for the convenience of the advocates. Nor will a failure to expedite be reasonable if done for the purpose of frustrating an opposing party's attempt to obtain rightful redress or repose. It is not a justification that similar conduct is often tolerated by the bench and bar. The question is whether a competent lawyer acting in good faith would regard the course of action as having some substantial purpose other than delay. Realizing financial or other benefit from otherwise improper delay in litigation is not a legitimate interest of the client.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:3.3 CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging, or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by rule 32:1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Comment

[1] This rule governs the conduct of a lawyer who is representing a client in the proceedings of a tribunal. See rule 32:1.0(m) for the definition of "tribunal." It also applies when the lawyer is representing a client in an ancillary proceeding conducted pursuant to the tribunal's adjudicative

authority, such as a deposition. Thus, for example, paragraph (a)(3) requires a lawyer to take reasonable remedial measures if the lawyer comes to know that a client who is testifying in a deposition has offered evidence that is false.

[2] This rule sets forth the special duties of lawyers as officers of the court to avoid conduct that undermines the integrity of the adjudicative process. A lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client's case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate's duty of candor to the tribunal. Consequently, although a lawyer in an adversary proceeding is not required to present an impartial exposition of the law or to vouch for the evidence submitted in a cause, the lawyer must not allow the tribunal to be misled by false statements of law or fact or evidence that the lawyer knows to be false.

Representations by a Lawyer

[3] An advocate is responsible for pleadings and other documents prepared for litigation, but is usually not required to have personal knowledge of matters asserted therein, for litigation documents ordinarily present assertions by the client, or by someone on the client's behalf, and not assertions by the lawyer. *Compare* rule 32:3.1. However, an assertion purporting to be on the lawyer's own knowledge, as in an affidavit by the lawyer or in a statement in open court, may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry. There are circumstances where failure to make a disclosure is the equivalent of an affirmative misrepresentation. The obligation prescribed in rule 32:1.2(d) not to counsel a client to commit or assist the client in committing a fraud applies in litigation. Regarding compliance with rule 32:1.2(d), see the comment to that rule. See also the comment to rule 32:8.4(b).

Legal Argument

[4] Legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal. A lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities. Furthermore, as stated in paragraph (a)(2), an advocate has a duty to disclose directly adverse authority in the controlling jurisdiction that has not been disclosed by the opposing party. The underlying concept is that legal argument is a discussion seeking to determine the legal premises properly applicable to the case.

Offering Evidence

[5] Paragraph (a)(3) requires that the lawyer refuse to offer evidence that the lawyer knows to be false, regardless of the client's wishes. This duty is premised on the lawyer's obligation as an officer of the court to prevent the trier of fact from being misled by false evidence. A lawyer does not violate this rule if the lawyer offers the evidence for the purpose of establishing its falsity.

[6] If a lawyer knows that the client intends to testify falsely or wants the lawyer to introduce false evidence, the lawyer should seek to persuade the client that the evidence should not be offered. If the persuasion is ineffective and the lawyer continues to represent the client, the lawyer must refuse to offer the false evidence. If only a portion of a witness's testimony will be false, the lawyer may call the witness to testify but may not elicit or otherwise permit the witness to present the testimony that the lawyer knows is false.

[7] The duties stated in paragraphs (a) and (b) apply to all lawyers, including defense counsel in criminal cases. An advocate's obligation under the Iowa Rules of Professional Conduct is subordinate to a court's directive requiring counsel to present the accused as a witness or to allow the accused to give a narrative statement if the accused so desires. *See also* comment [9].

[8] The prohibition against offering false evidence only applies if the lawyer knows that the evidence is false. A lawyer's reasonable belief that evidence is false does not preclude its presentation to the trier of fact. A lawyer's knowledge that evidence is false, however, can be inferred from the circumstances. *See* rule 32:1.0(f). Thus, although a lawyer should resolve doubts about the veracity of testimony or other evidence in favor of the client, the lawyer cannot ignore an obvious falsehood.

[9] Although paragraph (a)(3) only prohibits a lawyer from offering evidence the lawyer knows to be false, it permits the lawyer to refuse to offer testimony or other proof that the lawyer reasonably

believes is false. Offering such proof may reflect adversely on the lawyer's ability to discriminate in the quality of evidence and thus impair the lawyer's effectiveness as an advocate. Because of the special protections historically provided criminal defendants, however, this rule does not permit a lawyer to refuse to offer the testimony of such a client where the lawyer reasonably believes but does not know that the testimony will be false. Unless the lawyer knows the testimony will be false, the lawyer must honor the client's decision to testify. *See also* comment [7].

Remedial Measures

[10] Having offered material evidence in the belief that it was true, a lawyer may subsequently come to know that the evidence is false. Or, a lawyer may be surprised when the lawyer's client, or another witness called by the lawyer, offers testimony the lawyer knows to be false, either during the lawyer's direct examination or in response to cross-examination by the opposing lawyer. In such situations or if the lawyer knows of the falsity of testimony elicited from the client during a deposition, the lawyer must take reasonable remedial measures. In such situations, the advocate's proper course is to remonstrate with the client confidentially, advise the client of the lawyer's duty of candor to the tribunal, and seek the client's cooperation with respect to the withdrawal or correction of the false statements or evidence. If that fails, the advocate must take further remedial action. If withdrawal from the representation is not permitted or will not undo the effect of the false evidence, the advocate must make such disclosure to the tribunal as is reasonably necessary to remedy the situation, even if doing so requires the lawyer to reveal information that otherwise would be protected by rule 32:1.6. It is for the tribunal then to determine what should be done—making a statement about the matter to the trier of fact, ordering a mistrial, or perhaps nothing.

[11] The disclosure of a client's false testimony can result in grave consequences to the client, including not only a sense of betrayal, but also loss of the case, and perhaps a prosecution for perjury. But the alternative is that the lawyer cooperate in deceiving the court, thereby subverting the truth-finding process which the adversary system is designed to implement. *See* rule 32:1.2(d). Furthermore, unless it is clearly understood that the lawyer will act upon the duty to disclose the existence of false evidence, the client can simply reject the lawyer's advice to reveal the false evidence and insist that the lawyer keep silent. Thus the client could in effect coerce the lawyer into being a party to fraud on the court.

Preserving Integrity of Adjudicative Process

[12] Lawyers have a special obligation to protect a tribunal against criminal or fraudulent conduct that undermines the integrity of the adjudicative process, such as bribing, intimidating, or otherwise unlawfully communicating with a witness, juror, court official, or other participant in the proceeding, unlawfully destroying or concealing documents or other evidence, or failing to disclose information to the tribunal when required by law to do so. Thus, paragraph (b) requires a lawyer to take reasonable remedial measures, including disclosure if necessary, whenever the lawyer knows that a person, including the lawyer's client, intends to engage, is engaging, or has engaged in criminal or fraudulent conduct related to the proceeding.

Duration of Obligation

[13] A proceeding has concluded within the meaning of this rule when it is beyond the power of a tribunal to correct, modify, reverse, or vacate a final judgment, or to grant a new trial.

Ex Parte Proceedings

[14] Ordinarily, an advocate has the limited responsibility of presenting one side of the matters that a tribunal should consider in reaching a decision; the conflicting position is expected to be presented by the opposing party. However, in any ex parte proceeding, such as an application for a temporary restraining order, there is no balance of presentation by opposing advocates. The object of an ex parte proceeding is nevertheless to yield a substantially just result. The judge has an affirmative responsibility to accord the absent party just consideration. The lawyer for the represented party has the correlative duty to make disclosures of material facts known to the lawyer and that the lawyer

reasonably believes are necessary to an informed decision.

Withdrawal

[15] Normally, a lawyer's compliance with the duty of candor imposed by this rule does not require that the lawyer withdraw from the representation of a client whose interests will be or have been adversely affected by the lawyer's disclosure. The lawyer may, however, be required by rule 32:1.16(a) to seek permission of the tribunal to withdraw if the lawyer's compliance with this rule's duty of candor results in such an extreme deterioration of the client-lawyer relationship that the lawyer can no longer competently represent the client. Also see rule 32:1.16(b) for the circumstances in which a lawyer will be permitted to seek a tribunal's permission to withdraw. In connection with a request for permission to withdraw that is premised on a client's misconduct, a lawyer may reveal information relating to the representation only to the extent reasonably necessary to comply with this rule or as otherwise permitted by rule 32:1.6.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:3.4 FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

(d) in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused; or

(f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:

(1) the person is a relative or an employee or other agent of a client; and

(2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

Comment

[1] The procedure of the adversary system contemplates that the evidence in a case is to be marshaled competitively by the contending parties. Fair competition in the adversary system is secured by prohibitions against destruction or concealment of evidence, improperly influencing witnesses, obstructive tactics in discovery procedure, and the like.

[2] Documents and other items of evidence are often essential to establish a claim or defense. Subject to evidentiary privileges, the right of an opposing party, including the government, to obtain evidence through discovery or subpoena is an important procedural right. The exercise of that right can be frustrated if relevant material is altered, concealed, or destroyed. The law may make it an offense to destroy material for the purpose of impairing its availability in a pending proceeding or one whose commencement can be foreseen. Falsifying evidence is also generally a criminal offense. Paragraph (a) applies to evidentiary material generally, including computerized information. The law may permit a lawyer to take temporary possession of physical evidence of client crimes for the purpose of conducting a limited examination that will not alter or destroy material characteristics of the evidence. In such a case, the law may require the lawyer to turn the evidence over to the police or other prosecuting authority, depending on the circumstances.

[3] With regard to paragraph (b), it is not improper to pay a witness's expenses, including loss of time in attending or testifying, or to compensate an expert witness on terms permitted by law. It is

improper to pay an occurrence witness any fee other than as authorized by law for testifying and it is improper to pay an expert witness a contingent fee.

[4] Paragraph (f) permits a lawyer to advise employees of a client to refrain from giving information to another party, for the employees may identify their interests with those of the client. *See also* rule 32:4.2.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror, or other official by means prohibited by law;

(b) communicate ex parte with such a person during the proceeding unless authorized to do so by law or court order;

(c) communicate with a juror or prospective juror after discharge of the jury if:

(1) the communication is prohibited by law or court order;

(2) the juror has made known to the lawyer a desire not to communicate; or

(3) the communication involves misrepresentation, coercion, duress, or harassment; or

(d) engage in conduct intended to disrupt a tribunal.

Comment

[1] Many forms of improper influence upon a tribunal are proscribed by criminal law. Others are specified in the Iowa Code of Judicial Conduct, with which an advocate should be familiar. A lawyer is required to avoid contributing to a violation of such provisions.

[2] During a proceeding a lawyer may not communicate ex parte with persons serving in an official capacity in the proceeding, such as judges, masters, or jurors, unless authorized to do so by law or court order.

[3] A lawyer may on occasion want to communicate with a juror or prospective juror after the jury has been discharged. The lawyer may do so unless the communication is prohibited by law or a court order but must respect the desire of the juror not to talk with the lawyer. The lawyer may not engage in improper conduct during the communication.

[4] The advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is a corollary of the advocate's right to speak on behalf of litigants. A lawyer may stand firm against abuse by a judge but should avoid reciprocation; the judge's default is no justification for similar dereliction by an advocate. An advocate can present the cause, protect the record for subsequent review, and preserve professional integrity by patient firmness no less effectively than by belligerence or theatrics.

[5] The duty to refrain from disruptive conduct applies to any proceeding of a tribunal, including a deposition. *See* rule 32:1.0(m).

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:3.6 TRIAL PUBLICITY

(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

(b) Notwithstanding paragraph (a), a lawyer may state:

(1) the claim, offense, or defense involved and, except when prohibited by law, the identity of the persons involved;

(2) information contained in a public record;

(3) that an investigation of a matter is in progress;

(4) the scheduling or result of any step in litigation;

(5) a request for assistance in obtaining evidence and information necessary thereto;

(6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

(7) in a criminal case, in addition to subparagraphs (1) through (6):

(i) the identity, residence, occupation, and family status of the accused;

(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;

(iii) the fact, time, and place of arrest; and

(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).

(e) Any communication made under paragraph (b) that includes information that a defendant will be or has been charged with a crime must also include a statement explaining that a criminal charge is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

Comment

[1] It is difficult to strike a balance between protecting the right to a fair trial and safeguarding the right of free expression. Preserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial, particularly where trial by jury is involved. If there were no such limits, the result would be the practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence. On the other hand, there are vital social interests served by the free dissemination of information about events having legal consequences and about legal proceedings themselves. The public has a right to know about threats to its safety and measures aimed at ensuring its security. It also has a legitimate interest in the conduct of judicial proceedings, particularly in matters of general public concern. Furthermore, the subject matter of legal proceedings is often of direct significance in debate and deliberation over questions of public policy.

[2] Special rules of confidentiality may validly govern proceedings in juvenile, domestic relations, and mental disability proceedings, and perhaps other types of litigation. Rule 32:3.4(c) requires compliance with such rules.

[3] The rule sets forth a basic general prohibition against a lawyer's making statements that the lawyer knows or should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding. Recognizing that the public value of informed commentary is great and the likelihood of prejudice to a proceeding by the commentary of a lawyer who is not involved in the proceeding is small, the rule applies only to lawyers who are, or who have been involved in the investigation or litigation of a case, and their associates.

[4] Paragraph (b) identifies specific matters about which a lawyer's statements would not ordinarily be considered to present a substantial likelihood of material prejudice, and should not in any event be considered prohibited by the general prohibition of paragraph (a). Paragraph (b) is not intended to be an exhaustive listing of the subjects upon which a lawyer may make a statement, but statements on other matters may be subject to paragraph (a).

[5] There are, on the other hand, certain subjects that are more likely than not to have a material prejudicial effect on a proceeding, particularly when they refer to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration. These subjects relate to:

(1) the character, credibility, reputation, or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;

(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;

(3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;

(5) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial; or

(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

[6] Another relevant factor in determining prejudice is the nature of the proceeding involved. Criminal jury trials will be most sensitive to extrajudicial speech. Civil trials may be less sensitive. Non-jury hearings and arbitration proceedings may be even less affected. The rule will still place limitations on prejudicial comments in these cases, but the likelihood of prejudice may be different depending on the type of proceeding.

[7] Finally, extrajudicial statements that might otherwise raise a question under this rule may be permissible when they are made in response to statements made publicly by another party, another party's lawyer, or third persons, where a reasonable lawyer would believe a public response is required in order to avoid prejudice to the lawyer's client. When prejudicial statements have been publicly made by others, responsive statements may have the salutary effect of lessening any resulting adverse impact on the adjudicative proceeding. Such responsive statements should be limited to contain only such information as is necessary to mitigate undue prejudice created by the statements made by others.

[8] See rule 32:3.8(f) for additional duties of prosecutors in connection with extrajudicial statements about criminal proceedings.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:3.7 LAWYER AS WITNESS

(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

(3) disqualification of the lawyer would work substantial hardship on the client.

(b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by rule 32:1.7 or rule 32:1.9.

Comment

[1] Combining the roles of advocate and witness can prejudice the tribunal and the opposing party and can also involve a conflict of interest between the lawyer and client.

Advocate-Witness Rule

[2] The tribunal has proper objection when the trier of fact may be confused or misled by a lawyer serving as both advocate and witness. The opposing party has proper objection where the combination of roles may prejudice that party's rights in the litigation. A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate-witness should be taken as proof or as an analysis of the proof.

[3] To protect the tribunal, paragraph (a) prohibits a lawyer from simultaneously serving as advocate and necessary witness except in those circumstances specified in paragraphs (a)(1) through (a)(3). Paragraph (a)(1) recognizes that if the testimony will be uncontested, the ambiguities in the dual role are purely theoretical. Paragraph (a)(2) recognizes that where the testimony concerns the extent and value of legal services rendered in the action in which the testimony is offered, permitting the lawyers to testify avoids the need for a second trial with new counsel to resolve that issue. Moreover, in such a situation the judge has firsthand knowledge of the matter in issue; hence, there is less dependence on the adversary process to test the credibility of the testimony.

[4] Apart from these two exceptions, paragraph (a)(3) recognizes that a balancing is required between the interests of the client and those of the tribunal and the opposing party. Whether the

tribunal is likely to be misled or the opposing party is likely to suffer prejudice depends on the nature of the case, the importance and probable tenor of the lawyer's testimony, and the probability that the lawyer's testimony will conflict with that of other witnesses. Even if there is risk of such prejudice, in determining whether the lawyer should be disqualified, due regard must be given to the effect of disqualification on the lawyer's client. It is relevant that one or both parties could reasonably foresee that the lawyer would probably be a witness. The conflict of interest principles stated in rules 32:1.7, 32:1.9, and 32:1.10 have no application to this aspect of the problem.

[5] Because the tribunal is not likely to be misled when a lawyer acts as advocate in a trial in which another lawyer in the lawyer's firm will testify as a necessary witness, paragraph (b) permits the lawyer to do so except in situations involving a conflict of interest.

Conflict of Interest

[6] In determining if it is permissible to act as advocate in a trial in which the lawyer will be a necessary witness, the lawyer must also consider that the dual role may give rise to a conflict of interest that will require compliance with rule 32:1.7 or 32:1.9. For example, if there is likely to be substantial conflict between the testimony of the client and that of the lawyer, the representation involves a conflict of interest that requires compliance with rule 32:1.7. This would be true even though the lawyer might not be prohibited by paragraph (a) from simultaneously serving as advocate and witness because the lawyer's disqualification would work a substantial hardship on the client. Similarly, a lawyer who might be permitted to simultaneously serve as an advocate and a witness by paragraph (a)(3) might be precluded from doing so by rule 32:1.9. The problem can arise whether the lawyer is called as a witness on behalf of the client or is called by the opposing party. Determining whether or not such a conflict exists is primarily the responsibility of the lawyer involved. If there is a conflict of interest, the lawyer must secure the client's informed consent, confirmed in writing. In some cases, the lawyer will be precluded from seeking the client's consent. *See* rule 32:1.7. See rule 32:1.0(b) for the definition of "confirmed in writing" and rule 32:1.0(e) for the definition of "informed consent."

[7] Paragraph (b) provides that a lawyer is not disqualified from serving as an advocate because a lawyer with whom the lawyer is associated in a firm is precluded from doing so by paragraph (a). If, however, the testifying lawyer would also be disqualified by rule 32:1.7 or rule 32:1.9 from representing the client in the matter, other lawyers in the firm will be precluded from representing the client by rule 32:1.10 unless the client gives informed consent under the conditions stated in rule 32:1.7 or 32:1.9.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR

The prosecutor in a criminal case shall:

(a) refrain from prosecuting a charge that the prosecutor knows or reasonably should know is not supported by probable cause;

(b) make reasonable efforts to ensure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(c) not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;

(d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;

(e) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes:

(1) the information sought is not protected from disclosure by any applicable privilege;

(2) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and

(3) there is no other feasible alternative to obtain the information; and

(f) except for statements that are necessary to inform the public of the nature and extent

of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees, or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under rule 32:3.6 or this rule.

Comment

[1] A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence. *See generally* ABA Standards of Criminal Justice Relating to the Prosecution Function. Applicable law may require other measures by the prosecutor, and knowing disregard of those obligations or a systematic abuse of prosecutorial discretion could constitute a violation of rule 32:8.4.

[2] A defendant may waive a preliminary hearing and thereby lose a valuable opportunity to challenge probable cause. Accordingly, prosecutors should not seek to obtain waivers of preliminary hearings or other important pretrial rights from unrepresented accused persons. Paragraph (c) does not apply, however, to an accused appearing pro se with the approval of the tribunal. Nor does it forbid the lawful questioning of an uncharged suspect who has knowingly waived the rights to counsel and silence. In addition, paragraph (c) does not apply to a defendant charged with a simple misdemeanor for which the prosecutor reasonably believes the defendant will not be incarcerated.

[3] The exception in paragraph (d) recognizes that a prosecutor may seek an appropriate protective order from the tribunal if disclosure of information to the defense could result in substantial harm to an individual or to the public interest. For purposes of paragraph (d), evidence tending to negate the guilt of the accused includes evidence that tends to impeach a witness for the State.

[4] Paragraph (e) is intended to limit the issuance of lawyer subpoenas in grand jury and other criminal proceedings to those situations in which there is a genuine need to intrude into the client-lawyer relationship.

[5] Paragraph (f) supplements rule 32:3.6, which prohibits extrajudicial statements that have a substantial likelihood of prejudicing an adjudicatory proceeding. In the context of a criminal prosecution, a prosecutor's extrajudicial statement can create the additional problem of increasing public condemnation of the accused. Although the announcement of an indictment, for example, will necessarily have severe consequences for the accused, a prosecutor can, and should, avoid comments which have no legitimate law enforcement purpose and have a substantial likelihood of increasing public opprobrium of the accused. Nothing in this comment is intended to restrict the statements which a prosecutor may make which comply with rule 32:3.6(b) or 32:3.6(c) and with rule 32:3.6(e).

[6] Like other lawyers, prosecutors are subject to rules 32:5.1 and 32:5.3, which relate to responsibilities regarding lawyers and nonlawyers who work for or are associated with the lawyer's office. Paragraph (f) reminds the prosecutor of the importance of these obligations in connection with the unique dangers of improper extrajudicial statements in a criminal case. In addition, paragraph (f) requires a prosecutor to exercise reasonable care to prevent persons assisting or associated with the prosecutor from making improper extrajudicial statements, even when such persons are not under the direct supervision of the prosecutor. Ordinarily, the reasonable care standard will be satisfied if the prosecutor issues the appropriate cautions to law-enforcement personnel and other relevant individuals.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:3.9 ADVOCATE IN NONADJUDICATIVE PROCEEDINGS

A lawyer representing a client before a legislative body or administrative agency in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of rules 32:3.3(a) through (c), 32:3.4(a) through (c), and 32:3.5.

Comment

[1] In representation before bodies such as legislatures, municipal councils, and executive and

administrative agencies acting in a rule-making or policy-making capacity, lawyers present facts, formulate issues, and advance argument in the matters under consideration. The decision-making body, like a court, should be able to rely on the integrity of the submissions made to it. A lawyer appearing before such a body must deal with it honestly and in conformity with applicable rules of procedure. In all such appearances the lawyer shall identify the client if identification of the client is not prohibited by law. It is not improper, however, for a lawyer to seek from an agency information available to the public without identifying a client. *See* rules 32:3.3(a)-(c), 32:3.4(a)-(c), and 32:3.5.

[2] Lawyers have no exclusive right to appear before nonadjudicative bodies, as they do before a court. The requirements of this rule therefore may subject lawyers to regulations inapplicable to advocates who are not lawyers. However, legislatures and administrative agencies have a right to expect lawyers to deal with them as they deal with courts.

[3] This rule only applies when a lawyer represents a client in connection with an official hearing or meeting of a governmental agency or a legislative body to which the lawyer or the lawyer's client is presenting evidence or argument. It does not apply to representation of a client in a negotiation or other bilateral transaction with a governmental agency or in connection with an application for a license or other privilege or the client's compliance with generally applicable reporting requirements, such as the filing of income tax returns. Nor does it apply to the representation of a client in connection with an investigation or examination of the client's affairs conducted by government investigators or examiners. Representation in such matters is governed by rules 32:4.1 through 32:4.4.

[4] A lawyer representing a client before a governmental body in a nonadjudicative proceeding is engaged in the practice of law, even if such undertakings could also be engaged in by nonlawyers. Accordingly, a client who employs a lawyer to represent that client in lobbying or other advocacy before governmental bodies is entitled to assume that the lawyer will do so pursuant to the lawyer's professional obligations under these rules, specifically including those provisions concerning confidentiality, competence, and conflicts of interest.

[Court Order April 20, 2005, effective July 1, 2005]

TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS

Rule 32:4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS

In the course of representing a client, a lawyer shall not knowingly:

(a) make a false statement of material fact or law to a third person; or

(b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by rule 32:1.6.

Comment

Misrepresentation

[1] A lawyer is required to be truthful when dealing with others on a client's behalf, but generally has no affirmative duty to inform an opposing party of relevant facts. A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. Misrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements. For dishonest conduct that does not amount to a false statement or for misrepresentations by a lawyer other than in the course of representing a client, see rule 32:8.4.

Statements of Fact

[2] This rule refers to statements of fact. Whether a particular statement should be regarded as one of fact can depend on the circumstances. Under generally accepted conventions in negotiation, certain types of statements ordinarily are not taken as statements of material fact. Estimates of price or value placed on the subject of a transaction and a party's intentions as to an acceptable settlement of a claim are ordinarily in this category, and so is the existence of an undisclosed principal except where nondisclosure of the principal would constitute fraud. Lawyers should be mindful of their obligations under applicable law to avoid criminal and tortious misrepresentation.

Crime or Fraud by Client

[3] Under rule 32:1.2(d), a lawyer is prohibited from counseling or assisting a client in conduct that the lawyer knows is criminal or fraudulent. Paragraph (b) states a specific application of the principle set forth in rule 32:1.2(d) and addresses the situation where a client's crime or fraud takes the form of a lie or misrepresentation. Ordinarily, a lawyer can avoid assisting a client's crime or fraud by withdrawing from the representation. Sometimes it may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm an opinion, document, affirmation, or the like. In extreme cases, substantive law may require a lawyer to disclose information relating to the representation to avoid being deemed to have assisted the client's crime or fraud. If the lawyer can avoid assisting a client's crime or fraud only by disclosing this information, then under paragraph (b) the lawyer is required to do so, unless the disclosure is prohibited by rule 32:1.6.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:4.2 COMMUNICATION WITH PERSON REPRESENTED BY COUNSEL

(a) In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

(b) An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with rule 32:1.2(c) is considered to be unrepresented for purposes of this rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, the opposing lawyer is to communicate with the limited-representation lawyer as to the subject matter within the limited scope of representation.

Comment

[1] This rule contributes to the proper functioning of the legal system by protecting a person who has chosen to be represented by a lawyer in a matter against possible overreaching by other lawyers who are participating in the matter, interference by those lawyers with the client-lawyer relationship, and the uncounseled disclosure of information relating to the representation.

[2] This rule applies to communications with any person who is represented by counsel concerning the matter to which the communication relates.

[3] The rule applies even though the represented person initiates or consents to the communication. A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this rule.

[4] This rule does not prohibit communication with a represented person, or an employee or agent of such a person, concerning matters outside the representation. For example, the existence of a controversy between a government agency and a private party, or between two organizations, does not prohibit a lawyer for either from communicating with nonlawyer representatives of the other regarding a separate matter. Nor does this rule preclude communication with a represented person who is seeking advice from a lawyer who is not otherwise representing a client in the matter. A lawyer may not make a communication prohibited by this rule through the acts of another. *See* rule 32:8.4(a). Parties to a matter may communicate directly with each other, and a lawyer is not prohibited from advising a client concerning a communication that the client is legally entitled to make. Also, a lawyer having independent justification or legal authorization for communicating with a represented person is permitted to do so.

[5] Communications authorized by law may include communications by a lawyer on behalf of a client who is exercising a constitutional or other legal right to communicate with the government. Communications authorized by law may also include investigative activities of lawyers representing governmental entities, directly or through investigative agents, prior to the commencement of criminal or civil enforcement proceedings. When communicating with the accused in a criminal matter, a government lawyer must comply with this rule in addition to honoring the constitutional rights of the accused. The fact that a communication does not violate a state or federal constitutional

right is insufficient to establish that the communication is permissible under this rule.

[6] A lawyer who is uncertain whether a communication with a represented person is permissible may seek a court order. A lawyer may also seek a court order in exceptional circumstances to authorize a communication that would otherwise be prohibited by this rule, for example, where communication with a person represented by counsel is necessary to avoid reasonably certain injury.

[7] In the case of a represented organization, this rule prohibits communications with a constituent of the organization who supervises, directs, or regularly consults with the organization's lawyer concerning the matter or has authority to obligate the organization with respect to the matter or whose act or omission in connection with the matter may be imputed to the organization for purposes of civil or criminal liability. Consent of the organization's lawyer is not required for communication with a former constituent. If a constituent of the organization is represented in the matter by his or her own counsel, the consent by that counsel to a communication will be sufficient for purposes of this rule. *Compare* rule 32:3.4(f). In communicating with a current or former constituent of an organization, a lawyer must not use methods of obtaining evidence that violate the legal rights of the organization. *See* rule 32:4.4.

[8] The prohibition on communications with a represented person only applies in circumstances where the lawyer knows that the person is in fact represented in the matter to be discussed. This means that the lawyer has actual knowledge of the fact of the representation; but such actual knowledge may be inferred from the circumstances. *See* rule 32:1.0(f). Thus, the lawyer cannot evade the requirement of obtaining the consent of counsel by closing eyes to the obvious.

[9] In the event the person with whom the lawyer communicates is not known to be represented by counsel in the matter, the lawyer's communications are subject to rule 32:4.3.

[Court Order April 20, 2005, effective July 1, 2005; March 12, 2007]

Rule 32:4.3 DEALING WITH UNREPRESENTED PERSON

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

Comment

[1] An unrepresented person, particularly one not experienced in dealing with legal matters, might assume that a lawyer is disinterested in loyalties or is a disinterested authority on the law even when the lawyer represents a client. In order to avoid a misunderstanding, a lawyer will typically need to identify the lawyer's client and, where necessary, explain that the client has interests opposed to those of the unrepresented person. For misunderstandings that sometimes arise when a lawyer for an organization deals with an unrepresented constituent, see rule 32:1.13(f).

[2] The rule distinguishes between situations involving unrepresented persons whose interests may be adverse to those of the lawyer's client and those in which the person's interests are not in conflict with the client's. In the former situation, the possibility that the lawyer will compromise the unrepresented person's interests is so great that the rule prohibits the giving of any advice, apart from the advice to obtain counsel. Whether a lawyer is giving impermissible advice may depend on the experience and sophistication of the unrepresented person, as well as the setting in which the behavior and comments occur. This rule does not prohibit a lawyer from negotiating the terms of a transaction or settling a dispute with an unrepresented person. So long as the lawyer has explained that the lawyer represents an adverse party and is not representing the person, the lawyer may inform the person of the terms on which the lawyer's client will enter into an agreement or settle a matter, prepare documents that require the person's signature, and explain the lawyer's own view of the meaning of the document or the lawyer's view of the underlying legal obligations.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:4.4 RESPECT FOR RIGHTS OF THIRD PERSONS

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

(b) A lawyer who receives a document or electronically stored information relating to the representation of the lawyer's client and knows or reasonably should know that the document or electronically stored information was inadvertently sent shall promptly notify the sender.

Comment

[1] Responsibility to a client requires a lawyer to subordinate the interests of others to those of the client, but that responsibility does not imply that a lawyer may disregard the rights of third persons. It is impractical to catalogue all such rights, but they include legal restrictions on methods of obtaining evidence from third persons and unwarranted intrusions into privileged relationships, such as the client-lawyer relationship. For example, present or former organizational employees or agents may have information protected by the attorney-client evidentiary privilege or the work product doctrine of the organization itself. If the person contacted by the lawyer has no authority to waive the privilege, the lawyer may not deliberately seek to obtain the information in this manner.

[2] Paragraph (b) recognizes that lawyers sometimes receive a document or electronically stored information that was mistakenly sent or produced by opposing parties or their lawyers. A document or electronically stored information is inadvertently sent when it is accidentally transmitted, such as when an email or letter is misaddressed or a document or electronically stored information is accidentally included with information that was intentionally transmitted. If a lawyer knows or reasonably should know that such a document or electronically stored information was sent inadvertently, then this rule requires the lawyer to promptly notify the sender in order to permit that person to take protective measures. Whether the lawyer is required to take additional steps, such as returning the document or electronically stored information, is a matter of law beyond the scope of these rules, as is the question of whether the privileged status of a document or electronically stored information has been waived. Similarly, this rule does not address the legal duties of a lawyer who receives a document or electronically stored information that the lawyer knows or reasonably should know may have been inappropriately obtained by the sending person. For purposes of this rule, "document or electronically stored information" includes, in addition to paper documents, email and other forms of electronically stored information, including embedded data (commonly referred to as "metadata"), that is subject to being read or put into readable form. Metadata in electronic documents creates an obligation under this rule only if the receiving lawyer knows or reasonably should know that the metadata was inadvertently sent to the receiving lawyer.

[3] Some lawyers may choose to return a document or delete electronically stored information unread, for example, when the lawyer learns before receiving it that it was inadvertently sent. Where a lawyer is not required by applicable law to do so, the decision to voluntarily return such a document or delete electronically stored information is a matter of professional judgment ordinarily reserved to the lawyer. *See* rules 32:1.2 and 32:1.4.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

LAW FIRMS AND ASSOCIATIONS

Rule 32:5.1 RESPONSIBILITIES OF PARTNERS, MANAGERS, AND SUPERVISORY LAWYERS

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Iowa Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Iowa Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the Iowa Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which

the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Comment

[1] Paragraph (a) applies to lawyers who have managerial authority over the professional work of a firm. *See* rule 32:1.0(c). This includes members of a partnership, the shareholders in a law firm organized as a professional corporation, and members of other associations authorized to practice law; lawyers having comparable managerial authority in a legal services organization or a law department of an enterprise or government agency; and lawyers who have intermediate managerial responsibilities in a firm. Paragraph (b) applies to lawyers who have supervisory authority over the work of other lawyers in a firm.

[2] Paragraph (a) requires lawyers with managerial authority within a firm to make reasonable efforts to establish internal policies and procedures designed to provide reasonable assurance that all lawyers in the firm will conform to the Iowa Rules of Professional Conduct. Such policies and procedures include those designed to detect and resolve conflicts of interest, identify dates by which actions must be taken in pending matters, account for client funds and property, and ensure that inexperienced lawyers are properly supervised.

[3] Other measures that may be required to fulfill the responsibility prescribed in paragraph (a) can depend on the firm's structure and the nature of its practice. In a small firm of experienced lawyers, informal supervision and periodic review of compliance with the required systems ordinarily will suffice. In a large firm, or in practice situations in which difficult ethical problems frequently arise, more elaborate measures may be necessary. Some firms, for example, have a procedure whereby junior lawyers can make confidential referral of ethical problems directly to a designated senior partner or special committee. *See* rule 32:5.2. Firms, whether large or small, may also rely on continuing legal education in professional ethics. In any event, the ethical atmosphere of a firm can influence the conduct of all its members, and the partners may not assume that all lawyers associated with the firm will inevitably conform to the rules.

[4] Paragraph (c) expresses a general principle of personal responsibility for acts of another. *See also* rule 32:8.4(a).

[5] Paragraph (c)(2) defines the duty of a partner or other lawyer having comparable managerial authority in a law firm, as well as a lawyer who has direct supervisory authority over performance of specific legal work by another lawyer. Whether a lawyer has supervisory authority in particular circumstances is a question of fact. Partners and lawyers with comparable authority have at least indirect responsibility for all work being done by the firm, while a partner or manager in charge of a particular matter ordinarily also has supervisory responsibility for the work of other firm lawyers engaged in the matter. Appropriate remedial action by a partner or managing lawyer would depend on the immediacy of that lawyer's involvement and the seriousness of the misconduct. A supervisor is required to intervene to prevent avoidable consequences of misconduct if the supervisor knows that the misconduct occurred. Thus, if a supervising lawyer knows that a subordinate misrepresented a matter to an opposing party in negotiation, the supervisor as well as the subordinate has a duty to correct the resulting misapprehension.

[6] Professional misconduct by a lawyer under supervision could reveal a violation of paragraph (b) on the part of the supervisory lawyer even though it does not entail a violation of paragraph (c) because there was no direction, ratification, or knowledge of the violation.

[7] Apart from this rule and rule 32:8.4(a), a lawyer does not have disciplinary liability for the conduct of a partner, associate, or subordinate. Whether a lawyer may be liable civilly or criminally for another lawyer's conduct is a question of law beyond the scope of these rules.

[8] The duties imposed by this rule on managing and supervising lawyers do not alter the personal duty of each lawyer in a firm to abide by the Iowa Rules of Professional Conduct. *See* rule 32:5.2(a).
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:5.2 RESPONSIBILITIES OF A SUBORDINATE LAWYER

(a) A lawyer is bound by the Iowa Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person.

(b) A subordinate lawyer does not violate the Iowa Rules of Professional Conduct if that

lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

Comment

[1] Although a lawyer is not relieved of responsibility for a violation by the fact that the lawyer acted at the direction of a supervisor, that fact may be relevant in determining whether a lawyer had the knowledge required to render conduct a violation of the rules. For example, if a subordinate filed a frivolous pleading at the direction of a supervisor, the subordinate would not be guilty of a professional violation unless the subordinate knew of the document's frivolous character.

[2] When lawyers in a supervisor-subordinate relationship encounter a matter involving professional judgment as to ethical duty, the supervisor may assume responsibility for making the judgment. Otherwise a consistent course of action or position could not be taken. If the question can reasonably be answered only one way, the duty of both lawyers is clear and they are equally responsible for fulfilling it. However, if the question is reasonably arguable, someone has to decide upon the course of action. That authority ordinarily reposes in the supervisor, and a subordinate may be guided accordingly. For example, if a question arises whether the interests of two clients conflict under rule 32:1.7, the supervisor's reasonable resolution of the question should protect the subordinate professionally if the resolution is subsequently challenged.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:5.3 RESPONSIBILITIES REGARDING NONLAWYER ASSISTANCE

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Iowa Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Comment

[1] Paragraph (a) requires lawyers with managerial authority within a law firm to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that nonlawyers in the firm and nonlawyers outside the firm who work on firm matters act in a way compatible with the professional obligations of the lawyer. *See* rule 32:1.1, comment [6] (retaining lawyers outside the firm) and rule 32:5.1, comment [1] (responsibilities with respect to lawyers within a firm). Paragraph (b) applies to lawyers who have supervisory authority over such nonlawyers within or outside the firm. Paragraph (c) specifies the circumstances in which a lawyer is responsible for the conduct of such nonlawyers within or outside the firm that would be a violation of the Iowa Rules of Professional Conduct if engaged in by a lawyer.

Nonlawyers Within the Firm

[2] Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of

their employment, particularly regarding the obligation not to disclose information relating to representation of the client, and should be responsible for their work product. The measures employed in supervising nonlawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.

Nonlawyers Outside the Firm

[3] A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services to the client. Examples include the retention of an investigative or paraprofessional service, hiring a document management company to create and maintain a database for complex litigation, sending client documents to a third party for printing or scanning, and using an Internet-based service to store client information. When using such services outside the firm, a lawyer must make reasonable efforts to ensure that the services are provided in a manner that is compatible with the lawyer's professional obligations. The extent of this obligation will depend upon the circumstances, including the education, experience, and reputation of the nonlawyer; the nature of the services involved; the terms of any arrangements concerning the protection of client information; and the legal and ethical environments of the jurisdictions in which the services will be performed, particularly with regard to confidentiality. *See also* rules 32:1.1 (competence), 32:1.2 (allocation of authority), 32:1.4 (communication with client), 32:1.6 (confidentiality), 32:5.4(a) (professional independence of the lawyer), and 32:5.5(a) (unauthorized practice of law). When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

[4] Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility for monitoring as between the client and the lawyer. *See* rule 32:1.2. When making such an allocation in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these rules.

[Court Order April 20, 2005, effective July 1, 2005; October 15, 2015]

Rule 32:5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER

(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

(1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;

(2) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer may, pursuant to the provisions of rule 32:1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price; and

(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

Comment

[1] The provisions of this rule express traditional limitations on sharing fees. These limitations

are to protect the lawyer's professional independence of judgment. Where someone other than the client pays the lawyer's fee or salary, or recommends employment of the lawyer, that arrangement does not modify the lawyer's obligation to the client. As stated in paragraph (c), such arrangements should not interfere with the lawyer's professional judgment.

[2] This rule also expresses traditional limitations on permitting a third party to direct or regulate the lawyer's professional judgment in rendering legal services to another. *See also* rule 32:1.8(f) (lawyer may accept compensation from a third party as long as there is no interference with the lawyer's independent professional judgment and the client gives informed consent).

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:5.5 UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or

(4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.

(d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services through an office or other systematic and continuous presence in this jurisdiction that:

(1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or

(2) are services that the lawyer is authorized by federal or other law or rule to provide in this jurisdiction.

Comment

[1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer assisting another person. For example, a lawyer may not assist a person in practicing law in violation of the rules governing professional conduct in that person's jurisdiction.

[2] The definition of the practice of law is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. This rule does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work. *See* rule 32:5.3.

[3] A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial

institutions, social workers, accountants, and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed pro se.

[4] Other than as authorized by law or this rule, a lawyer who is not admitted to practice generally in this jurisdiction violates paragraph (b)(1) if the lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. *See also* rules 32:7.1(a) and 32:7.5(b).

[5] There are occasions in which a lawyer admitted to practice in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients, the public, or the courts. Paragraph (c) identifies four such circumstances. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the exception of paragraphs (d)(1) and (d)(2), this rule does not authorize a lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice generally here.

[6] There is no single test to determine whether a lawyer's services are provided on a "temporary basis" in this jurisdiction, and may therefore be permissible under paragraph (c). Services may be "temporary" even though the lawyer provides services in this jurisdiction on a recurring basis, or for an extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or litigation.

[7] Paragraphs (c) and (d) apply to lawyers who are admitted to practice law in any United States jurisdiction, which includes the District of Columbia and any state, territory, or commonwealth of the United States. The word "admitted" in paragraph (c) contemplates that the lawyer is authorized to practice in the jurisdiction in which the lawyer is admitted and excludes a lawyer who, while technically admitted, is not authorized to practice because, for example, the lawyer is on inactive status.

[8] Paragraph (c)(1) recognizes that the interests of clients and the public are protected if a lawyer admitted only in another jurisdiction associates with a lawyer licensed to practice in this jurisdiction. For this paragraph to apply, however, the lawyer admitted to practice in this jurisdiction must actively participate in and share responsibility for the representation of the client.

[9] Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a tribunal or an administrative agency to appear before the tribunal or agency. This authority may be granted pursuant to formal rules governing admission pro hac vice or pursuant to informal practice of the tribunal or agency. Under paragraph (c)(2), a lawyer does not violate this rule when the lawyer appears before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this jurisdiction requires a lawyer who is not admitted to practice in this jurisdiction to obtain admission pro hac vice before appearing before a tribunal or administrative agency, this rule requires the lawyer to obtain that authority.

[10] Paragraph (c)(2) also provides that a lawyer rendering services in this jurisdiction on a temporary basis does not violate this rule when the lawyer engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the lawyer is authorized to practice law or in which the lawyer reasonably expects to be admitted pro hac vice. Examples of such conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, a lawyer admitted only in another jurisdiction may engage in conduct temporarily in this jurisdiction in connection with pending litigation in another jurisdiction in which the lawyer is or reasonably expects to be authorized to appear, including taking depositions in this jurisdiction.

[11] When a lawyer has been or reasonably expects to be admitted to appear before a court or administrative agency, paragraph (c)(2) also permits conduct by lawyers who are associated with that lawyer in the matter, but who do not expect to appear before the court or administrative agency. For example, subordinate lawyers may conduct research, review documents, and attend meetings with witnesses in support of the lawyer responsible for the litigation.

[12] Paragraph (c)(3) permits a lawyer admitted to practice law in another jurisdiction to perform services on a temporary basis in this jurisdiction if those services are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this

or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice. The lawyer, however, must obtain admission pro hac vice in the case of a court-annexed arbitration or mediation or otherwise if court rules or law so require.

[13] Paragraph (c)(4) permits a lawyer admitted in another jurisdiction to provide certain legal services on a temporary basis in this jurisdiction that arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted but are not within paragraphs (c)(2) or (c)(3). These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers.

[14] Paragraphs (c)(3) and (c)(4) require that the services arise out of or be reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted. A variety of factors evidence such a relationship. The lawyer's client may have been previously represented by the lawyer, or may be resident in or have substantial contacts with the jurisdiction in which the lawyer is admitted. The matter, although involving other jurisdictions, may have a significant connection with that jurisdiction. In other cases, significant aspects of the lawyer's work might be conducted in that jurisdiction or a significant aspect of the matter may involve the law of that jurisdiction. The necessary relationship might arise when the client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their lawyer in assessing the relative merits of each. In addition, the services may draw on the lawyer's recognized expertise developed through the regular practice of law on behalf of clients in matters involving a particular body of federal, nationally uniform, foreign, or international law. Lawyers desiring to provide *pro bono* legal services on a temporary basis in a jurisdiction that has been affected by a major disaster, but in which they are not otherwise authorized to practice law, as well as lawyers from the affected jurisdiction who seek to practice law temporarily in another jurisdiction, but in which they are not otherwise authorized to practice law, should consult Iowa Court Rule 31.17.

[15] Paragraph (d) identifies two circumstances in which a lawyer who is admitted to practice in another United States jurisdiction, and is not disbarred or suspended from practice in any jurisdiction, may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law as well as provide legal services on a temporary basis. Except as provided in paragraphs (d)(1) and (d)(2), a lawyer who is admitted to practice law in another jurisdiction and who establishes an office or other systematic or continuous presence in this jurisdiction must become admitted to practice law generally in this jurisdiction.

[16] Paragraph (d)(1) applies to a lawyer who is employed by a client to provide legal services to the client or its organizational affiliates, i.e., entities that control, are controlled by, or are under common control with the employer. This paragraph does not authorize the provision of personal legal services to the employer's officers or employees. The paragraph applies to in-house corporate lawyers, government lawyers, and others who are employed to render legal services to the employer. The lawyer's ability to represent the employer outside the jurisdiction in which the lawyer is licensed generally serves the interests of the employer and does not create an unreasonable risk to the client and others because the employer is well situated to assess the lawyer's qualifications and the quality of the lawyer's work.

[17] If an employed lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the purpose of rendering legal services to the employer, the lawyer must register and follow the requirements of Iowa Court Rule 31.16.

[18] Paragraph (d)(2) recognizes that a lawyer may provide legal services in a jurisdiction in which the lawyer is not licensed when authorized to do so by federal or other law, which includes statute, court rule, executive regulation, or judicial precedent.

[19] A lawyer who practices law in this jurisdiction pursuant to paragraph (c) or (d) or otherwise is subject to the disciplinary authority of this jurisdiction. *See* rule 32:8.5(a).

[20] In some circumstances, a lawyer who practices law in this jurisdiction pursuant to paragraph (c) or (d) may have to inform the client that the lawyer is not licensed to practice law in this jurisdiction. For example, that may be required when the representation occurs primarily in this jurisdiction and requires knowledge of the law of this jurisdiction. *See* rule 32:1.4(b).

[21] Paragraphs (c) and (d) do not authorize communications advertising legal services in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how lawyers

may communicate the availability of their services in this jurisdiction is governed by rules 32:7.1 to 32:7.5.
[Court Order April 20, 2005, effective July 1, 2005; May 14, 2007; August 29, 2012, effective January 1, 2013; October 15, 2015]

Rule 32:5.6 RESTRICTIONS ON RIGHT TO PRACTICE

A lawyer shall not participate in offering or making:
(a) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or
(b) an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy.

Comment

[1] An agreement restricting the right of lawyers to practice after leaving a firm not only limits their professional autonomy but also limits the freedom of clients to choose a lawyer. Paragraph (a) prohibits such agreements except for restrictions incident to provisions concerning retirement benefits for service with the firm.
[2] Paragraph (b) prohibits a lawyer from agreeing not to represent other persons in connection with settling a claim on behalf of a client.
[3] This rule does not apply to prohibit restrictions that may be included in the terms of the sale of a law practice pursuant to rule 32:1.17.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:5.7 RESPONSIBILITIES REGARDING LAW-RELATED SERVICES

(a) A lawyer shall be subject to the Iowa Rules of Professional Conduct with respect to the provision of law-related services, as defined in paragraph (b), if the law-related services are provided:
(1) by the lawyer in circumstances that are not distinct from the lawyer's provision of legal services to clients; or
(2) in other circumstances by an entity controlled by the lawyer individually or with others if the lawyer fails to take reasonable measures to ensure that a person obtaining the law-related services knows that the services are not legal services and that the protections of the client-lawyer relationship do not exist.
(b) The term "law-related services" denotes services that might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by a nonlawyer.

Comment

[1] When a lawyer performs law-related services or controls an organization that does so, there exists the potential for ethical problems. Principal among these is the possibility that the person for whom the law-related services are performed fails to understand that the services may not carry with them the protections normally afforded as part of the client-lawyer relationship. The recipient of the law-related services may expect, for example, that the protection of client confidences, prohibitions against representation of persons with conflicting interests, and obligations of a lawyer to maintain professional independence apply to the provision of law-related services when that may not be the case.
[2] Rule 32:5.7 applies to the provision of law-related services by a lawyer even when the lawyer does not provide any legal services to the person for whom the law-related services are performed and whether the law-related services are performed through a law firm or a separate entity. The rule identifies the circumstances in which all of the Iowa Rules of Professional Conduct apply to the provision of law-related services. Even when those circumstances do not exist, however, the conduct of a lawyer involved in the provision of law-related services is subject to those rules that apply generally to lawyer conduct, regardless of whether the conduct involves the provision of legal services. *See, e.g.,* rule 32:8.4.

[3] When law-related services are provided by a lawyer under circumstances that are not distinct from the lawyer's provision of legal services to clients, the lawyer in providing the law-related services must adhere to the requirements of the Iowa Rules of Professional Conduct as provided in paragraph (a)(1). Even when the law-related and legal services are provided in circumstances that are distinct from each other, for example through separate entities or different support staff within the law firm, the Iowa Rules of Professional Conduct apply to the lawyer as provided in paragraph (a)(2) unless the lawyer takes reasonable measures to ensure that the recipient of the law-related services knows that the services are not legal services and that the protections of the client-lawyer relationship do not apply.

[4] Law-related services also may be provided through an entity that is distinct from that through which the lawyer provides legal services. If the lawyer individually or with others has control of such an entity's operations, the rule requires the lawyer to take reasonable measures to ensure that each person using the services of the entity knows that the services provided by the entity are not legal services and that the Iowa Rules of Professional Conduct that relate to the client-lawyer relationship do not apply. A lawyer's control of an entity extends to the ability to direct its operation. Whether a lawyer has such control will depend upon the circumstances of the particular case.

[5] When a client-lawyer relationship exists with a person who is referred by a lawyer to a separate law-related service entity controlled by the lawyer, individually or with others, the lawyer must comply with rule 32:1.8(a).

[6] In taking the reasonable measures referred to in paragraph (a)(2) to ensure that a person using law-related services understands the practical effect or significance of the inapplicability of the Iowa Rules of Professional Conduct, the lawyer should communicate to the person receiving the law-related services, in a manner sufficient to ensure that the person understands the significance of the fact, that the relationship of the person to the business entity will not be a client-lawyer relationship. The communication should be made before entering into an agreement for provision of or providing law-related services, and preferably should be in writing.

[7] The burden is upon the lawyer to show that the lawyer has taken reasonable measures under the circumstances to communicate the desired understanding. For instance, a sophisticated user of law-related services, such as a publicly held corporation, may require a lesser explanation than someone unaccustomed to making distinctions between legal services and law-related services.

[8] Regardless of the sophistication of potential recipients of law-related services, a lawyer should take special care to keep separate the provision of law-related and legal services in order to minimize the risk that the recipient will assume that the law-related services are legal services. The risk of such confusion is especially acute when the lawyer renders both types of services with respect to the same matter. Under some circumstances the legal and law-related services may be so closely entwined that they cannot be distinguished from each other, and the requirement of disclosure and consultation imposed by paragraph (a)(2) of the rule cannot be met. In such a case a lawyer will be responsible for ensuring that both the lawyer's conduct and, to the extent required by rule 32:5.3, that of nonlawyer employees in the distinct entity that the lawyer controls comply in all respects with the Iowa Rules of Professional Conduct.

[9] A broad range of economic and other interests of clients may be served by lawyers' engaging in the delivery of law-related services. Examples of law-related services include providing financial planning, accounting, economic analysis, social work, psychological counseling, and non-legal consulting such as engineering, medical, or environmental consulting.

[10] When a lawyer is obliged to accord the recipients of such services the protections of those rules that apply to the client-lawyer relationship, the lawyer must take special care to heed the proscriptions of the rules addressing conflict of interest (rules 32:1.7 through 32:1.11, especially rules 32:1.7(a)(2) and 32:1.8(a), (b), and (f)), and to scrupulously adhere to the requirements of rule 32:1.6 relating to disclosure of confidential information. The promotion of the law-related services must also in all respects comply with rules 32:7.1 through 32:7.5, 32:7.7, and 32:7.8, dealing with advertising and solicitation. In that regard, lawyers should take special care to identify the obligations that may be imposed as a result of this state's decisional law.

[11] When the full protections of all of the Iowa Rules of Professional Conduct do not apply to the provision of law-related services, principles of law external to the rules, for example, the law of principal and agent, govern the legal duties owed to those receiving the services. Those other legal principles may establish a different degree of protection for the recipient with respect to confidentiality of information, conflicts of interest, and permissible business relationships with

clients. *See also* rule 32:8.4 (Misconduct).

[12] Certain services that may be performed by nonlawyers nonetheless are treated as the practice of law in Iowa when performed by lawyers, including consummation of real estate transactions, preparation of tax returns, legislative lobbying, and estate planning. *See* rule 32:3.9, cmt. [4]; Iowa Ct. R. 37.5. Accordingly, the lawyer providing such services must at all times and under all circumstances comply fully with the Iowa Rules of Professional Conduct.

[Court Order April 20, 2005, effective July 1, 2005]

PUBLIC SERVICE

Rule 32:6.1 VOLUNTARY PRO BONO PUBLICO SERVICE

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to:

(1) persons of limited means or

(2) charitable, religious, civic, community, governmental, and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties, or public rights, or charitable, religious, civic, community, governmental, and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system, or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

Comment

[1] Every lawyer, regardless of professional prominence or professional work load, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. It is recognized that in some years a lawyer may render greater or fewer hours than the annual standard specified, but during the course of his or her legal career, each lawyer should render on average per year, the number of hours set forth in this rule. Services can be performed in civil matters or in criminal or quasi-criminal matters for which there is no government obligation to provide funds for legal representation.

[2] Paragraphs (a)(1) and (2) recognize the critical need for legal services that exists among persons of limited means by providing that a substantial majority of the legal services rendered annually to the disadvantaged be furnished without fee or expectation of fee. Legal services under these paragraphs consist of a full range of activities, including individual and class representation, the provision of legal advice, legislative lobbying, administrative rule making, and the provision of free training or mentoring to those who represent persons of limited means. The variety of these activities should facilitate participation by government lawyers, even when restrictions exist on their engaging in the outside practice of law.

[3] Persons eligible for legal services under paragraphs (a)(1) and (2) are those who qualify for participation in programs funded by the Legal Services Corporation or by the Iowa Lawyer Trust Account Commission, or other comparable non-profit programs offering legal services to the economically disadvantaged, and those whose incomes and financial resources are slightly above the guidelines utilized by such programs but, nevertheless, cannot afford counsel. Legal services can be rendered to individuals or to organizations such as homeless shelters, battered women's centers, and food pantries that serve those of limited means. The term "governmental organizations" includes, but is not limited to, public protection programs and sections of governmental or public sector agencies.

[4] Because service must be provided without fee or expectation of fee, the intent of the lawyer to render free legal services is essential for the work performed to fall within the meaning of paragraphs (a)(1) and (2). Accordingly, services rendered cannot be considered pro bono if an anticipated fee is uncollected, but the award of statutory attorneys' fees in a case originally accepted as pro bono would not disqualify such services from inclusion under this section. Lawyers who do receive fees in such cases are encouraged to contribute an appropriate portion of such fees to organizations or projects that benefit persons of limited means.

[5] While it is possible for a lawyer to fulfill the annual responsibility to perform pro bono services exclusively through activities described in paragraphs (a)(1) and (2), to the extent that any hours of service remained unfulfilled, the remaining commitment can be met in a variety of ways as set forth in paragraph (b). Constitutional, statutory, or regulatory restrictions may prohibit or impede government and public sector lawyers and judges from performing the pro bono services outlined in paragraphs (a)(1) and (2) and paragraphs (b)(1) and (2). Accordingly, where those restrictions apply, government and public sector lawyers and judges may fulfill their pro bono responsibility by performing services outlined in paragraph (b)(3), to the extent permitted by such restrictions.

[6] Paragraph (b)(1) includes the provision of certain types of legal services to those whose incomes and financial resources place them above limited means. It also permits the pro bono lawyer to accept a substantially reduced fee for services. Examples of the types of issues that may be addressed under this paragraph include First Amendment claims, Title VII claims, and environmental protection claims. Additionally, a wide range of organizations may be represented, including social service, medical research, cultural, and religious groups.

[7] Paragraph (b)(2) covers instances in which lawyers agree to and receive a modest fee for furnishing legal services to persons of limited means. Participation in judicare programs and acceptance of court appointments in which the fee is substantially below a lawyer's usual rate are encouraged under this paragraph.

[8] Paragraph (b)(3) recognizes the value of lawyers engaging in activities that improve the law, the legal system or the legal profession. Serving on bar association committees, serving on boards of pro bono or legal services programs, taking part in Law Day activities, acting as a continuing legal education instructor, a mediator or an arbitrator, and engaging in legislative lobbying to improve the law, the legal system, or the profession are a few examples of the many activities that fall within this paragraph.

[9] Because the provision of pro bono services is a professional responsibility, it is the individual ethical commitment of each lawyer. Nevertheless, there may be times when it is not feasible for a lawyer to engage in pro bono services. At such times a lawyer may discharge the pro bono responsibility by providing financial support to organizations providing free legal services to persons of limited means. Such financial support should be reasonably equivalent to the value of the hours of service that would have otherwise been provided. In addition, at times it may be more feasible to satisfy the pro bono responsibility collectively, as by a firm's aggregate pro bono activities.

[10] Because the efforts of individual lawyers are not enough to meet the need for free legal services that exists among persons of limited means, the government and the profession have instituted additional programs to provide those services. Every lawyer should financially support such programs, in addition to either providing direct pro bono services or making financial contributions when pro bono service is not feasible.

[11] Law firms should act reasonably to enable and encourage all lawyers in the firm to provide the pro bono legal services called for by this rule.

[12] The responsibility set forth in this rule is not intended to be enforced through disciplinary process.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:6.2 ACCEPTING APPOINTMENTS

A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as:

(a) representing the client is likely to result in violation of the Iowa Rules of Professional Conduct or other law;

(b) representing the client is likely to result in an unreasonable financial burden on the lawyer; or

(c) the client or the cause is so repugnant to the lawyer as to be likely to impair the

client-lawyer relationship or the lawyer's ability to represent the client.

Comment

[1] A lawyer ordinarily is not obliged to accept a client whose character or cause the lawyer regards as repugnant. The lawyer's freedom to select clients is, however, qualified. All lawyers have a responsibility to assist in providing pro bono publico service. *See* rule 32:6.1. An individual lawyer fulfills this responsibility by accepting a fair share of unpopular matters or indigent or unpopular clients. A lawyer may also be subject to appointment by a court to serve unpopular clients or persons unable to afford legal services.

Appointed Counsel

[2] For good cause a lawyer may seek to decline an appointment to represent a person who cannot afford to retain counsel or whose cause is unpopular. Good cause exists if the lawyer could not handle the matter competently, *see* rule 32:1.1, or if undertaking the representation would result in an improper conflict of interest, for example, when the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client. A lawyer may also seek to decline an appointment if acceptance would be unreasonably burdensome, for example, when it would impose a financial sacrifice so great as to be unjust.

[3] An appointed lawyer has the same obligations to the client as retained counsel, including the obligations of loyalty and confidentiality, and is subject to the same limitations on the client-lawyer relationship, such as the obligation to refrain from assisting the client in violation of the rules.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:6.3 MEMBERSHIP IN LEGAL SERVICES ORGANIZATION

A lawyer may serve as a director, officer, or member of a legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests adverse to a client of the lawyer. The lawyer shall not knowingly participate in a decision or action of the organization:

(a) if participating in the decision or action would be incompatible with the lawyer's obligations to a client under rule 32:1.7; or

(b) where the decision or action could have a material adverse effect on the representation of a client of the organization whose interests are adverse to a client of the lawyer.

Comment

[1] Lawyers should be encouraged to support and participate in legal services organizations. A lawyer who is an officer or a member of such an organization does not thereby have a client-lawyer relationship with persons served by the organization. However, there is potential conflict between the interests of such persons and the interests of the lawyer's clients. If the possibility of such conflict disqualified a lawyer from serving on the board of a legal services organization, the profession's involvement in such organizations would be severely curtailed.

[2] It may be necessary in appropriate cases to reassure a client of the organization that the representation will not be affected by conflicting loyalties of a member of the board. Established, written policies in this respect can enhance the credibility of such assurances.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:6.4 LAW REFORM ACTIVITIES AFFECTING CLIENT INTERESTS

A lawyer may serve as a director, officer, or member of an organization involved in reform of the law or its administration notwithstanding that the reform may affect the interests of a client of the lawyer. When the lawyer knows that the interests of a client may be materially benefitted by a decision in which the lawyer participates, the lawyer shall disclose that fact but need not identify the client.

Comment

[1] Lawyers involved in organizations seeking law reform generally do not have a client-lawyer relationship with the organization. Otherwise, it might follow that a lawyer could not be involved in a bar association law reform program that might indirectly affect a client. *See also* rule 32:1.2(b). For example, a lawyer specializing in antitrust litigation might be regarded as disqualified from participating in drafting revisions of rules governing that subject. In determining the nature and scope of participation in such activities, a lawyer should be mindful of obligations to clients under other rules, particularly rule 32:1.7. A lawyer is professionally obligated to protect the integrity of the program by making an appropriate disclosure within the organization when the lawyer knows a private client might be materially benefitted.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:6.5 NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICES PROGRAMS

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to rules 32:1.7 and 32:1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to rule 32:1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by rule 32:1.7 or 32:1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), rule 32:1.10 is inapplicable to a representation governed by this rule.

Comment

[1] Legal services organizations, courts, and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services—such as advice or the completion of legal forms—that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics, or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. *See, e.g.,* rules 32:1.7, 32:1.9, and 32:1.10.

[2] A lawyer who provides short-term limited legal services pursuant to this rule must secure the client's informed consent to the limited scope of the representation. *See* rule 32:1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this rule, the Iowa Rules of Professional Conduct, including rules 32:1.6 and 32:1.9(c), are applicable to the limited representation.

[3] Because a lawyer who is representing a client in the circumstances addressed by this rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with rule 32:1.7 or 32:1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with rule 32:1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by rule 32:1.7 or 32:1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that rule 32:1.10 is inapplicable to a representation governed by this rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with rule 32:1.10 when the lawyer knows that the lawyer's firm is disqualified by rule 32:1.7 or 32:1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this rule, a lawyer

undertakes to represent the client in the matter on an ongoing basis, rules 32:1.7, 32:1.9(a), and 32:1.10 become applicable.
[Court Order April 20, 2005, effective July 1, 2005]

INFORMATION ABOUT LEGAL SERVICES

Rule 32:7.1 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

Comment

[1] This rule governs all communications about a lawyer's services, including advertising permitted by rule 32:7.2. Whatever means are used to make known a lawyer's services, statements about them must be truthful.

[2] Truthful statements that are misleading are also prohibited by this rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is also misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation.

[3] An advertisement that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case. Similarly, an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other lawyers may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison can be substantiated. The inclusion of an appropriate disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead the public.

[4] *See* rule 32:8.4(e) for the prohibition against stating or implying an ability to influence improperly a government agency or official or to achieve results by means that violate the Iowa Rules of Professional Conduct or other law.
[Court Order April 20, 2005, effective July 1, 2005; August 29, 2012, effective January 1, 2013]

Rule 32:7.2 ADVERTISING

(a) Subject to the requirements of rules 32:7.1 and 32:7.3, a lawyer may advertise services through written, recorded, or electronic communication, including public media.

(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may:

(1) pay the reasonable costs of advertisements or communications permitted by this rule;

(2) pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority;

(3) pay for a law practice in accordance with rule 32:1.17; and

(4) refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not otherwise prohibited under these rules that provides for the other person to refer clients or customers to the lawyer, if

(i) the reciprocal referral agreement is not exclusive, and

(ii) the client is informed of the existence and nature of the agreement.

(c) Any communication made pursuant to this rule shall include the name and office address of at least one lawyer or law firm responsible for its content.

Comment

[1] To assist the public in learning about and obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's need to know about legal services can be fulfilled in part through advertising. This need is particularly acute in the case of persons of moderate means who have not made extensive use of legal services. The interest in expanding public information about legal services ought to prevail over tradition. Nevertheless, advertising by lawyers entails the risk of practices that are misleading or overreaching.

[2] This rule permits public dissemination of information concerning a lawyer's name or firm name, address, email address, website, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; a lawyer's foreign language ability; names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance.

[3] Questions of effectiveness and taste in advertising are matters of speculation and subjective judgment. Some jurisdictions have had extensive prohibitions against television and other forms of advertising, against advertising going beyond specified facts about a lawyer, or against "undignified" advertising. Television, the internet, and other forms of electronic communication are now among the most powerful media for getting information to the public, particularly persons of low and moderate income; prohibiting television, the internet, and other forms of electronic advertising, therefore, would impede the flow of information about legal services to many sectors of the public. Limiting the information that may be advertised has a similar effect and assumes that the bar can accurately forecast the kind of information that the public would regard as relevant. But see rule 32:7.3(a) for the prohibition against a solicitation through a real-time electronic exchange initiated by the lawyer.

[4] Neither this rule nor rule 32:7.3 prohibits communications authorized by law, such as notice to members of a class in class action litigation.

Paying Others to Recommend a Lawyer

[5] Except as permitted under paragraphs (b)(1)-(b)(4), lawyers are not permitted to pay others for recommending the lawyer's services or for channeling professional work in a manner that violates rule 32:7.3. A communication contains a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, character, or other professional qualities. Paragraph (b)(1), however, allows a lawyer to pay for advertising and communications permitted by this rule, including the costs of print directory listings, on-line directory listings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, internet-based advertisements, and group advertising. A lawyer may compensate employees, agents, and vendors who are engaged to provide marketing or client development services, such as publicists, public-relations personnel, business-development staff, and website designers. Moreover, a lawyer may pay others for generating client leads, such as internet-based client leads, as long as the lead generator does not recommend the lawyer, any payment to the lead generator is consistent with rules 32:1.5(e) (division of fees) and 32:5.4 (professional independence of the lawyer), and the lead generator's communications are consistent with rule 32:7.1 (communications concerning a lawyer's services). To comply with rule 32:7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. *See also* rule 32:5.3 (duties of lawyers and law firms with respect to the conduct of nonlawyers); rule 32:8.4(a) (duty to avoid violating the rules through the acts of another).

[6] A lawyer may pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation. A lawyer referral service, on the other hand, is any organization that holds itself out to the public as a lawyer referral service. Such referral services are understood by the public to be consumer-oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements. Consequently, this rule only permits a lawyer to pay the usual charges of a

not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is one that is approved by an appropriate regulatory authority as affording adequate protections for the public.

[7] A lawyer who accepts assignments or referrals from a legal service plan or referrals from a lawyer referral service must act reasonably to assure that the activities of the plan or service are compatible with the lawyer's professional obligations. *See* rule 32:5.3. Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these rules. Thus, advertising must not be false or misleading, as would be the case if the communications of a group advertising program or a group legal services plan would mislead the public to think that it was a lawyer referral service sponsored by a state agency or bar association. Nor could the lawyer allow in-person, telephonic, or real-time contacts that would violate rule 32:7.3.

[8] A lawyer also may agree to refer clients to another lawyer or a nonlawyer professional, in return for the undertaking of that person to refer clients or customers to the lawyer. Such reciprocal referral arrangements must not interfere with the lawyer's professional judgment as to making referrals or as to providing substantive legal services. *See* rules 32:2.1 and 32:5.4(c). Except as provided in rule 32:1.5(e), a lawyer who receives referrals from a lawyer or nonlawyer professional must not pay anything solely for the referral, but the lawyer does not violate paragraph (b) of this rule by agreeing to refer clients to the other lawyer or nonlawyer professional, so long as the reciprocal referral agreement is not exclusive and the client is informed of the referral agreement. Conflicts of interest created by such arrangements are governed by rule 32:1.7. Reciprocal referral agreements should not be of indefinite duration and should be reviewed periodically to determine whether they comply with these rules. This rule does not restrict referrals or divisions of revenues or net income among lawyers within firms comprised of multiple entities.

[Court Order April 20, 2005, effective July 1, 2005; November 19, 2007; August 29, 2012, effective January 1, 2013]

Rule 32:7.3 SOLICITATION OF CLIENTS

(a) A lawyer shall not by in-person, live telephone, or real-time electronic contact solicit professional employment when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted:

(1) is a lawyer; or

(2) has a family, close personal, or prior professional relationship with the lawyer.

(b) A lawyer shall not solicit professional employment by written, recorded, or electronic communication or by in-person, telephone, or real-time electronic contact even when not otherwise prohibited by paragraph (a), if:

(1) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or

(2) the solicitation involves coercion, duress, or harassment.

(c) Every written, recorded, or electronic communication from a lawyer soliciting professional employment from anyone known to be in need of legal services in a particular matter shall include the words "Advertising Material" on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2).

(d) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

Comment

[1] A solicitation is a targeted communication initiated by the lawyer that is directed to a specific person and that offers to provide, or can reasonably be understood as offering to provide, legal services. In contrast, a lawyer's communication typically does not constitute a solicitation if it is directed to the general public, such as through a billboard, an internet banner advertisement, a website or a television commercial, or if it is in response to a request for information or is automatically generated in response to internet searches.

[2] There is a potential for abuse when a solicitation involves direct in-person, live telephone, or real-time electronic contact by a lawyer with someone known to need legal services. These forms of contact subject a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult fully to evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon being retained immediately. The situation is fraught with the possibility of undue influence, intimidation, and over-reaching.

[3] This potential for abuse inherent in direct in-person, live telephone, or real-time electronic solicitation justifies its prohibition, particularly since lawyers have alternative means of conveying necessary information to those who may be in need of legal services. In particular, communications can be mailed or transmitted by email or other electronic means that do not involve real-time contact and do not violate other laws governing solicitations. These forms of communications and solicitations make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to direct in-person, telephone, or real-time electronic persuasion that may overwhelm a person's judgment.

[4] The use of general advertising and written, recorded or electronic communications to transmit information from lawyer to the public, rather than direct in-person, live telephone, or real-time electronic contact, will help to assure that the information flows cleanly as well as freely. The contents of advertisements and communications permitted under rule 32:7.2 can be permanently recorded so that they cannot be disputed and may be shared with others who know the lawyer. This potential for informal review is itself likely to help guard against statements and claims that might constitute false and misleading communications, in violation of rule 32:7.1. The contents of direct in-person, live telephone, or real-time electronic contact can be disputed and may not be subject to third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.

[5] There is far less likelihood that a lawyer would engage in abusive practices against a former client, or a person with whom the lawyer has close personal or family relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for abuse when the person contacted is a lawyer. Consequently, the general prohibition in rule 32:7.3(a) and the requirements of rule 32:7.3(c) are not applicable in those situations. Also, paragraph (a) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal service organizations or bona fide political, social, civic, fraternal, employee, or trade organizations whose purposes include providing or recommending legal services to their members or beneficiaries.

[6] But even permitted forms of solicitation can be abused. Thus, any solicitation which contains information which is false or misleading within the meaning of rule 32:7.1, which involves coercion, duress, or harassment within the meaning of rule 32:7.3(b)(2), or which involves contact with someone who has made known to the lawyer a desire not to be solicited by the lawyer within the meaning of rule 32:7.3(b)(l) is prohibited. Moreover, if after sending a letter or other communication as permitted by rule 32:7.2 the lawyer receives no response, any further effort to communicate with the recipient of the communication may violate the provisions of rule 32:7.3(b).

[7] This rule is not intended to prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries, or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement, which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to people who are seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. Under these circumstances, the activity which the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under rule 32:7.2.

[8] The requirement in rule 32:7.3(c) that certain communications be marked "Advertising Material" does not apply to communications sent in response to requests of potential clients or their spokespersons or sponsors. General announcements by lawyers, including changes in personnel or office location, do not constitute communications soliciting professional employment from a client known to be in need of legal services within the meaning of this rule.

[9] Paragraph (d) of this rule permits a lawyer to participate with an organization which uses personal contact to solicit members for its group or prepaid legal service plan, provided that the personal contact is not undertaken by any lawyer who would be a provider of legal services through the plan. The organization must not be owned by or directed (whether as manager or otherwise) by any lawyer or law firm that participates in the plan. For example, paragraph (d) would not permit a lawyer to create an organization controlled directly or indirectly by the lawyer and use the organization for the in-person or telephone solicitation of legal employment of the lawyer through memberships in the plan or otherwise. The communication permitted by these organizations also must not be directed to a person known to need legal services in a particular matter, but is to be designed to inform potential plan members generally of another means of affordable legal services. Lawyers who participate in a legal service plan must reasonably assure that the plan sponsors are in compliance with rules 32:7.1, 32:7.2, and 32:7.3(b). *See* 32:8.4(a).
[Court Order April 20, 2005, effective July 1, 2005; August 29, 2012, effective January 1, 2013]

Rule 32:7.4 COMMUNICATION OF FIELDS OF PRACTICE AND SPECIALIZATION

(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.

(b) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation.

(c) A lawyer engaged in Admiralty practice may use the designation "Admiralty," "Proctor in Admiralty," or a substantially similar designation.

(d) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:

(1) the lawyer has been certified as a specialist by an organization or state authority that the attorney can demonstrate is qualified to grant such certification to attorneys who meet objective and consistently applied standards relevant to practice in a particular area of law;

(2) the name of the certifying organization is clearly identified in the communication;

(3) the reference to the certification must be truthful and verifiable and may not be misleading in violation of rule 32:7.1; and

(4) the representation by the lawyer that he or she is certified as a specialist states that the Supreme Court of Iowa does not certify lawyers as specialists in the practice of law and that certification is not a requirement to practice law in the State of Iowa.

Comment

[1] Paragraph (a) of this rule permits a lawyer to indicate areas of practice in communications about the lawyer's services. If a lawyer practices only in certain fields, or will not accept matters except in a specified field or fields, the lawyer is permitted to so indicate. A lawyer is generally permitted to state that the lawyer is a "specialist," practices a "specialty," or "specializes in" particular fields, but such communications are subject to the "false and misleading" standard applied in rule 32:7.1 to communications concerning a lawyer's services.

[2] Paragraph (b) recognizes the long-established policy of the Patent and Trademark Office for the designation of lawyers practicing before the Office. Paragraph (c) recognizes that designation of Admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.

[3] Paragraph (d) permits a lawyer to state that the lawyer is certified as a specialist in a field of law if such certification is granted by an organization or state authority that uses objective and consistently applied standards relevant to practice in a particular area of law. Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations are expected to apply standards of experience, knowledge, and proficiency to insure that a lawyer's recognition as a specialist is meaningful and reliable. In order to insure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification. Any reference that

the lawyer is certified as a specialist must be verifiable, meet the requirements of rule 32:7.1, and include the disclaimer as required by paragraph (d)(4) of this rule.
[Court Order April 20, 2005, effective July 1, 2005; March 12, 2007; November 19, 2007; March 12, 2012; August 29, 2012, effective January 1, 2013]

Rule 32:7.5 FIRM NAMES AND LETTERHEADS

(a) A lawyer shall not use a firm name, letterhead, or other professional designation that violates rule 32:7.1. A trade name or uniform resource locator (URL) may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of rule 32:7.1.

(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

(e) Every letterhead, sign, advertisement, card, or other place where a trade name or URL is communicated to the public, where the trade name or URL is more than a minor variation of the official name of the lawyer, firm, or organization, shall display the name and address of one or more of its principally responsible lawyers licensed to practice in Iowa.

Comment

[1] A firm may be designated by the names of all or some of its members, by the names of deceased or retired members where there has been a continuing succession in the firm's identity, by the name as it appears on a lawyer's current license to practice, or by a trade name such as the "ABC Legal Clinic." A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation. Use of trade names in law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that includes a geographical name such as "Sioux City Legal Clinic," an express disclaimer that it is not a public legal aid agency may be required to avoid a misleading implication. The use of the phrase "Legal Aid" for other than a non-profit legal aid agency is not permissible. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm, or the name of a nonlawyer.

[2] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for that title suggests that they are practicing law together in a firm.
[Court Order April 20, 2005, effective July 1, 2005; August 29, 2012, effective January 1, 2013]

Rule 32:7.6 POLITICAL CONTRIBUTIONS TO OBTAIN GOVERNMENT LEGAL ENGAGEMENTS OR APPOINTMENTS BY JUDGES

A lawyer or law firm shall not accept a government legal engagement or an appointment by a judge if the lawyer or law firm makes a political contribution or solicits political contributions for the purpose of obtaining or being considered for that type of legal engagement or appointment.

Comment

[1] Lawyers have a right to participate fully in the political process, which includes making and soliciting political contributions for judicial retention election and other public office. Nevertheless, when lawyers make or solicit political contributions in order to obtain an engagement for legal work awarded by a government agency, or to obtain appointment by a judge, the public may legitimately

question whether the lawyers engaged to perform the work are selected on the basis of competence and merit. In such a circumstance, the integrity of the profession is undermined.

[2] The term "political contribution" denotes any gift, subscription, loan, advance, or deposit of anything of value made directly or indirectly to a candidate, incumbent, political party, or campaign committee to influence or provide financial support for retention in a judicial election or election to other government office. Political contributions in initiative and referendum elections are not included. For purposes of this rule, the term "political contribution" does not include uncompensated services.

[3] Subject to the exceptions below, (i) the term "government legal engagement" denotes any engagement to provide legal services that a public official has the direct or indirect power to award; and (ii) the term "appointment by a judge" denotes an appointment to a position such as referee, commissioner, special master, receiver, guardian, or other similar position that is made by a judge. Those terms do not, however, include (a) substantially uncompensated services; (b) engagements or appointments made on the basis of experience, expertise, professional qualifications, and cost following a request for proposal or other process that is free from influence based upon political contributions; and (c) engagements or appointments made on a rotational basis from a list compiled without regard to political contributions.

[4] The term "lawyer or law firm" includes a political action committee or other entity owned or controlled by a lawyer or law firm.

[5] Political contributions are for the purpose of obtaining or being considered for a governmental legal engagement or appointment by a judge if, but for the desire to be considered for the legal engagement or appointment, the lawyer or law firm would not have made or solicited the contributions. The purpose may be determined by an examination of the circumstances in which the contributions occur. For example, one or more contributions that in the aggregate are substantial in relation to other contributions by lawyers or law firms, made for the benefit of an official in position to influence award of a government legal engagement, and followed by an award of the legal engagement to the contributing or soliciting lawyer or the lawyer's firm would support an inference that the purpose of the contributions was to obtain the engagement, absent other factors that weigh against existence of the proscribed purpose. Those factors may include among others that the contribution or solicitation was made to further a political, social, or economic interest or because of an existing personal, family, or professional relationship with a candidate.

[6] If a lawyer makes or solicits a political contribution under circumstances that constitute bribery or another crime, rule 32:8.4(b) is implicated.

[Court Order April 20, 2005, effective July 1, 2005; August 29, 2012, effective January 1, 2013]

MAINTAINING THE INTEGRITY OF THE PROFESSION

Rule 32:8.1 BAR ADMISSION AND DISCIPLINARY MATTERS

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(a) knowingly make a false statement of material fact; or

(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by rule 32:1.6 or Iowa Code section 622.10.

Comment

[1] The duty imposed by this rule extends to persons seeking admission to the bar as well as to lawyers. Hence, if a person makes a material false statement in connection with an application for admission, it may be the basis for subsequent disciplinary action if the person is admitted, and in any event may be relevant in a subsequent admission application. The duty imposed by this rule applies to a lawyer's own admission or disciplinary matter as well as that of others. Thus, it is a separate professional offense for a lawyer to knowingly make a misrepresentation or omission in connection with a disciplinary investigation of the lawyer's own conduct. Paragraph (b) of this rule also requires correction of any prior misstatement in the matter that the applicant or lawyer may have made and affirmative clarification of any misunderstanding on the part of the admissions or

disciplinary authority of which the person involved becomes aware.

[2] This rule is subject to the provisions of the Fifth Amendment of the United States Constitution and corresponding provisions of state constitutions. A person relying on such a provision in response to a question, however, should do so openly and not use the right of nondisclosure as a justification for failure to comply with this rule.

[3] A lawyer representing an applicant for admission to the bar, or representing a lawyer who is the subject of a disciplinary inquiry or proceeding, is governed by the rules applicable to the client-lawyer relationship, including rule 32:1.6, Iowa Code section 622.10, and, in some cases, rule 32:3.3.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:8.2 JUDICIAL AND LEGAL OFFICIALS

(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer, or public legal officer, or of a candidate for election or appointment to judicial or legal office.

(b) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct.

Comment

[1] Assessments by lawyers are relied on in evaluating the professional or personal fitness of persons being considered for election or appointment to judicial office and to public legal offices, such as attorney general, prosecuting attorney, and public defender. Expressing honest and candid opinions on such matters contributes to improving the administration of justice. Conversely, false statements by a lawyer can unfairly undermine public confidence in the administration of justice.

[2] When a lawyer seeks judicial office, the lawyer should be bound by applicable limitations on political activity.

[3] To maintain the fair and independent administration of justice, lawyers are encouraged to continue traditional efforts to defend judges and courts unjustly criticized.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:8.3 REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer who knows that another lawyer has committed a violation of the Iowa Rules of Professional Conduct shall inform the appropriate professional authority.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct shall inform the appropriate authority.

(c) This rule does not require disclosure of information otherwise protected by rule 32:1.6 or Iowa Code section 622.10 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.

Comment

[1] Self-regulation of the legal profession requires that members of the profession initiate disciplinary investigation when they know of a violation of the Iowa Rules of Professional Conduct. Lawyers have a similar obligation with respect to judicial misconduct. An apparently isolated violation may indicate a pattern of misconduct that only a disciplinary investigation can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.

[2] A report about misconduct is not required where it would involve violation of rule 32:1.6 or Iowa Code section 622.10. However, a lawyer should encourage a client to consent to disclosure where prosecution of the professional misconduct would not substantially prejudice the client's interests.

[3] (Reserved)

[4] The duty to report professional misconduct does not apply to a lawyer retained to represent a lawyer whose professional conduct is in question. Such a situation is governed by the rules applicable to the client-lawyer relationship and Iowa Code section 622.10.

[5] Information about a lawyer's or judge's misconduct or fitness may be received by a lawyer in the course of that lawyer's participation in an approved lawyers or judges assistance program. In that circumstance, providing for an exception to the reporting requirements of paragraphs (a) and (b) of this rule encourages lawyers and judges to seek treatment through such a program. Conversely, without such an exception, lawyers and judges may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public. These rules do not otherwise address the confidentiality of information received by a lawyer or judge participating in an approved lawyers assistance program; such an obligation, however, may be imposed by the rules of the program or other law.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Iowa Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Iowa Rules of Professional Conduct or other law;

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or

(g) engage in sexual harassment or other unlawful discrimination in the practice of law or knowingly permit staff or agents subject to the lawyer's direction and control to do so.

Comment

[1] Lawyers are subject to discipline when they violate or attempt to violate the Iowa Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Paragraph (a), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

[2] Illegal conduct can reflect adversely on fitness to practice law. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

[3] A lawyer who, in the course of representing a client, knowingly manifests, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule. For another reference to discrimination as professional misconduct, see paragraph (g).

[4] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of rule 32:1.2(d) concerning a good faith challenge to the validity, scope, meaning, or application of the law apply to challenges of legal regulation of the practice of law.

[5] Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of a lawyer. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent, and officer, director, or manager of a corporation or other organization.

[6] It is not professional misconduct for a lawyer to advise clients or others about or to supervise or participate in lawful covert activity in the investigation of violations of civil or criminal law or constitutional rights or in lawful intelligence-gathering activity, provided the lawyer's conduct is otherwise in compliance with these rules. "Covert activity" means an effort to obtain information on unlawful activity through the use of misrepresentations or other subterfuge. Covert activity may be commenced by a lawyer or involve a lawyer as an advisor or supervisor only when the lawyer in

good faith believes there is a reasonable possibility that unlawful activity has taken place, is taking place, or will take place in the foreseeable future. Likewise, a government lawyer who supervises or participates in a lawful covert operation which involves misrepresentation or deceit for the purpose of gathering relevant information, such as law enforcement investigation of suspected illegal activity or an intelligence-gathering activity, does not, without more, violate this rule.
[Court Order April 20, 2005, effective July 1, 2005]

Rule 32:8.5 DISCIPLINARY AUTHORITY; CHOICE OF LAW

(a) Disciplinary Authority. A lawyer admitted to practice in Iowa is subject to the disciplinary authority of Iowa, regardless of where the lawyer's conduct occurs. A lawyer not admitted in Iowa is also subject to the disciplinary authority of Iowa if the lawyer provides or offers to provide any legal services in Iowa. A lawyer may be subject to the disciplinary authority of both Iowa and another jurisdiction for the same conduct.

(b) Choice of Law. In any exercise of the disciplinary authority of Iowa, the rules of professional conduct to be applied shall be as follows:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

Comment

Disciplinary Authority

[1] It is longstanding law that the conduct of a lawyer admitted to practice in Iowa is subject to the disciplinary authority of Iowa. Extension of the disciplinary authority of Iowa to other lawyers who provide or offer to provide legal services in Iowa is for the protection of the citizens of Iowa. Reciprocal enforcement of a jurisdiction's disciplinary findings and sanctions will further advance the purposes of this rule. *See* Iowa Ct. R. 35.19. A lawyer who is subject to Iowa's disciplinary authority under rule 32:8.5(a) appoints the Clerk of the Supreme Court of Iowa to receive service of process with respect to Iowa disciplinary matters. The fact that the lawyer is subject to the disciplinary authority of Iowa may be a factor in determining whether personal jurisdiction may be asserted over the lawyer for civil matters.

Choice of law

[2] A lawyer may be potentially subject to more than one set of rules of professional conduct which impose different obligations. The lawyer may be licensed to practice in more than one jurisdiction with differing rules, or may be admitted to practice before a particular court with rules that differ from those of the jurisdiction or jurisdictions in which the lawyer is licensed to practice. Additionally, the lawyer's conduct may involve significant contacts with more than one jurisdiction.

[3] Paragraph (b) seeks to resolve such potential conflicts. Its premise is that minimizing conflicts between rules, as well as uncertainty about which rules are applicable, is in the best interest of both clients and the profession (as well as the bodies having authority to regulate the profession). Accordingly, it takes the approach of (i) providing that any particular conduct of a lawyer shall be subject to only one set of rules of professional conduct, (ii) making the determination of which set of rules applies to particular conduct as straightforward as possible, consistent with recognition of appropriate regulatory interests of relevant jurisdictions, and (iii) providing protection from discipline for lawyers who act reasonably in the face of uncertainty.

[4] Paragraph (b)(1) provides that as to a lawyer's conduct relating to a proceeding pending before a tribunal, the lawyer shall be subject only to the rules of the jurisdiction in which the tribunal sits unless the rules of the tribunal, including its choice of law rule, provide otherwise. As to all other conduct, including conduct in anticipation of a proceeding not yet pending before a tribunal, paragraph (b)(2) provides that a lawyer shall be subject to the rules of the jurisdiction in which the

lawyer's conduct occurred, or, if the predominant effect of the conduct is in another jurisdiction, the rules of that jurisdiction shall be applied to the conduct. In the case of conduct in anticipation of a proceeding that is likely to be before a tribunal, the predominant effect of such conduct could be where the conduct occurred, where the tribunal sits, or in another jurisdiction.

[5] When a lawyer's conduct involves significant contacts with more than one jurisdiction, it may not be clear whether the predominant effect of the lawyer's conduct will occur in a jurisdiction other than the one in which the conduct occurred. So long as the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect will occur, the lawyer shall not be subject to discipline under this rule.

[6] If two admitting jurisdictions were to proceed against a lawyer for the same conduct, they should, in applying this rule, identify the same governing ethics rules. They should take all appropriate steps to see that they do apply the same rule to the same conduct, and in all events should avoid proceeding against a lawyer on the basis of two inconsistent rules.

[7] The choice of law provision applies to lawyers engaged in transnational practice, unless international law, treaties, or other agreements between competent regulatory authorities in the affected jurisdictions provide otherwise.

[Court Order April 20, 2005, effective July 1, 2005; February 20, 2012]

CHAPTER 34
ADMINISTRATIVE AND GENERAL PROVISIONS

GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

ATTORNEY DISCIPLINARY BOARD

GENERAL DISCIPLINARY RULES OF GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

REINSTATEMENT AND READMISSION

CHAPTER 34
ADMINISTRATIVE AND GENERAL PROVISIONS

GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

Rule 34.1 Iowa Supreme Court Grievance Commission.

34.1(1) There is hereby created the Iowa Supreme Court Grievance Commission (grievance commission) consisting of 25 attorneys from judicial election district 5C, 15 attorneys from judicial election district 5A, 10 attorneys from judicial election district 6, and 5 attorneys from each other judicial election district, to be appointed by the supreme court. The supreme court will designate one attorney as grievance commission chair. The supreme court will accept nominations for appointment to the grievance commission from any association of attorneys that maintains an office within the State of Iowa or any attorney licensed in Iowa. The grievance commission also consists of no fewer than 5 or more than 45 laypersons appointed by the court. Members must serve no more than two three-year terms, and no member who has served two full terms is eligible for reappointment. A member serving as a primary or alternate member of a division of the grievance commission at the time the member's regular term ends must, nonetheless, continue to serve on that division until the division has concluded its duties with respect to the complaint for which the division was appointed.

34.1(2) Grievance commission members are referred to as commissioners. The grievance commission or a duly appointed division of the grievance commission must hold hearings and receive evidence concerning alleged violations, wherever such violations occur, of the Iowa Rules of Professional Conduct, the laws of the United States, and the laws of the State of Iowa or any other state or territory within their respective jurisdictions, by attorneys within the jurisdiction of the grievance commission as described in rule 34.10. The grievance commission has such other powers and duties as these rules provide.

34.1(3) A grievance commission member must not represent, in any stage of an investigative or disciplinary proceeding, any attorney against whom an ethical complaint is filed. A grievance commission member may represent an attorney in a malpractice, criminal, or other matter; however, the member must decline representation of the attorney in any stage of the investigative or disciplinary proceeding and must not participate in any hearing or other proceeding before the grievance commission. These prohibitions extend to attorneys associated in a firm with a grievance commission member with respect to those cases in which the member participates or has participated as a member of a division or as an alternate.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.1 formerly appeared at Iowa Court Rule 35.1. It is amended to delete the requirement for annual designation of the grievance commission chair. The requirement for administrative committee review of the annual grievance commission budget also is removed. Responsibility for formulation and submission of the annual budget for the grievance commission is addressed in chapter 49 of the Iowa Court Rules. Jurisdictional requirements are deleted from the rule and replaced by a reference to the new jurisdiction provision in rule 34.10. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.2 Grievance commission; vice chair duties. The director of the office of professional regulation must designate a clerk and an assistant clerk for the grievance commission. The director of the office of professional regulation and the grievance commission chair must designate a vice chair. In the chair's absence or inability to act, the vice chair must perform all duties of the chair.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.2 formerly appeared as Iowa Court Rule 36.1. It is amended to remove the specific designation of the assistant director for boards and commissions as the grievance commission clerk to provide more flexibility in assignment of duties within the office of professional regulation. The provision for short-form references to the grievance commission is moved to rule 34.1(1). [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.3 Substitutions and vacancies on the grievance commission.

34.3(1) In the absence of the grievance commission chair and vice chair or inability of the chair and vice chair to perform any of the duties provided in this chapter, the director of the office of professional regulation may designate some other member as acting chair to perform the duties.

34.3(2) In the absence or inability of a division president to perform any of the duties provided in this chapter, the chair may designate some other member as acting president to perform the duties. If a vacancy occurs in any division from any cause, the chair, vice chair, or acting chair of the grievance commission must fill the vacancy.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.3 formerly appeared as Iowa Court Rule 36.16. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.4 Confidentiality of grievance commission.

34.4(1) All records, papers, proceedings, meetings, and hearings of the grievance commission are confidential unless the grievance commission recommends that the supreme court reprimand the respondent or suspend or revoke the respondent's license.

34.4(2) If the grievance commission recommends that the supreme court reprimand the respondent or suspend or revoke the respondent's license, the grievance commission's report of reprimand or recommendation for license suspension or revocation is a public document upon its filing with the supreme court clerk. In addition, if the grievance commission recommends the supreme court reprimand the respondent or suspend or revoke the respondent's license, the complaint filed with the grievance commission by the Iowa Supreme Court Attorney Disciplinary Board is a public document.

34.4(3) Any other records and papers of the grievance commission concerning any complaint 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 respondent, the attorneys, or the attorneys' agents involved in the proceeding before the grievance commission. The respondent, the attorneys, or the attorneys' agents involved in the proceeding before the grievance commission must not disclose any records and papers of the grievance commission concerning any complaint to any third parties unless disclosure is required in the prosecution or defense of disciplinary charges. The confidential records and papers of the grievance commission concerning any complaint are not admissible in evidence in a judicial or administrative proceeding other than the formal grievance commission hearing under Iowa Court Rule 36.17.

34.4(4) Every witness in every proceeding under this chapter must swear or affirm to tell the truth and not to disclose the existence of the proceeding or the identity of the respondent until the proceeding is no longer confidential.

34.4(5) All communications, papers, and materials concerning any complaint that may come into the hands of a grievance commission member must remain confidential, and the member must keep them in a safe and secure place.

34.4(6) The grievance commission clerk, the chair, or a grievance commission member the chair designates may issue one or more clarifying announcements when the subject matter of a complaint is of broad public interest and failure to supply information on the status and nature of the formal proceedings could threaten public confidence in the administration of justice. No other grievance commission member may make any public statement concerning any matter before the grievance commission without prior approval of the grievance commission.

34.4(7) Nothing in this chapter prohibits the grievance commission from releasing any information regarding possible criminal violations to appropriate law enforcement authorities, wherever located, or to attorney disciplinary and bar admission authorities in other jurisdictions, or from releasing any information regarding possible violations of the Iowa Code of Judicial Conduct to the Commission on Judicial Qualifications.

34.4(8) For purposes of this rule, a grievance commission recommendation that a respondent not licensed to practice law in Iowa be publicly censured or reprimanded or be ordered, enjoined, or otherwise directed not to practice law in Iowa for any period of time is deemed the equivalent of a recommendation to reprimand, suspend, or revoke.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.4 formerly appeared as Iowa Court Rule 36.18. Rule 34.4(8) is added to clarify application of the public disclosure rule to commission recommendations in cases involving respondents not licensed in Iowa. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.5 Retention of grievance commission records.

34.5(1) The grievance commission must permanently retain the complaint, answer, amendments to the complaint and answer, and the grievance commission recommendation for discipline or other disposition for each grievance case. Grievance commission files and records relating to a grievance complaint otherwise may be destroyed after the death of the respondent. For purposes of this rule, destruction of paper records after the records have been transferred to computer storage is permitted immediately after the transfer.

34.5(2) Notwithstanding any required destruction of documents, the grievance commission will permanently maintain a summary of all grievance matters containing the name of the respondent attorney, the disposition, and the respective dates on which the matter was opened and closed.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.5 formerly appeared as Iowa Court Rule 36.19. [Court Order January 26, 2016, effective April 1, 2016]

ATTORNEY DISCIPLINARY BOARD

Rule 34.6 Iowa Supreme Court Attorney Disciplinary Board.

34.6(1) There is hereby created the Iowa Supreme Court Attorney Disciplinary Board (disciplinary board). The disciplinary board consists of nine attorney members and three laypersons appointed by the supreme court. The supreme court will designate one of the attorneys as chair. The disciplinary board may appoint a vice chair who must perform all duties of the chair in the chair's absence or inability to act. The supreme court will accept nominations for appointment to the disciplinary board from any association of attorneys that maintains an office within the State of Iowa or any attorney licensed in Iowa. Members may serve no more than two three-year terms, and no member who has served two full terms is eligible for reappointment. Disciplinary board members are appointed commissioners of the supreme court to initiate or receive and process complaints against any attorney within the jurisdiction of the disciplinary board as described in rule 34.10. Upon completion of any investigation, the board must either dismiss the complaint, admonish or reprimand the attorney, or file and prosecute the complaint before the grievance commission or any grievance commission division. The disciplinary board may additionally refer complaints involving attorneys who are not authorized to practice law in Iowa to the commission on the unauthorized practice of law.

34.6(2) A disciplinary board member must not represent, in any stage of an investigative or disciplinary proceeding, any attorney against whom an ethical complaint is filed. To avoid even the appearance of impropriety, a disciplinary board member should not represent any attorney in any malpractice, criminal, or other matter when it appears that the filing of an ethical complaint against that attorney is reasonably likely. These prohibitions extend to attorneys associated in a firm with a disciplinary board member.

34.6(3) The assistant director for attorney discipline of the office of professional regulation is the principal executive officer of the board. A reference in this chapter to the "assistant director" refers to the assistant director for attorney discipline of the office of professional regulation. The assistant director is responsible to the disciplinary board, to the director of the office of professional regulation, and to the supreme court for proper administration of these rules. Subject to the approval of the supreme court, the disciplinary board may employ such other persons as it deems necessary for the proper administration of this chapter. The assistant director and other disciplinary board employees will receive such compensation and expenses as the supreme court may fix upon recommendation of the director of the office of professional regulation.

34.6(4) The director of the office of professional regulation must, at least 60 days prior to the start of each fiscal year or on a date otherwise specified by the supreme court, submit to the supreme court for its consideration and approval a budget covering the operations of the disciplinary board for the upcoming fiscal year. This budget must include proposed expenditures for staff, support staff, office space, equipment, supplies, and other items necessary to administer the responsibilities of the disciplinary board as set out in this chapter. Supreme court approval of the budget authorizes payment as provided in the budget. A separate bank account designated as the ethics operating account of the disciplinary fund must be maintained for payment of authorized expenditures as provided in the approved budget. Funds derived from the annual disciplinary fee set out in Iowa Court Rule 39.5 must be deposited in the ethics operating account to the extent the supreme court authorizes each year for payment of the disciplinary board's authorized expenditures.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.6 formerly appeared as Iowa Court Rule 35.2. It is amended to delete the requirement for annual designation of the disciplinary board chair. The requirement for an administrative committee for review and submission of the annual disciplinary board budget also is removed. Responsibility for formulation and submission of the annual budget for the disciplinary board is placed with the director of the office or professional regulation, which is consistent with the budget provisions for other boards and commissions of the office of professional regulation in chapter 49 of the Iowa Court Rules. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.7 Disciplinary board advisory opinions prohibited. The disciplinary board must not render advisory opinions, either orally or in writing.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.7 is adapted from rule 4C of the ABA Model Rules for Lawyer Disciplinary Enforcement. The supreme court adopted a similar prohibition for the disciplinary board in 2005. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.8 Retention of disciplinary board records.

34.8(1) The disciplinary board must maintain files and records relating to allegations of misconduct by an attorney until destruction is authorized pursuant to the following schedule:

a. Files and records relating to potential complaints the assistant director declines to open pursuant to Iowa Court Rule 35.4(1) may be destroyed one year from the date of the last action on the file.

b. Files and records relating to complaints the disciplinary board dismisses may be destroyed five years from the date of the last action on the file.

c. All other files and records relating to allegations of respondent misconduct may be destroyed after death of the respondent.

d. For purposes of this rule, destruction of paper files is permitted immediately after the files have been transferred to computer storage.

34.8(2) Notwithstanding any required destruction of documents, the disciplinary board must permanently maintain a summary of all complaint matters containing the name of the complainant and the respondent, the disposition of the complaint, and the respective dates on which the complaint was opened and closed.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.8 formerly appeared as Iowa Court Rule 35.29. [Court Order January 26, 2016, effective April 1, 2016]

GENERAL DISCIPLINARY RULES OF GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

Rule 34.9 Effective dates. The rules in chapters 34, 35, and 36 of the Iowa Court Rules apply prospectively and retrospectively to all alleged violations, complaints, hearings, and dispositions on which a hearing has not actually commenced before the grievance commission prior to April 1, 2016.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.9 formerly appeared as Iowa Court Rule 35.26. It is amended to make clear its application to all three chapters. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.10 Jurisdiction.

34.10(1) *Attorneys admitted to practice.* Any attorney admitted to practice law in the State of Iowa, including any formerly admitted attorney with respect to acts committed prior to suspension, disbarment, retirement, or transfer to inactive status or with respect to subsequent acts that amount to the practice of law or constitute a violation of the rules of this chapter or of the Iowa Rules of Professional Conduct or of any rules or code the supreme court subsequently adopts in lieu thereof, any attorney an Iowa court specially admits for a particular proceeding, and any attorney not admitted in Iowa who practices law or renders or offers to render any legal services in Iowa is subject to the disciplinary jurisdiction of the Iowa Supreme Court, the disciplinary board, and the grievance commission.

34.10(2) *Former judges.* A former judge who has resumed the status of an attorney is subject to the jurisdiction of the disciplinary board and the grievance commission not only for conduct as an attorney but also for misconduct that occurred while the attorney was a judge and that would have been grounds for discipline under the rules of professional conduct for attorneys, provided that the misconduct was not the subject of a judicial disciplinary proceeding as to which the Iowa Supreme Court has reached a final determination.

34.10(3) *Incumbent judges.* Incumbent judges are not subject to the jurisdiction of the disciplinary board or the grievance commission. However, if an incumbent judge is to be removed from office in the course of a judicial discipline or disability proceeding, the supreme court will first provide the disciplinary board and the respondent an opportunity to submit a recommendation regarding whether attorney discipline should be imposed, and if so, the extent of the discipline.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.10 is adapted from rule 6 of the ABA Model Rules for Lawyer Disciplinary Enforcement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.11 Reserved.

Rule 34.12 Immunity.

34.12(1) Complaints submitted to the grievance commission or the disciplinary board and testimony regarding the complaints are privileged, and no lawsuit may be based on the complaints or testimony.

34.12(2) Claims against members of the grievance commission, the disciplinary board, the director, assistant directors, or the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

34.12(3) On application from the disciplinary board or the grievance commission and notice to the appropriate prosecuting authority, the supreme court may grant immunity from criminal prosecution to a witness in a disciplinary or disability proceeding.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rules 34.12(1) and 34.12(2) formerly appeared at Iowa Court Rule 35.24. Rule 34.12(3) is adapted from rule 12B of the ABA Model Rules for Lawyer Disciplinary Enforcement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.13 Reports. The chair of the grievance commission and the chair of the disciplinary board must, on or before March 1 of each year, submit to the supreme court a consolidated report of the number of complaints received and processed during the prior calendar year, a synopsis of each complaint, and the disposition of the complaint. The name of the attorney charged and the name of the complainant must be omitted.

[Court Order January 26, 2016, effective April 1, 2016; July 24, 2019, effective August 1, 2019]

COMMENT: Rule 34.13 formerly appeared as Iowa Court Rule 35.25. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.14 Interim suspension for threat of harm.

34.14(1) Upon receipt of evidence demonstrating probable cause that an attorney subject to the disciplinary jurisdiction of the supreme court has committed a violation of the Iowa Rules of Professional Conduct that poses a substantial threat of serious harm to the public, the disciplinary board must do the following:

a. Transmit the evidence to the supreme court with a verified petition for interim suspension pending formal disciplinary proceedings. The petition must state with particularity the disciplinary rules the attorney is alleged to have violated and the exact nature of the threat of serious harm to the public.

b. Promptly notify the attorney by any reasonable means that a petition has been filed and provide service of the petition.

34.14(2) Upon receipt of the petition and evidence, the supreme court will determine whether the disciplinary board has established by a convincing preponderance of the evidence that a disciplinary violation posing a substantial threat of serious harm to the public exists. If a disciplinary violation is established, the supreme court may enter an order immediately suspending the attorney pending final disposition of a disciplinary proceeding based on the conduct, or the court may order such other action as it deems appropriate. The order may provide that any further proceedings based on the attorney's conduct be expedited. If the supreme court enters a suspension order, the court may direct the chief judge of the judicial district in which the attorney practiced to appoint a trustee under rule 34.18.

34.14(3) An attorney suspended pursuant to this rule may file a petition to dissolve or modify the interim suspension order. The attorney must serve the petition on the disciplinary board's counsel and the chief judge of the judicial district in which the attorney practiced. The supreme court will promptly schedule the matter for hearing before one or more justices. The hearing must be set for a date no sooner than seven days after the petition is filed unless both parties and the court agree to an earlier date. At the hearing, the attorney has the burden of demonstrating that the suspension order should be dissolved or modified.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.14 formerly appeared as Iowa Court Rule 35.4. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.15 Suspension on conviction of a crime.

34.15(1) Upon the supreme court's receipt of satisfactory evidence that an attorney has pled guilty or nolo contendere to, or has been convicted of, a crime that would be grounds for license suspension or revocation, the court may temporarily suspend the attorney from the practice of law regardless of the pendency of an appeal. Not fewer than 20 days prior to the effective date of the suspension, the attorney must be notified in writing, directed by restricted certified mail to the attorney's last address as shown by the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and at a designated place to show cause why such suspension should not take place. Any hearing will be informal and the strict rules of evidence will not apply. The court's decision may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time.

34.15(2) Any attorney suspended pursuant to this rule must refrain during the suspension from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements,

contracts, wills, and tax returns; acting as a fiduciary; and when possible, advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. The suspended attorney may, however, act as a fiduciary for an estate, conservatorship, or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

34.15(3) For good cause shown, the supreme court may set aside an order temporarily suspending an attorney from the practice of law as provided above upon the attorney's application and a hearing in accordance with rule 34.25, but such reinstatement does not terminate a pending disciplinary proceeding or bar later proceedings against the attorney.

34.15(4) An attorney temporarily suspended under the provisions of this rule must be promptly reinstated upon the filing of sufficient evidence disclosing that the underlying conviction of a crime has been finally reversed or set aside, but such reinstatement does not terminate a pending disciplinary proceeding or bar later proceedings against the attorney.

34.15(5) The clerk of any court in this state in which an attorney has pled guilty or nolo contendere to or been convicted of a crime as set forth above must, within 10 days, transmit a certified record of the proceedings to the supreme court clerk.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.15 formerly appeared as Iowa Court Rule 35.15. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.16 Suspension or disbarment on consent.

34.16(1) An attorney subject to investigation by the disciplinary board or the Client Security Commission or subject to a pending grievance proceeding involving allegations of misconduct subject to disciplinary action may acquiesce to suspension or disbarment but only by filing with the grievance commission an affidavit stating that the attorney consents to suspension of not more than a specific duration or to disbarment. If a grievance proceeding is already scheduled for hearing, any such affidavit must be filed at least 15 days before the scheduled hearing date unless the 15-day limit is waived by the panel president. All affidavits filed under this rule must indicate the following:

a. The consent is freely and voluntarily given without any coercion or duress and with full recognition of all implications of the consent.

b. The attorney is aware of a pending investigation or proceeding involving allegations that there exist grounds for discipline, the nature of which will be specifically set forth.

c. The attorney acknowledges the material facts of the alleged misconduct are true.

d. In the event proceedings were instituted upon the matters under investigation, or if existing proceedings were pursued, the attorney could not successfully defend against the allegations.

e. The facts admitted in the affidavit would likely result in the suspension or revocation of the attorney's license to practice law.

f. Any matters in mitigation or aggravation of the alleged misconduct.

g. Consent to any alternative or additional sanctions as provided in Iowa Court Rule 36.19.

34.16(2) The disciplinary board or Client Security Commission must file a response to the affidavit, indicating whether it believes the misconduct admitted in the affidavit would likely result in suspension or revocation of the attorney's license to practice law and citing any legal authorities supporting its conclusion.

34.16(3) Upon receipt of the affidavit and response, the grievance commission must file the affidavit and response with the supreme court clerk. The supreme court may enter an order suspending the attorney's license to practice law for a period no greater than the stipulated duration or disbarring the attorney on consent, unless the court determines the misconduct admitted in the affidavit is insufficient to support the discipline to which the attorney has consented. The supreme court may also order any of the alternative or additional sanctions to which the respondent has consented. If the supreme court determines the affidavit does not set forth facts that support imposition of the discipline to which the attorney has consented, it may either enter an order allowing the parties to supplement the affidavit or an order declining to accept the affidavit. An order declining to accept the affidavit does not bar further disciplinary proceedings against the attorney, and does not preclude the supreme court from imposing any sanction the attorney's conduct warrants upon review of a grievance commission determination.

34.16(4) Any order suspending or disbarring an attorney on consent is a matter of public record. If the supreme court enters an order of suspension or disbarment, the affidavit and response will be made available to the public upon request.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020]

COMMENT: Rule 34.16 formerly appeared as Iowa Court Rule 35.16. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.17 Disability suspension.

34.17(1) In the event an attorney is at any time in any jurisdiction duly adjudicated a mentally incapacitated person, or a person with a substance-related disorder, or is committed to an institution or hospital for treatment thereof, the clerk of any court in Iowa in which the adjudication or commitment is entered must, within 10 days, certify the adjudication or commitment to the supreme court clerk.

34.17(2) Upon the filing of an adjudication or commitment certificate or a like certificate from another jurisdiction, upon a supreme court determination pursuant to a sworn application on behalf of a local bar association, or upon a disciplinary board determination that an attorney is not discharging professional responsibilities due to disability, incapacity, abandonment of practice, or disappearance, the supreme court may enter an order suspending the attorney's license to practice law in this state until further order of the court. Not fewer than 20 days prior to the effective date of the suspension, the attorney or the attorney's guardian, and the director of the institution or hospital to which the attorney has been committed, if any, must be notified in writing, directed by restricted certified mail to the attorney's last address as shown in the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and place and show cause why such suspension should not take place. Upon a showing of exigent circumstances, emergency, or other compelling cause, the supreme court may reduce or waive the 20-day period and the effective date of action set forth above. Any hearing will be informal and the strict rules of evidence will not apply. The court's decision may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time. A copy of the order must be given to the suspended attorney or to the attorney's guardian and to the director of the institution or hospital to which the suspended attorney has been committed, if any, by restricted mail or personal service as the supreme court may direct.

34.17(3) Upon the voluntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.9112, or upon the involuntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.2106(3)(a), the supreme court may enter an order suspending the retired judicial officer's license to practice law in this state in the event the underlying disability prevents the discharge of an attorney's professional responsibilities. The suspension is effective until further order of the supreme court. A copy of the suspension order must be given to the suspended attorney or to the attorney's guardian and to the director of the institution or hospital to which the suspended attorney is committed, if any, by restricted mail or personal service as the supreme court may direct.

34.17(4) Any attorney suspended pursuant to rule 34.17 must refrain, during the suspension, from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; acting as a fiduciary; and when possible, advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. The suspended attorney may, however, act as a fiduciary for an estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

34.17(5) No attorney suspended due to disability under rule 34.17 may engage in the practice of law in this state until reinstated by supreme court order.

34.17(6)

a. Upon being notified of the suspension of an attorney, the chief judge in the judicial district in which the attorney practiced may appoint an attorney or attorneys to serve as trustee to inventory the attorney's files, sequester client funds, and take any other appropriate action to protect the interests of the attorney's clients and other affected persons. In appointing a trustee, the chief judge will give due regard to any designation or standby nomination made under the provisions of Iowa Court Rule 39.18 and to the recommendation of the office of professional regulation. Any trustee appointment is subject to supreme court confirmation. The appointed attorney serves as a special member of the Client Security Commission for the purposes of the appointment.

b. While acting as trustee, the trustee must not serve as an attorney for the clients of the suspended attorney or other affected persons. The trustee also must not examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. Should any such information be acquired inadvertently, the trustee must, as to such matters, protect the privacy interests of the suspended attorney's clients by prompt recusal or refusal of employment.

c. The trustee may seek reasonable fees and reimbursement of costs of the trust from the suspended attorney. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, will determine the merits of the claim and the amount of any payment from the fund.

d. When the suspended attorney is reinstated to practice law in this state, all pending representation of clients is completed, or the purposes of the trust are accomplished, the trustee must apply to the appointing chief judge for an order terminating the trust.

e. Trustee fees and expenses paid by the Client Security Commission must be assessed to the suspended attorney by the Client Security Commission and are due upon assessment. Trustee fees and expenses assessed under this rule must be paid as a condition of reinstatement and may be collected by the Client Security Commission as part of the annual statement and assessment required by rule 39.8.

34.17(7) Any suspended attorney is entitled to apply for reinstatement to active status once each year or upon the expiration of such shorter intervals as the supreme court may provide. The supreme court may reinstate an attorney suspended due to disability upon a showing by clear and convincing evidence that the attorney's disability has been removed and the attorney is fully qualified to resume the practice of law. Upon the attorney's filing of an application for reinstatement, the supreme court may take or direct any action deemed necessary or proper to determine whether the suspended attorney's disability has been removed, including an examination of the attorney by qualified medical experts as the supreme court may designate. In its discretion the supreme court may direct that the attorney pay the expenses of the examination.

34.17(8) The filing of an application for reinstatement to active status by an attorney suspended due to disability constitutes a waiver of the doctor-patient privilege regarding any treatment of the attorney during the period of the disability. The attorney must also set forth in the application for reinstatement the name of every psychiatrist, psychologist, physician, hospital, or any other institution by whom or in which the attorney has been examined or treated since the disability suspension. The attorney must also furnish to the supreme court written consent that the psychiatrist, psychologist, physician, hospital, or other institution may divulge any information and records the supreme court or any court-appointed medical experts request.

34.17(9) When an attorney has been suspended due to disability and thereafter the attorney is judicially held to be competent or cured, the supreme court may dispense with further evidence regarding removal of the disability and may order reinstatement to active status upon such terms as the court deems reasonable.

[Court Order January 26, 2016, effective April 1, 2016; November 18, 2016, effective December 25, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018]

COMMENT: Rule 34.17 formerly appeared as Iowa Court Rule 35.17. It is amended to provide for recovery of trustee fees and costs the Client Security Commission pays through the annual assessment and reporting process and also as a condition of reinstatement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.18 Death, suspension, or disbarment of practicing attorney.

34.18(1) Upon a sworn application on behalf of a local bar association, an attorney or entity designated or nominated on a standby basis as described in Iowa Court Rule 39.18, the Client Security Commission, or the disciplinary board showing that a practicing attorney has died or has been suspended or disbarred from the practice of law and that a reasonable necessity exists, the chief judge in the judicial district in which the attorney practiced may appoint an attorney to serve as trustee to inventory the attorney's files, sequester client funds, and take any other appropriate action to protect the interests of the attorney's clients and other affected persons. In appointing a trustee, the chief judge will give due regard to any designation or standby nomination made under the provisions of rule 39.18 and the recommendation of the office of professional regulation. Trusteeships are specially assigned to the appointing chief judge, who will hear and rule upon all matters therein. The appointment is subject to supreme court confirmation. The appointed attorney serves as a special member of the Client Security Commission for the purposes of the appointment.

34.18(2) While acting as trustee, the trustee must not serve as an attorney for the clients of the disabled attorney or other affected persons. The trustee also must not examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. If the trustee acquires such information inadvertently, the trustee must, as to such matters, protect the privacy interests of the suspended attorney's clients by prompt recusal or refusal of employment.

34.18(3) A trustee who seeks compensation for services rendered must first seek reasonable fees and reimbursement of costs of the trust from the deceased attorney's estate or the attorney whose license to practice law has been suspended or revoked. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, must determine the merits of the claim and the amount of any payment from the fund.

34.18(4) When all pending representation of clients is completed or the purposes of the trust are accomplished, the trustee must apply to the appointing chief judge for an order terminating the trust.

34.18(5) Trustee fees and expenses paid by the Client Security Commission must be assessed to the deceased, suspended, relinquished, or disbarred attorney by the Client Security Commission and are due upon assessment. Trustee fees and expenses assessed under this rule must be paid as a condition of reinstatement and may be collected by the Client Security Commission as part of the annual statement and assessment required by Iowa Court Rule 39.8.

[Court Order January 26, 2016, effective April 1, 2016; November 18, 2016, effective December 25, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; July 24, 2019, effective August 1, 2019; October 24, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020]

COMMENT: Rule 34.18 formerly appeared as Iowa Court Rule 35.18. It is amended to provide for recovery of trustee fees and costs the Client Security Commission pays through the annual assessment and reporting process and also as a condition of reinstatement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.19 Reciprocal discipline.

34.19(1) Any attorney admitted to practice in this state, upon being subjected to professional disciplinary action in another jurisdiction or in any federal court, must promptly advise the disciplinary board in writing of such action. Upon being informed that an attorney admitted to practice in this state has been the subject of professional discipline in another jurisdiction or any federal court, the disciplinary board must obtain a certified copy of such disciplinary order and file it in the office of the supreme court clerk.

34.19(2) Upon receipt of a certified copy of an order disclosing that an attorney admitted to practice in this state has been disciplined in another jurisdiction or any federal court, the supreme court will promptly give notice of the discipline by restricted certified mail or personal service directed to the attorney containing: a copy of the disciplinary order from the other jurisdiction or federal court and an order directing that the disciplined attorney file in the supreme court, within 30 days after receipt of the notice, any objection that imposition of identical discipline in this state would be too severe or otherwise unwarranted, giving specific reasons. A like notice will be sent, by ordinary mail, to the disciplinary board, which has the right to object on the ground that the imposition of identical discipline in this state would be too lenient or otherwise unwarranted. If either party objects to imposition of identical discipline, the matter will be set for hearing before three or more justices of the supreme court, and the parties will be notified by restricted certified mail at least 10 days prior to the date set. At the hearing, a certified copy of the testimony, transcripts, exhibits, affidavits, and other matters introduced into evidence in the other jurisdiction or federal court must be admitted into evidence as well as any findings of fact, conclusions of law, decisions, and orders. Any such findings of fact are conclusive and not subject to readjudication. The supreme court may enter such findings, conclusions, and orders that it deems appropriate.

34.19(3) If neither party objects within 30 days from service of the notice, the supreme court may impose the identical discipline, unless the court finds that on the face of the record upon which the discipline is based it clearly appears that any of the following are true:

a. The disciplinary procedure was so lacking in notice and opportunity to be heard as to constitute a deprivation of due process.

b. There was such infirmity of proof establishing misconduct as to give rise to the clear conviction that the supreme court could not, conscientiously, accept as final the conclusion on that subject.

c. The misconduct established warrants substantially different discipline in this state.

34.19(4) If the supreme court determines that any such factors exist, it may enter an appropriate order. Rule 34.25 applies to any subsequent reinstatement or reduction or stay of discipline.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.19 formerly appeared as Iowa Court Rule 35.19. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.20 Suspension of attorney's license for failure to comply with a child support order. An attorney who fails to comply with a child support order may be subject to a suspension of the attorney's license to practice law in Iowa.

34.20(1) *Procedure.* Any certificate of noncompliance with a child support order that involves an attorney must be filed by the Child Support Recovery Unit (CSRU) with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director or an assistant director of the office of professional regulation of the supreme court must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the CSRU to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney may challenge the CSRU's issuance of the certificate of noncompliance under this rule only by filing an application for hearing with the district court in the county in which the underlying child support order is filed.

c. The attorney must file the application for hearing with the district court clerk within 30 days of the date of issuance of the notice and must provide copies of the application to the CSRU and the office of professional regulation by regular mail.

d. Filing of the application automatically stays the supreme court's suspension based on the certificate of noncompliance.

e. The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

34.20(2) *District court hearing.*

a. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the CSRU, and the office of professional regulation.

b. Prior to the hearing, the district court must receive a certified copy of the CSRU's written decision and certificate of noncompliance from the CSRU and a certified copy of the notice from the office of professional regulation.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.

d. The district court's scope of review is limited to determining if there has been a mistake of fact relating to the attorney's child support delinquency. The court will not consider visitation or custody issues and will not modify the child support order.

e. If the district court concludes the CSRU erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of certificate of noncompliance, the district court will order the CSRU to file a withdrawal of certificate of noncompliance with the office of professional regulation.

34.20(3) *Noncompliance certificate withdrawn.* If the CSRU files a withdrawal of certificate of noncompliance, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules and has paid a $100 reinstatement fee.

34.20(4) *Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the director of the office of professional regulation is authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify attorneys subject to enforcement under Iowa Code chapter 252J or 598.

[Court Order January 26, 2016, effective April 1, 2016; July 24, 2019, effective August 1, 2019]

COMMENT: Rule 34.20 formerly appeared as Iowa Court Rule 35.20. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.21 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. An attorney who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission (aid commission) may be subject to suspension of the attorney's license to practice law in Iowa.

34.21(1) *Procedure.* The aid commission must file any certificate of noncompliance that involves an attorney with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director or an assistant director of the office of professional regulation must issue a notice to the attorney. The notice will be sent to the attorney's

address on file with the office of professional regulation. The following rules apply and must be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the aid commission to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney must contact the aid commission to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

c. The attorney may challenge the aid commission's issuance of the certificate of noncompliance under this rule only by filing an application for hearing with the district court in the attorney's county of residence.

d. The attorney must file the application for hearing with the district court clerk within 30 days of the date of issuance of the notice must provide copies of the application to the aid commission and the office of professional regulation by regular mail.

e. Filing of the application automatically stays the supreme court's suspension based on the certificate of noncompliance.

f. The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

34.21(2) *District court hearing.*

a. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the aid commission, and the office of professional regulation.

b. Prior to the hearing, the district court must receive a certified copy of the aid commission's written decision, a certificate of noncompliance from the commission, and a certified copy of the notice from the office of professional regulation.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.

d. The district court's scope of review is limited to determining if there has been a mistake of fact relating to the attorney's delinquency.

e. If the district court concludes the aid commission erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court will order the aid commission to file a withdrawal of the certificate of noncompliance with the office of professional regulation.

34.21(3) *Noncompliance certificate withdrawn.* If the aid commission files a withdrawal of certificate of noncompliance, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules and has paid a $100 reinstatement fee.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019]

COMMENT: Rule 34.21 formerly appeared as Iowa Court Rule 35.21. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.22 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. An attorney who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU) may be subject to suspension of the attorney's license to practice law in Iowa.

34.22(1) *Procedure.* The CCU must file any certificate of noncompliance that involves an attorney with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director or an assistant director of the office of professional regulation must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the CCU to file a withdrawal of the certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney must contact the CCU to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

c. The attorney may challenge the CCU's issuance of the certificate of noncompliance under this rule only by filing an application for hearing with the district court in the county where the majority of the liability was incurred.

d. The attorney must file the application for hearing with the clerk of the district court within 30 days of the date of issuance of the notice and must provide copies of the application to the CCU and the office of professional regulation by regular mail.

e. Filing of the application automatically stays the supreme court's suspension based on the certificate of noncompliance.

f. The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

34.22(2) *District court hearing.*

a. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the CCU, and the office of professional regulation.

b. Prior to the hearing, the district court must receive a certified copy of the CCU's written decision and certificate of noncompliance from the CCU and a certified copy of the notice from the office of professional regulation.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.

d. The district court's scope of review is limited to demonstration of the amount of the liability owed or the identity of the person.

e. If the district court concludes the CCU erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court will order the CCU to file a withdrawal of the certificate of noncompliance with the office of professional regulation.

34.22(3) *Noncompliance certificate withdrawn.* If a withdrawal of the certificate of noncompliance is filed, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules and has paid a $100 reinstatement fee.

34.22(4) *Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the director of the office of professional regulation is authorized to share information with the CCU for the sole purpose of allowing the CCU to identify attorneys subject to enforcement under Iowa Code chapter 272D.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019]

COMMENT: Rule 34.22 formerly appeared as Iowa Court Rule 35.22. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.23 Suspension generally.

34.23(1) In the event the supreme court suspends an attorney's license to practice law, the suspension continues for the minimum time specified in such order and until the supreme court approves the attorney's written application for reinstatement, if such application is required. In the order of suspension or by order at any time before reinstatement, the supreme court may require the suspended attorney to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

34.23(2) An attorney whose license has been suspended for a period not exceeding 60 days is not required to file an application for reinstatement, and the court will order reinstatement of the attorney's license on the day after the suspension period expires, subject to the following exceptions:

a. The disciplinary board or Client Security Commission may file and serve within the suspension period an objection to the automatic reinstatement of the attorney. The filing of an objection stays the automatic reinstatement until the supreme court orders otherwise. If the disciplinary board or Client Security Commission files an objection, the supreme court will set the matter for hearing and the supreme court clerk must enter written notice in conformance with rule 34.25, except that the court may waive the requirement of a 60-day waiting period prior to the hearing date.

b. Automatic reinstatement will not be ordered until all costs assessed under Iowa Court Rule 36.24 are paid and the reporting and fee payment requirements of rules 39.14(2), 39.17, and 41.10(2) are completed.

34.23(3) Any attorney suspended must refrain during such suspension from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate

transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; acting as a fiduciary; and when possible, advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. Such suspended attorney may, however, act as a fiduciary for an estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

34.23(4) Nothing in this rule precludes an attorney, law firm, or professional association from employing a suspended attorney to perform such limited services as laypersons may ethically perform under all of the following conditions:

a. Notice of employment, together with a full job description, must be provided by the employer and suspended attorney to the disciplinary board before employment commences.

b. The employer and suspended attorney must verify and submit informational reports quarterly to the disciplinary board certifying that no aspect of the suspended attorney's work has involved the unauthorized practice of law.

c. A suspended attorney must not have direct or personal association with any client and must not disburse or otherwise handle funds or property of a client.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

COMMENT: Rule 34.23 formerly appeared as Iowa Court Rule 35.13. Rule 34.23(2) is amended from former rule 35.13(2) to make clear that satisfaction of reinstatement requirements with the Commission on Continuing Legal Education and the Client Security Commission is a condition precedent to automatic reinstatement, as it is for reinstatement upon application. The rule also is amended to require curtailment of advertising, to the extent possible, during the period of suspension. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.24 Notification of clients and counsel.

34.24(1) In every case in which an attorney is ordered to be disbarred or suspended, the attorney must do all of the following:

a. Within 15 days notify in writing the attorney's clients in all pending matters of the need to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney.

b. Within 15 days deliver to all clients represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place for obtaining the papers and other property, calling attention to any urgency for obtaining the papers or other property.

c. Within 30 days refund any part of any fees paid in advance that have not been earned.

d. Within 15 days notify opposing counsel in pending litigation or, in the absence of such counsel, the adverse parties of the attorney's disbarment or suspension and consequent disqualification to act as an attorney after the effective date of such discipline or transfer to disability inactive status.

e. Within 15 days file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.

f. Keep and maintain records of the steps taken to accomplish the foregoing.

g. Within 30 days file with the disciplinary board copies of each notice sent pursuant to the requirements of this rule and proof of complete performance of the requirements. This is a condition for reinstatement to practice.

34.24(2) The times set forth in rules 34.24(1)(c) and 34.24(1)(g) are reduced to 15 days for respondents who are exempted from filing an application for reinstatement under rule 34.23.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.24 formerly appeared as Iowa Court Rule 35.23. [Court Order January 26, 2016, effective April 1, 2016]

REINSTATEMENT AND READMISSION

Rule 34.25 Procedure on application for reinstatement or readmission. Any person whose certificate to practice law in this state has been suspended or revoked may apply for reinstatement or readmission subject to the following rules.

34.25(1) *Application.*

a. A proceeding for reinstatement to the practice of law in Iowa must be commenced by written application to the supreme court filed with the supreme court clerk not more than 60 days prior to expiration of the suspension period.

b. The application must state the date of the applicant's original admission, the date and duration of suspension, and that the applicant has complied in all respects with any orders or judgments of the supreme court relating to the suspension.

c. The application must be verified by the oath of the applicant as to the truth of the statements made in the application.

d. The applicant must also submit to the supreme court satisfactory proof that the applicant, at the time of the application, is of good moral character and in all respects worthy of the right to practice law. The application must be accompanied by the recommendation of at least three reputable attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the suspension, the applicant must also file a recommendation from three attorneys in good standing and currently practicing law in the district where the applicant resided at the time of suspension. The required recommendations may not be from judges or magistrates.

e. The applicant must also submit satisfactory proof that the applicant, at the time of the application, has filed all reports, paid all fees, and completed all continuing legal education requirements of chapters 39, 41, and 42 of the Iowa Court Rules.

f. The applicant must submit satisfactory proof that the Clients' Security Trust Fund of the Bar of Iowa is repaid in full for all client security conduct or that the Client Security Commission has approved a repayment plan.

34.25(2) *Procedure.* Upon filing of the application and recommendations with the supreme court clerk, the clerk must give written notice containing the date of the suspension, the date of filing the application, and the date of the hearing set by the supreme court, which will be at least 60 days after the filing of such application for reinstatement, to the following persons:

a. The attorney general.

b. The county attorney where the applicant resides.

c. The county attorney where the applicant resided at the time of suspension.

d. The chair of the Iowa Board of Law Examiners.

e. The assistant director for attorney discipline of the office of professional regulation.

f. Each judge of the district in which the applicant resided at the time of suspension.

g. The president of a local bar association where the applicant resides.

h. The president of a local bar association where the applicant resided when the certificate was suspended.

i. The president of The Iowa State Bar Association.

34.25(3) *Written statements.* After receipt of the notice and before the date fixed for hearing, the persons provided notice in rule 34.25(2) may submit to the supreme court clerk written statements of fact and comments regarding the current fitness of the applicant to practice law.

34.25(4) *Notices of witnesses and exhibits.* At least 14 days prior to the scheduled hearing date, the applicant and the disciplinary board must provide notice to the court and the opposing party of the names and expected testimony of any witnesses they intend to produce and must file and serve copies of any exhibits they intend to introduce at the hearing. The opposing party must provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. The supreme court may waive these deadlines only upon good cause shown.

34.25(5) *Hearing.* The reinstatement hearing will be held at the time and place the supreme court designates. The applicant bears the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of suspension. The hearing will be public unless the supreme court orders otherwise upon motion of a party. The hearing will be informal and the strict rules of evidence will not apply. The supreme court may impose reasonable time limits on the length of the hearing.

34.25(6) *Decision.* The supreme court will issue its decision as soon as practicable after the hearing. The supreme court may require the applicant to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

34.25(7) *Readmission after revocation.* In the event the supreme court revokes an attorney's license to practice law, the attorney is not eligible to apply for readmission until at least five years after the date of revocation. For purposes of rule 34.25, "revoked attorney" includes an attorney whose license to practice law has been revoked or an attorney who has been disbarred. Similarly, "revocation" includes "disbarment" and "revoked" includes "disbarred."

34.25(8) *Pre-filing requirements.* Prior to filing the application, the revoked attorney must:

a. File the attorney's character and fitness application with the National Conference of Bar Examiners (NCBE) and pay the NCBE's application fee.

b. Pay an administrative fee of $525 to the Iowa Board of Law Examiners.

34.25(9) *Filing and contents of application.* A revoked attorney's application for readmission must:

a. Be filed with the supreme court clerk and be served on the Iowa Board of Law Examiners.

b. State the date of the applicant's original admission, the date of revocation, and that the applicant has complied in all respects with rule 34.24 and any supreme court orders or judgments relating to the revocation.

c. Include satisfactory proof that the applicant is of good moral character and is in all respects worthy of readmission to the bar. The applicant must provide a detailed affidavit describing the applicant's personal, educational, and work history since the date of revocation. The application must be accompanied by the recommendation of at least three reputable attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the revocation, the applicant must also file a recommendation from three reputable attorneys currently practicing law in the district where the applicant resided at the time of revocation. The required recommendations may not be from judges or magistrates.

d. Include satisfactory proof that the applicant, at the time of the application, has paid all fees required by the provisions of chapters 39, 41, and 42 of the Iowa Court Rules.

e. Include satisfactory proof that the Client Security Trust Fund has been repaid in full, or that the Client Security Commission has approved a repayment plan, for all client security claim payments paid from the Client Security Trust Fund under Iowa Court Rule 39.9 based on the applicant's conduct.

f. Include satisfactory proof that the applicant, at the time of the application, has paid all costs assessed against the applicant under rule 36.24.

34.25(10) *Iowa Board of Law Examiners' report.* After the application for readmission is filed with the supreme court clerk, the Iowa Board of Law Examiners will file a report and recommendation with the supreme court regarding the applicant's character and fitness.

34.25(11) *Supreme court actions on application.* Upon review of the application for readmission from a revoked attorney, the supreme court may summarily deny the application, request further information, or set a hearing date and direct the supreme court clerk to give the notice provided under rule 34.25(12). The court may appoint a special master or a hearing panel to conduct the hearing. The hearing date must in no case be fewer than 60 days after the filing of the application for readmission. Any order denying readmission may state whether the attorney is allowed to file a future application and, if so, the minimum amount of time before the application may be filed.

34.25(12) *Procedure.* Upon direction of the supreme court, the supreme court clerk must give written notice of the revoked attorney's application for readmission containing the date of the revocation, the date of filing the application, and the date of the hearing set by the court, if any, to the following persons:

a. The attorney general.

b. The county attorney where the applicant resides.

c. The county attorney where the applicant resided at the time of revocation.

d. The chair of the Iowa Board of Law Examiners.

e. The assistant director for attorney discipline of the office of professional regulation.

f. Each judge of the district in which the applicant resided at the time of revocation.

g. The president of a local bar association where the applicant resides.

h. The president of a local bar association where the applicant resided at the time of revocation.

i. The president of The Iowa State Bar Association.

34.25(13) *Written statements.* Such persons, after receipt of the notice and before the date fixed for hearing, may submit to the supreme court clerk written statements of fact and comments regarding the applicant's current fitness to practice law.

34.25(14) *Notices of witnesses and exhibits.* At least 14 days prior to the scheduled hearing date, the applicant and the disciplinary board must provide the supreme court or the special master or hearing panel, if applicable, and the opposing party notice of the names and expected testimony of any witnesses they intend to produce, and they must file and serve copies of any exhibits they intend to introduce at the hearing. The parties may provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. The court, or the special master or hearing panel, if applicable, may waive these deadlines only upon good cause shown.

34.25(15) *Hearing.* The readmission hearing will be held at the time and place the supreme court designates. The applicant bears the burden of demonstrating that the applicant is of good moral

character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of revocation. The hearing will be public unless the supreme court orders otherwise upon motion of a party. The hearing will be informal, and strict rules of evidence will not apply. The supreme court may impose reasonable time limits on the length of the hearing. The hearing must be recorded.

34.25(16) *Decision.*

a. The supreme court's decision will be determined by majority vote of those justices participating in the proceeding. Any special master or hearing panel appointed to conduct a hearing must file a report containing findings of fact with the supreme court clerk within 30 days after the hearing. The court's review of the record made before the special master or hearing panel will be de novo. An attorney's readmission to practice in another jurisdiction following revocation in Iowa is not binding on the decision of the supreme court on any application for readmission to practice in Iowa. The decision rests in the sole discretion of the supreme court.

b. The supreme court in its discretion may place conditions on readmission, including, but not limited to, passing the Iowa bar examination. If the supreme court does not require the applicant to pass the bar examination, it will impose a requirement that the applicant must report up to 100 hours of continuing legal education. If the applicant refuses or fails to perform any of the conditions, the court may enter an order summarily denying the application or revoking the attorney's license, if admitted, without further hearing. The applicant must post a scaled score of at least 80 on the Multistate Professional Responsibility Exam (MPRE) as a condition of readmission. The MPRE score must be from a test taken no longer than three years prior to the date of filing of the application for readmission. An applicant may take the MPRE after the court's readmission decision, but the attorney will not be readmitted until the required score is filed.

34.25(17) *Applicability of rules to attorneys permanently enjoined from practicing law in Iowa.* Rules 34.25(7) through 34.25(16) also apply to attorneys not licensed in Iowa whom the Iowa Supreme Court has enjoined from practicing law in Iowa on a permanent basis. Such attorneys who seek to have the injunction lifted must follow the procedures set forth for revoked attorneys in those rules, and their applications will be processed in the same manner.

34.25(18) *Denial of reinstatement for failure to comply with a child support order.* An attorney who fails to comply with a child support order may be denied reinstatement of the attorney's license to practice law in Iowa.

a. Procedure. The Child Support Recovery Unit (CSRU) may file with the office of professional regulation any certificate of noncompliance that involves an attorney. Rule 34.20(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.20(2) governs all matters pertaining to the hearing.

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the director of the office of professional regulation are authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.

34.25(19) *Denial of reinstatement for default on student loan obligation.* An attorney who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission (aid commission) may be denied reinstatement of the attorney's license to practice law in Iowa.

a. Procedure. The aid commission may file with the office of professional regulation any certificate of noncompliance that involves an attorney. Rule 34.21(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.21(2) governs all matters pertaining to the hearing.

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if

necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

34.25(20) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue.* An attorney who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU) may be denied reinstatement of the attorney's license to practice law in Iowa.

a. Procedure. The CCU may file with the office of professional regulation any certificate of noncompliance that involves an attorney. Rule 34.22(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.22(2) governs all matters pertaining to the hearing.

c. Noncompliance certificate withdrawn. If a withdrawal of a certificate of noncompliance is filed, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019]

COMMENT: Rule 34.25 formerly appeared as Iowa Court Rule 35.14. [Court Order January 26, 2016, effective April 1, 2016]

CHAPTER 46

RULES OF THE BOARD OF EXAMINERS OF SHORTHAND REPORTERS

CHAPTER 46
RULES OF THE BOARD OF EXAMINERS OF SHORTHAND REPORTERS

Rule 46.1 Authorization and scope. The rules in this chapter are adopted in conjunction with Iowa Code sections 602.3101 through 602.3302. They apply to all proceedings, functions, and responsibilities of shorthand reporters and the board of examiners.
[Court Order June 5, 2008, effective July 1, 2008]

Rule 46.2 Definitions. In this chapter:

(1) "Certified shorthand reporter" is an individual who has demonstrated by examination administered by the board of examiners that such individual has achieved proficiency in shorthand equivalent in the discretion of the board to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter, namely, the demonstrated ability to write dictated tests at 180 words per minute (question and answer — technical dictation), 200 words per minute (multivoice dictation for transcription or readback), and 225 words per minute (question and answer dictation), or such equivalents thereof as the board may select, each at 95 percent accuracy or better, and demonstrated written knowledge of the reporter's duties, Iowa legal procedure, and correct English usage at 70 percent accuracy or better. Individuals who hold the designation of Registered Professional Reporter from the National Court Reporters Association by passing the association's examination on or after May 1, 1973, and are in good standing with such association, may, upon application to the board of examiners, become certified shorthand reporters upon successfully passing a written examination concerning a reporter's duties, Iowa legal procedure, and correct English usage at 70 percent accuracy or better.

(2) "Shorthand" is a method of writing rapidly with stenographic machine by substituting characters, abbreviations, or symbols for letters, words, or phrases.

(3) "Shorthand reporting" is the professional skill, the practice of which by official shorthand reporters and freelance shorthand reporters serves the judicial branch of state government in courts of record, references by such courts or the law, depositions taken by shorthand reporters, or proceedings of like character, with the end in view of ensuring the accuracy and integrity of the record upon which courts rely for evidence, trial, and appellate review.
[Court Order June 5, 2008, effective July 1, 2008; December 18, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018]

Rule 46.3 Organization; meetings; information.

46.3(1) The officers of the Board of Examiners of Shorthand Reporters (board) are a chairperson selected by the supreme court of Iowa and a secretary elected at the September meeting, each to serve for a term of one year, or until a successor is elected. Each must perform the duties incumbent upon the office.

46.3(2) The board must hold regular meetings for examination of applicants and the transaction of other business at least twice per year. Special meetings may be held upon the call of any two members of the board. A majority of three or more members of the board constitutes a quorum. Business must not be conducted unless a quorum is present. All actions of the board require a simple majority vote of those present.

46.3(3) The board must at least 60 days prior to the start of each fiscal year or on a date otherwise requested by the supreme court submit to the court for consideration and approval a budget covering the board's operations for the upcoming fiscal year. Approval of the budget by the court will authorize payment as provided in the budget. A separate bank account designated as the certified shorthand reporter operating account must be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement must be deposited in the certified reporter operating account for payment of the board's authorized expenditures.

46.3(4) The director of the office of professional regulation will serve as the administrator for the board. Information may be obtained from the director at the Office of Professional Regulation, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319, by mail or in person during office hours.
[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.4 Applications. Candidates for examination must make written application on the form approved by the board and provided by the board's office. An application must be on file with the administrator at the board's office at least 30 days before the date of the examination, unless the board for good cause shown grants an applicant additional time to file or otherwise waives the 30-day filing deadline. Good cause for this purpose may include illness, military service, unavoidable casualty or misfortune, or other grounds beyond the control of the applicant. A new application is required for each examination. An applicant to become a certified shorthand reporter must not be examined until the applicant has satisfied the board that the applicant's educational and special training includes at least one of the following:

46.4(1) The applicant has attained proficiency of 200 words per minute or more in a shorthand reporting course.

46.4(2) The applicant has had at least two years of experience as a shorthand reporter in making verbatim records of judicial or related proceedings.

46.4(3) The applicant has graduated from a shorthand reporting school approved by the National Court Reporters Association.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.5 Examination.

46.5(1) Applicants are required to write shorthand from dictation of regular court proceedings, or such other matter as may be selected by the board of examiners, for such periods as required at varying speeds within the standard.

46.5(2) Applicants will be examined with respect to their knowledge of the statutory duties of a court reporter, general Iowa court procedure, and correct English usage at a 70 percent or better accuracy rate.

46.5(3) Applicants are required to transcribe such part of the dictation as the board of examiners may indicate.

46.5(4) Applicants are required to read aloud such part of the dictated matter as the board of examiners may indicate.

46.5(5) Applicants are required to furnish their own equipment and supplies for taking shorthand. Applicants must make their own transcript on a provided computer or typewriter unless the applicant is otherwise notified.

46.5(6) Upon completion of the examination, all shorthand notes, transcripts, and other papers used in connection with an examination must be returned to the board.

46.5(7) Testing rules and guidelines of the National Court Reporters Association and the Board of the Academy of Professional Reporters for Registered Professional Reporters must be used as a guide to procedure.

[Court Order June 5, 2008, effective July 1, 2008; December 18, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018]

Rule 46.6 Certification. Each person who has achieved the designation of certified shorthand reporter will be issued a certificate by the board. The certificate may be signed by the chairperson and secretary or by all of the board members.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.7 Fees.

46.7(1) The fee for each examination is $200.

46.7(2) The fee for annual renewal is $85.

46.7(3) The fee for late filing of an annual report is $100.

46.7(4) The fee for reinstatement from a suspension is $100.

46.7(5) The fee for reinstatement for one granted a certificate of exemption is $50.

46.7(6) The fee for an extension for obtaining continuing education credit is $50.

[Court Order June 5, 2008, effective July 1, 2008; July 17, 2013, effective September 1, 2013]

Rule 46.8 Continuing education requirement.

46.8(1) Units of continuing education credits as approved by the board must be completed by each reporter in active practice in Iowa. Failure to comply with the continuing education requirements will be grounds for disciplinary action under rule 46.11. In order to comply, a reporter must meet the requirements of rule 46.8(1)(*a*) or 46.8(1)(*b*):

a. Continuing education requirements.

(1) A reporter must obtain at least three continuing education units (CEUs) within a three-year period by attending or participating in seminars, workshops, or courses, integrally relating to the field of shorthand reporting, and which contribute directly to the professional competency of the shorthand reporter. One hour of continuing education credit equals .1 CEU.

(2) Continuing education activities must be conducted by individuals who have special education, training, and experience, and the individuals should be considered experts concerning the subject matter of the program. Attendance at any approved national, regional, or state seminar will be acceptable.

(3) CEUs earned in any one reporting period may be carried over for credit in one or more succeeding reporting periods, constituting the three-year period previously provided, but cannot be carried over to any successive three-year period.

(4) The annual reporting cycle will run from October 1 through September 30. Continuing education requirements and the three-year reporting cycle for newly certified shorthand reporters will commence October 1 of the year following the year of their certification.

b. Alternative requirements. In lieu of the requirements set forth in rule 46.8(1)(*a*), the board will accept satisfactory evidence of compliance with the current continuing education requirements of the National Court Reporters Association for retention on its Registry of Professional Reporters.

46.8(2) The board may, in individual cases involving disability, hardship, or extenuating circumstances, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time will be granted unless written application is made and signed by the reporter. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

46.8(3) Reporters who are not actively engaged in practice may obtain from the board a certificate of exemption from continuing education requirements. Application for such exemption must contain a statement that the applicant will not engage in the practice of shorthand reporting in Iowa without first complying with the regulations governing reinstatement after exemption.

46.8(4) Inactive practitioners who have been granted a certificate of exemption from these regulations or who have been suspended must, prior to engaging in the practice of shorthand reporting in Iowa, satisfy the following requirements for reinstatement:

a. Submit written application for reinstatement to the board upon forms prescribed by the board together with a reinstatement fee of $50.

b. Furnish in the application evidence of one of the following:

(1) Active shorthand reporting in another state of the United States or the District of Columbia and completion of continuing education requirements that are the substantial equivalent to the requirements set forth in these rules for court reporters in Iowa as determined by the board.

(2) Completion of CEUs sufficient to satisfy education requirements for the period of inactivity if seeking reinstatement within three years of being granted a certificate of exemption.

(3) Successful passing of either the State of Iowa's certificate examination or the National Court Reporters Association's examination within one year immediately prior to the submission of such application for reinstatement.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.9 Approval of activity. A reporter seeking credit for attendance and participation in an educational activity other than those sponsored or approved by the National or Iowa Court Reporters Associations must submit to the board, within 30 days after completion of such activity, a request for credit, including a brief résumé of the activity, its dates, subjects, instructors and their qualifications, and the number of credit hours requested. Within 60 days after receipt of such application, the board must advise the reporter in writing by electronic mail whether the activity is approved and the number of hours are allowed. A reporter not complying with the requirements of this rule may be denied credit for such activity.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.10 Continuing education reports.

46.10(1) On or before December 1 of each year, each reporter must file with the board, on forms provided by the board, a signed report concerning completion of continuing education for the

prior reporting period. The report, along with the annual renewal fee, must be submitted and filed electronically using the reporter's account with the office of professional regulation.

46.10(2) All active reporters who fail to file the annual report on or before December 1 of each year must pay a penalty of $100.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.11 Penalty for failure to satisfy continuing education requirements. The board may revoke or suspend the license of any reporter who fails to comply with rule 46.10 or who files a report showing a failure to complete the required number of education credits, provided that at least 30 days prior to the suspension or revocation, notice of the delinquency has been served upon the reporter in the manner provided for the service of original notices in Iowa Rule of Civil Procedure 1.305 or has been forwarded to the reporter by restricted certified mail, return receipt requested, addressed to the reporter's last-known address. The reporter must be given the opportunity during the 30 days to file in the board's office an affidavit establishing that the noncompliance was not willful and tender the documents and sums and penalties which, if accepted, would cure the delinquency. Alternatively, the reporter may file in the board's office a request, in duplicate, for hearing to show cause why the reporter's certificate should not be suspended or revoked. The board must grant a hearing if requested. If the board orders a suspension or revocation it must notify the reporter by either of the methods provided above. The suspension or revocation must continue until the board has approved the reporter's written application for reinstatement.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.12 Disciplinary action. The board may, upon its own initiative, at the request of the Iowa Supreme Court, or pursuant to complaint by a third party, begin disciplinary procedures against any reporter for violations of the board rules or the Code of Iowa.

46.12(1) Charges against a reporter brought by a third party must be in writing, signed by the complainant, filed with the board, and contain substantiating evidence to support the complainant's allegations. The complaint must include complainant's address and telephone number, be dated, identify the reporter, and give the address and any other information about the reporter that the complainant may have concerning the matter.

46.12(2) Such complaint, which will be held in confidence as required by law, must be reviewed by the board. If the board concurs in the seriousness of the allegations made by the complainant, the board must advise the reporter in writing of the charges involved. The reporter has 30 days from the receipt of the board's notice to answer the charges in writing. The reporter may request a personal appearance before the board. The board must then review again the charges made and determine whether the complaint can be disposed of informally or if contested case proceedings should be commenced.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.13 Causes for disciplinary action. The board may revoke or suspend a certificate, or impose any of the disciplinary sanctions included in this chapter for any of the following reasons:

46.13(1) All grounds listed in Iowa Code section 602.3203.

46.13(2) Failure to file an annual report showing satisfaction of the current requirement of continuing education or submission of a false report of continuing education.

46.13(3) Conviction of a misdemeanor related to the profession or occupation of the reporter.

46.13(4) Unless otherwise required by law, a violation of Iowa Rule of Civil Procedure 1.713(1) or 1.713(2) in any state, federal, administrative, or other proceeding.

46.13(5) The board's receipt of a certificate of noncompliance from the Child Support Recovery Unit pursuant to the procedures set forth in Iowa Code chapter 252J.

46.13(6) The board's receipt of a certificate of noncompliance from the Iowa College Student Aid Commission pursuant to the procedures set forth in Iowa Code chapter 261.

46.13(7) The board's receipt of a certificate of noncompliance from the Central Collection Unit of the Iowa Department of Revenue pursuant to the procedures set forth in Iowa Code chapter 272D.

[Court Order June 5, 2008, effective July 1, 2008; December 12, 2011; December 13, 2017, effective January 1, 2018]

Rule 46.14 Contested case proceedings.

46.14(1) Contested case proceedings that involve possible disciplinary sanctions must be set for hearing on not less than 10 days' notice to all parties. Notice of hearing must be in writing and must be served either by personal service or certified mail, return receipt requested.

46.14(2) The notice must include all of the following information:

a. A statement of the time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. A concise statement of the matters asserted, or if the board is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved.

46.14(3) If a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjustment is granted, proceed with the hearing and make a decision in the absence of the party.

46.14(4) Opportunity should be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense.

46.14(5) Unless precluded by statute, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default, or by another method agreed upon by the parties in writing.

46.14(6) After the conclusion of a hearing, the board must take any of the actions set forth in rule 46.15. The board's actions must be set forth in writing, and a copy of the conclusions and decisions must be served upon all parties and the Iowa Supreme Court. The board may permit a reasonable time for the parties to file posthearing briefs and arguments. The report of the board must be made within 60 days after the date set for the filing of the last responsive brief and argument. If the board cannot reasonably make its determination or file its report within such time limit, it must report that fact and the reasons therefor to the parties and to the clerk of the supreme court. Any determination or report of the board need only be concurred in by a majority of the board members sitting, and any member has the right to file a dissent from the majority determination or report.

46.14(7) Procedures for the handling of all contested case proceedings are governed, to the extent not specifically set forth in this chapter, by the Iowa Administrative Procedure Act.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.15 Disciplinary sanctions. The board may, based upon the evidence presented, take one or more of the following actions:

46.15(1) Dismiss the charges.

46.15(2) Informally stipulate and settle any matter relating to the reporter's discipline.

46.15(3) Require additional professional education.

46.15(4) Issue a citation and warning regarding the reporter's behavior.

46.15(5) Reprimand.

46.15(6) Impose a period of probation.

46.15(7) Suspend the certificate.

46.15(8) Revoke the certificate.

[Court Order June 5, 2008, effective July 1, 2008]

Rule 46.16 Military service and veteran reciprocity.

46.16(1) *Definitions.* In this rule:

a. "Military service" means honorably serving: in federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. section 10101.

b. "Military service applicant" is an individual requesting credit toward certification for military education, training, or service obtained or completed in military service.

c. "Veteran" is an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

46.16(2) *Military education, training, and service credit.* A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for certification by submitting a military service application to the board.

a. The application may be submitted with an application for certification or examination or prior to an applicant's applying for certification or to take an examination. No fee is required for submission of an application for military service credit.

b. The applicant must identify the experience or educational certification requirement to which the credit would be applied if granted. Credit may not be applied to an examination requirement.

c. The applicant must provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (DD Form 2586).

d. Upon receipt of a completed military service application, the board will promptly determine whether the verified military education, training, or service satisfies all or any part of the identified experience or educational qualifications for certification.

e. The board will grant the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for certification.

f. The board will inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for certification, or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

g. A military service applicant aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision. No fees or costs may be assessed against the military service applicant in connection with a contested case conducted pursuant to this rule 46.16(2).

h. The board will grant or deny the military service application prior to ruling on the application for certification. The applicant is not required to submit any fees in connection with the certification application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the certification application or request that the application be placed in pending status for up to one year or as mutually agreed. Withdrawal of a certification application does not preclude subsequent applications supported by additional documentation or information.

46.16(3) *Veteran reciprocity.*

a. A veteran with an unrestricted professional certificate as a shorthand reporter in another jurisdiction may apply for certification in Iowa through reciprocity. A veteran must pass any examinations required for certification to be eligible for certification through reciprocity and will be given credit for examinations previously passed when consistent with board rules on examination requirements. A veteran's fully completed application for certification submitted under rule 46.16(3) will be expedited and given priority.

b. A veteran's application for certification must contain all of the information required of all applicants for certification who hold unrestricted certificates in other jurisdictions and who are applying for certification by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant must use the same forms as any other applicant for certification by reciprocity and must additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

c. Upon receipt of a fully completed certification application, the board will promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is certified are substantially equivalent to the certification requirements in Iowa. The board will make this determination based on information the applicant supplies and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examination required for certification.

d. The board will promptly grant a certificate to the veteran if the applicant is certified in the same or similar profession in another jurisdiction whose certification requirements are substantially equivalent to those required in Iowa and the applicant has passed the written examination administered by the board pursuant to rule 46.5(2), unless the applicant is ineligible for certification based on other grounds, such as the applicant's disciplinary or criminal background.

e. If the board determines that the certification requirements in the jurisdiction in which the veteran is certified are not substantially equivalent to those required in Iowa, the board will promptly inform the veteran of the additional experience, education, or examinations required for certification in Iowa.

f. Unless the applicant is ineligible for certification based on other grounds, such as disciplinary or criminal background, the following apply:

(1) If a veteran has not passed the required examinations for certification, the applicant may not be issued a provisional certificate but may request that the certification application be placed in pending status for up to one year or as mutually agreed to provide the veteran with the opportunity to satisfy the examination requirements.

(2) If additional experience or education is required for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional certificate for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board may issue a provisional certificate for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare, or safety of the public, unless the board determines that the deficiency is of a character that the public health, welfare, or safety will be adversely affected if a provisional certificate is granted.

(3) If a request for a provisional certificate is denied, the board will issue an order fully explaining the decision and inform the applicant of the steps the applicant may take to receive a provisional certificate.

(4) If a provisional certificate is issued, the application for full certification will be placed in pending status until the applicant successfully completes the necessary experience or education or the provisional certificate expires, whichever occurs first. The board may extend a provisional certificate on a case-by-case basis for good cause.

g. A veteran who is aggrieved by the board's decision to deny an application for a reciprocal certificate or a provisional certificate, or who is aggrieved by the terms under which a provisional certificate will be granted, may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision. No fees or costs will be assessed against the veteran in connection with a contested case conducted pursuant to this rule 46.16(3).

46.16(4) *Substantially equivalent certification requirements.* The certification requirements of another jurisdiction are substantially equivalent to those of Iowa, if in that jurisdiction an individual must demonstrate, by examination administered by the licensing authority of the jurisdiction, proficiency in shorthand equivalent to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter.

[Court Order December 18, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018]

Rule 46.17 Certification by reciprocity.

46.17(1) An applicant with an unrestricted professional certificate as a stenographic shorthand reporter in another jurisdiction may apply for certification in Iowa through reciprocity. The applicant will be given credit for examinations previously passed when consistent with board rules on examination requirements.

46.17(2) An applicant's application for certification must contain completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check.

46.17(3) Upon receipt of a fully completed certification application, the board will promptly determine if the professional or occupational licensing requirements of the jurisdiction where the applicant is certified are substantially equivalent to the certification requirements in Iowa. The board will make this determination based on information the applicant supplies and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: method of practice, scope of practice, education and coursework, degree requirements, postgraduate experience, and examination required for certification.

46.17(4) The board will promptly grant a certificate to the applicant if the applicant is certified in the same or similar profession in another jurisdiction whose certification requirements are substantially equivalent to those required in Iowa and the applicant has passed the written examination administered by the board pursuant to rule 46.5(2), unless the applicant is ineligible for certification based on other grounds, such as the applicant's disciplinary or criminal background.

46.17(5) If the board determines that the certification requirements in the jurisdiction in which the applicant is certified are not substantially equivalent to those required in Iowa, the board will promptly inform the applicant of the additional experience, education, or examinations required for certification in Iowa.

46.17(6) An applicant who is aggrieved by the board's decision to deny an application for a reciprocal certificate may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision.

46.17(7) The certification requirements of another jurisdiction are substantially equivalent to those of Iowa, if in that jurisdiction an individual must demonstrate by examination, administered by the licensing authority of the jurisdiction, proficiency in stenographic shorthand equivalent to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter.

[Court Order October 15, 2015; December 13, 2017, effective January 1, 2018]