

In the Iowa Supreme Court

In the Matter of Adoption of Amendments to Chapters 31, 34, 35, 36, 41, 45, and 46 in Division III, Professional Regulation, of the Iowa Court Rules

Order

FILED
SEP 19 2022
CLERK SUPREME COURT

The Iowa Supreme Court adopts amendments to chapters 31, 34, 35, 36, 41, 45, and 46 contained in Division III of the Iowa Court Rules. The Iowa Supreme Court Office of Professional Regulation recommends the amendments, which are primarily technical in nature or clarify existing rule provisions.

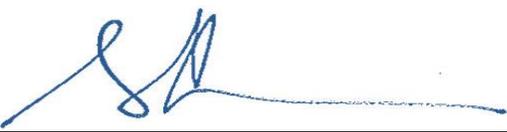
The court highlights the following changes included in these amendments:

- Chapter 31: Deletion of the local bar association and county attorney inquiry as part of the Board of Law Examiners investigation of bar applicants.
- Chapter 34: Adding an additional term for grievance commissioners; delaying the “start date” of disciplinary suspensions; and amending the phrase “automatic reinstatement” to “reinstatement without hearing.”
- Chapter 35: Amending “assistant director” to “director.”
- Chapter 36: Providing a “start date” for supreme court-imposed suspensions.
- Chapter 41: Correcting an internal rule reference.
- Chapter 45: Requiring identification and safeguarding of property of clients or third persons; adding a definition of “three way reconciliation”; and clarifying the handling of lawyer trust accounts.
- Chapter 46: Requiring certified shorthand reporters inactive for more than three years to take a written knowledge exam; and allowing the Certified Shorthand Reporter Board to require skills retesting in lieu of suspension.

The amendments provided with this order are effective October 1, 2022.

Dated this 19th day of September, 2022.

The Iowa Supreme Court

By: 
Susan Larson Christensen, Chief Justice

IOWA COURT RULES

**CHAPTER 31
ADMISSION TO THE BAR**

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Rule 31.3 Required examinations.

31.3(2) *Multistate Professional Responsibility Examination.*

a. Each applicant for admission by examination must earn a scaled score of at least 80 on the Multistate Professional Responsibility Examination (MPRE) administered by the NCBE. The applicant's MPRE score must be on file with the board no later than April 1 preceding the July examination or November 1 preceding the February examination. ~~MPRE scores will only be accepted for three years after the date the MPRE is taken.~~

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Rule 31.9 Moral character and fitness.

31.9(1) The Iowa board of law examiners may make an investigation of the moral character and fitness of any applicant and may procure the services of any bar association, agency, organization, or individual qualified to make a moral character or fitness report.

~~a. Immediately upon the filing of the application, the chair of the Iowa board of law examiners must notify the president of a local bar association and the county attorney of the county in which the applicant resides of the filing of the application. If either of said officers is possessed of information that reflects adversely on the moral character or fitness of the applicant, such information must be transmitted to the chair of the board of law examiners not less than 60 days in advance of the holding of the examination.~~

~~b.~~ The Iowa board of law examiners will, subject to supreme court review, determine whether or not the applicant is of good moral character and fitness. In making its determination, the board may consider the applicant's candor in the application process and in any interactions with the board or its staff.

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Rule 31.16 Registration of house counsel.

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31.16(3) *Scope of authority of registered lawyer.*

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c. A lawyer registered under this rule must:

(1) File an annual statement and pay the annual disciplinary fee as Iowa Court Rules 39.5 and 39.8 require. Beginning calendar year 2021, the lawyer must pay the regular assessment as required by Iowa Court Rule 39.6(2) as well as any special assessments required by Iowa Court Rule 39.6(4)~~(a)~~.

**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 three-year terms, and no member who has served ~~two~~three 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.

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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. The suspension period will start ten days from the date of the order unless the order states otherwise. 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)

a. An attorney whose license has been suspended for a period not exceeding 60 days is not required to comply with the procedure set forth in rule 34.25 but instead must file an application for ~~automatic~~-reinstatement without hearing at least seven (7) days before the attorney's date of reinstatement, certifying that:

(1) The attorney has completed all of the requirements set forth in the order(s) that suspended the attorney.

(2) All costs assessed under Iowa Court Rule 36.24 are paid and the reporting and fee payment requirements of Iowa Court Rules 39.14(2), 39.17, and 41.10(2) are completed.

(3) The attorney has complied with the notification requirements of rule 34.24.

(4) The attorney is not subject to any denials of reinstatement pursuant to rule 34.25(18), 34.25(19), or 34.25(20).

b. The disciplinary board or Client Security Commission may file and serve within the suspension period an objection to ~~the automatic~~-reinstatement of the attorney without hearing. 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.

c. ~~Automatic reinstatement~~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.

CHAPTER 35
IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD RULES OF
PROCEDURE

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Rule 35.14 Deferral of further proceedings.

35.14(1) *Deferral.* With agreement of the ~~assistant~~-director for attorney discipline and the attorney, the board may defer further proceedings pending the attorney's compliance with conditions the board imposes for supervision of the attorney for a specified period of time not to exceed one year unless the board extends the time prior to the conclusion of the specified period. Proceedings may not be deferred under any of the following circumstances:

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35.14(2) *Conditions.* In imposing conditions, the disciplinary board must consider the nature and circumstances of the conduct under investigation and the history, character, and condition of the attorney. The conditions the disciplinary board may impose include, but are not limited to, the following:

- a. Periodic reports to the ~~assistant~~-director for attorney discipline.

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35.14(4) *Supervision.* The diversion coordinator, who may be the ~~assistant~~ director for attorney discipline, is responsible for supervising the attorney's compliance with the conditions the disciplinary board imposes. Where appropriate, the diversion coordinator may recommend to the disciplinary board modifications of the conditions and must report to the board the attorney's failure to comply with the conditions or to cooperate with the diversion coordinator.

**CHAPTER 36
GRIEVANCE COMMISSION RULES OF PROCEDURE**

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Rule 36.21 Supreme court disposition if no appeal.

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(3) If the supreme court imposes a sanction in the form of a suspension, the suspension period will start ten days from the date of the order unless the order states otherwise.

**CHAPTER 41
CONTINUING LEGAL EDUCATION FOR LAWYERS**

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Rule 41.10 Reinstatement from suspension.

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41.10(2) An attorney who seeks or applies for reinstatement from suspension under the provisions of chapter ~~35~~34 of the Iowa Court Rules must first file the annual report required by rule 41.4 showing completion of all continuing legal education required by rules 41.3 and 42.2 through the end of the current calendar year, pay all fees and late filing penalties due under rule 41.4 and unpaid at the time of the suspension, and pay a reinstatement fee of \$100. The commission may grant an attorney additional time after the effective reinstatement date, on such terms and conditions as it may prescribe, to complete and furnish evidence of compliance with these continuing legal education requirements.

**CHAPTER 45
CLIENT TRUST ACCOUNT RULES**

Rule 45.1 Requirement for client trust account. Funds a lawyer receives from clients or third persons for matters arising out of the practice of law in Iowa must be deposited in one or more identifiable interest-bearing trust accounts at a financial institution with a branch geographically located in Iowa. Other

property of clients or third persons must be identified as such and appropriately safeguarded. The trust account must be clearly designated as “Trust Account.” No funds belonging to the lawyer or law firm may be deposited in this account except:

1. Funds reasonably sufficient to pay or avoid imposition of fees and charges that are a lawyer’s or law firm’s responsibility, including fees and charges that are not “allowable monthly service charges” under the definition in rule 45.5, may be deposited in this account.

2. Funds belonging in part to a client and in part currently or potentially to the lawyer or law firm must be deposited in this account, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion must not be withdrawn until the dispute is finally resolved.

~~3. Other property of clients or third persons must be identified as such and appropriately safeguarded.~~

Rule 45.2 Action required upon receiving funds; accounting; records.

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45.2(3) Maintaining records.

a. A lawyer who practices in this jurisdiction must maintain current financial records as provided in these rules and required by Iowa Rule of Professional Conduct 32:1.15 and must retain the following records for a period of six years after termination of the representation:

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(9) Copies of monthly lists of individual client ledger balances ~~trial balanees~~ and monthly triple reconciliations of bank statement balance to check register balance to sum of individual client ledger balances of the client trust accounts maintained by the lawyer.

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Rule 45.3 Type of accounts and institutions where trust accounts must be established.

Each trust account referred to in rule 45.1 must be an interest-bearing or dividend-paying account in a bank, savings bank, trust company, savings and loan association, savings association, credit union, or federally regulated investment company selected by the law firm or lawyer in the exercise of ordinary prudence. The financial institution must be authorized by federal or

state law to do business in Iowa and insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. ~~Interest-bearing trust~~Trust funds must be placed in accounts at credit unions only to the extent that each individual client's funds are eligible for insurance. ~~Interest-bearing trust~~Trust funds must be placed in accounts from which withdrawals or transfers can be made without delay when such funds are required, subject only to any notice period which the depository institution is required to observe by law or regulation.

CHAPTER 46

RULES OF THE BOARD OF EXAMINERS OF SHORTHAND REPORTERS

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Rule 46.8 Continuing education requirement.

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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)c. Successful~~Successfully 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~~written knowledge test set forth in rule 46.5(2), if it was not passed within a three-year period immediately prior to submission of such application

for reinstatement.

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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~~Require retesting.

46.15(8) ~~Revoke-Suspend~~ the certificate.

46.15(9) Revoke the certificate.