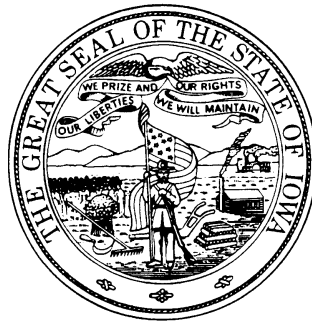


# IOWA COURT RULES

FIFTH EDITION

December 2023 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](http://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](http://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](#)  
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2015 — [January](#), [April](#), [May](#), [October](#), [December](#)  
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2020 — [February](#), [April](#), [June](#), [September](#), [October](#), [December](#)  
2021 — [April](#), [May](#), [June](#), [July](#), [August](#), [September](#), [October](#), [December](#)  
2022 — [January](#), [February](#), [March](#), [June](#), [September](#), [October](#), [November](#), [December](#)  
2023 — [March](#), [June](#), [July](#), [August](#), [November](#)

## **December 2023 Supplement**

### **Changes in this supplement**

Chapter 15 .....	Adopted	Rule 39.8.....	Amended
Rules 34.1 through 34.10 .....	Amended	Rules 39.14 and 39.15 .....	Amended
Rules 34.11 through 34.25 .....	Amended	Rule 41.5 .....	Amended
Rule 34.26.....	Adopted	Rules 41.10 and 41.11 .....	Amended
Rule 35.7 .....	Amended	Rule 42.7 .....	Amended
Rule 39.6 .....	Amended		

## **INSTRUCTIONS FOR UPDATING THE IOWA COURT RULES**

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Replace Chapters 34 and 35

Replace Chapter 39

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## CHAPTER 15 IOWA RULES OF REMOTE PROCEDURE

### DIVISION I SCOPE AND APPLICABILITY

**Rule 15.101 Scope and applicability.** The rules in this chapter govern all remote and hybrid court proceedings unless another rule specifies otherwise or unless a statute provides different procedures for certain courts or cases.

**Rule 15.102 In-person proceeding presumption.** Except as provided by statute or the rules of this chapter, all court proceedings are presumed to be held in person.

### DIVISION II DEFINITIONS

**Rule 15.201 Definitions.** In this chapter:

**15.201(1) Participant.** “Participant” means judges, attorneys, parties, witnesses, court reporters, victims as defined by Iowa Code section 915.10(3), and any other persons who may have an active role in a court proceeding.

**15.201(2) In-person appearance.** “In-person appearance” means participating in a court proceeding by being physically present in the courtroom.

**15.201(3) In-person proceeding.** “In-person proceeding” means a court proceeding in which all participants are physically present in the courtroom.

**15.201(4) Remote appearance.** “Remote appearance” means participating in a court proceeding using an Iowa Judicial Branch approved communications service.

**15.201(5) Remote proceeding.** “Remote proceeding” means a court proceeding in which all participants appear using an Iowa Judicial Branch approved communications service.

**15.201(6) Hybrid proceeding.** “Hybrid proceeding” means a court proceeding in which one or more but fewer than all participants appear using an Iowa Judicial Branch approved communications service and others are physically present in the courtroom.

### DIVISION III GENERAL PROVISIONS

**Rule 15.301 Remote proceeding requirements.**

**15.301(1) Remote proceeding decorum.** The inherent power of the court to regulate the courtroom applies to remote and hybrid proceedings. Participants and persons observing remotely must conduct themselves as if they were in the courtroom in person.

**15.301(2) Judge’s location for remote and hybrid proceedings.** A judge may participate in a proceeding by remote appearance subject to the requirements of Iowa Code section 602.6105.

**15.301(3) Iowa Judicial Branch Remote Proceedings Toolkits.** Participants in remote or hybrid proceedings must comply with directives contained in the Iowa Judicial Branch Remote Proceeding Toolkits, available from the Iowa Judicial Branch website at [www.iowacourts.gov](http://www.iowacourts.gov).

**15.301(4) Represented party’s in-person attendance.** If a represented party appears in person at a proceeding, the party’s attorney must also appear in person at the proceeding unless the party consents to the attorney’s remote appearance or unless the court finds good cause exists for the attorney to appear remotely.

**Rule 15.302 Motion for remote, hybrid, or in-person appearance or proceeding.**

**15.302(1) Motions for remote, hybrid, or in-person appearance or proceeding.** Any party may request by motion to appear remotely at a proceeding or to appear in person at a previously ordered remote or hybrid proceeding. Any party may also request by motion that an entire proceeding be conducted remotely or that a previously ordered remote or hybrid proceeding be conducted in person.

**15.302(2) Contents of the motion.** The motion must include specific grounds supporting the party's request. It must also certify that the filer of the motion has in good faith communicated or attempted to communicate with all other affected parties to determine whether the motion is unresisted, that such communication was not feasible under the circumstances, or that such communication is prohibited by prior court order.

**15.302(3) On court's own motion.** The court on its own motion may order that one or more participants appear remotely or in person.

**15.302(4) Court's consideration of motion.** In ruling on a motion under rule 15.302, the court must on a case-by-case basis consider the following factors:

- a. Ability of participants to appear remotely and fully participate in the proceeding.
- b. Timeliness of the motion and resistance, if any, including whether there is sufficient time to provide all parties with reasonable notice of the court's decision.
- c. Case type and type of court proceeding.
- d. The court's schedule.
- e. Number and location of participants and anticipated length of proceeding.
- f. Complexity of legal and factual issues.
- g. Whether the proceeding requires a formal record or whether any party has requested the proceeding to be reported.
- h. Nature and amount of evidence to be submitted during the proceeding.
- i. Agreement among or objection by parties.
- j. Parties' and nonparty participants' English proficiency or need for interpreter or translator assistance.
- k. Whether use of remote or hybrid technology will undermine the dignity, solemnity, decorum, integrity, fairness, or effectiveness of the proceeding.
- l. A participant's previous abuse of a method of appearance.
- m. Public access to the proceeding and potential increase in access to the courts.
- n. Any other factor or combination of factors that establishes good cause to grant or deny the motion.

**15.302(5) Court's consideration of motion in criminal proceedings.** In ruling on a 15.302 motion in criminal proceedings, the court must also consider the factors in Division IV of this chapter.

**15.302(6) Court's consideration of motion in juvenile proceedings.** In ruling on a 15.302 motion in juvenile proceedings, the court must also consider the factors in Division V of this chapter.

**15.302(7) Court's consideration of motion in family law proceedings.** In ruling on a rule 15.302 motion in family law proceedings, the court must also consider the factors in Division VI of this chapter.

**15.302(8) Court's order.**

- a. The court must consider a rule 15.302 motion based on the filings and without a hearing unless the court finds good cause for holding a hearing on the motion.
- b. If the court permits or requires a participant to appear remotely, the court must provide reasonable notice of the remote or hybrid proceeding.
- c. If the court permits or requires a participant to appear remotely or determines that the entire proceeding will be held remotely, the court must include in its order:
  - (1) A list of all participants permitted or directed to appear remotely if the proceeding will be a hybrid proceeding.
  - (2) Instructions for joining the remote proceeding.

**15.302(9) Public access.**

- a. If the court orders a public proceeding to be held remotely, the proceeding remains open to the public.
- b. If a proceeding open to the public is held as a hybrid proceeding, members of the public who wish to view the proceeding may do so in person, and the court may permit members of the public to view the proceeding remotely.
- c. Participants may not share with any member of the public the means to participate in a remote or hybrid proceeding that is closed to the public.

**DIVISION IV  
CRIMINAL PROCEEDINGS**

**Rule 15.401 Criminal proceedings generally.** The rules in this division apply to all criminal proceedings.

**Rule 15.402 Defendant request to be excused from remote appearance.** A defendant may file a request to be excused from appearing remotely for a proceeding or the entirety of the case if the defendant will not be able to participate remotely. A request must state with specificity why the defendant is unable to participate remotely. If granted, the defendant must appear in person subject to Iowa Rule of Criminal Procedure 2.27.

**Rule 15.403 Defendant's attorney's in-person attendance.** If the defendant is appearing in person at a guilty plea, trial, or sentencing proceeding, the defendant's attorney must also appear in person.

**Rule 15.404 Specific criminal proceedings.**

**15.404(1) Defendant's appearance.** In all criminal proceedings, the defendant must appear as required by Iowa Rule of Criminal Procedure 2.27.

**15.404(2) Trial and sentencing.** Trial and sentencing must occur pursuant to Iowa Rules of Criminal Procedure 2.17 and 2.27.

**15.404(3) In-person proceedings.** The following proceedings are presumed to be in person:

- a. Arraignment.
- b. Pretrial conference.
- c. Status conference.
- d. Case conference.
- e. Guilty plea.
- f. Restitution hearing.

**15.404(4) Proceedings where testimony is not expected.** Except as provided by rules 15.404(2)–(3), proceedings where testimony is not expected are presumed to be remote.

**Rule 15.405 Court's consideration of rule 15.302 motion in criminal proceedings.**

**15.405(1) Waiver required.** If a participant has a constitutional or statutory right to an in-person proceeding, the proceeding must occur in person unless the participant has waived any such right.

**15.405(2) Additional factors.** In ruling on a rule 15.302 motion, the court must also consider the following factors:

- a. Whether the defendant has a constitutional or statutory right requiring any other participant to appear in person.
- b. Whether the defendant has waived speedy trial.
- c. Whether the court has excused the defendant from remote participation.

## DIVISION V JUVENILE PROCEEDINGS

**Rule 15.501 Juvenile proceedings generally.** The rules in this division apply to all juvenile proceedings.

**Rule 15.502 Delinquency adjudication.** Delinquency adjudication must occur in person.

**Rule 15.503 Court's consideration of rule 15.302 motion in juvenile proceedings.**

**15.503(1) In-person preference.** In ruling on a rule 15.302 motion, the court should favor conducting the following proceedings in person:

- a. Contested or evidentiary proceeding.
- b. Removal hearing.
- c. Child in need of assistance adjudication.
- d. Disposition hearing.
- e. Permanency hearing.
- f. Detention hearing.
- g. Modification hearing.
- h. Termination of parental rights hearing.

**15.503(2) Remote proceeding preference.** In ruling on a rule 15.302 motion, the court should favor conducting the following proceedings remotely:

- a. Uncontested hearing.
- b. Detention hearing in which the juvenile has waived in-person appearance.
- c. Review hearing.
- d. Status conference.

**15.503(3) Additional factors.** In ruling on a rule 15.302 motion, the court must also consider the following factors:

- a. Location of any out-of-home placement of the juvenile.
- b. Availability and location of families.
- c. Safety of any person.
- d. The juvenile's preference.
- e. Whether the juvenile has a constitutional or statutory right to an in-person proceeding or in-person appearance.

#### **DIVISION VI FAMILY LAW PROCEEDINGS**

**Rule 15.601 Family law proceedings generally.** The rules in this division apply to all family law proceedings.

**Rule 15.602 Court's consideration of rule 15.302 motion in family law proceedings.** In ruling on a rule 15.302 motion, the court should favor conducting a contested or evidentiary proceeding in person.

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**CHAPTER 34****ADMINISTRATIVE AND GENERAL PROVISIONS OF THE GRIEVANCE  
COMMISSION AND ATTORNEY DISCIPLINARY BOARD**

## GRIEVANCE COMMISSION

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

**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, an 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; September 19, 2022, effective October 1, 2022; December 12, 2023, effective January 1, 2024]

**Rule 34.2 Grievance commission; vice chair duties.** The executive director of the office of professional regulation must designate a clerk and an assistant clerk for the grievance commission. The executive 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; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**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 executive 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; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**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; December 12, 2023, effective January 1, 2024]

**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; December 12, 2023, effective January 1, 2024]



**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 attorneys 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, an attorney against whom an ethical complaint is filed. To avoid even the appearance of impropriety, a disciplinary board member should not represent an 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 director of attorney discipline of the office of professional regulation is the principal executive officer of the board. A reference in this chapter to the "director" refers to the director of attorney discipline of the office of professional regulation. The 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 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 executive 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; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**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; December 12, 2023, effective January 1, 2024]

**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 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; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

#### 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; December 12, 2023, effective January 1, 2024]

#### **Rule 34.10 Jurisdiction.**

**34.10(1) Attorneys admitted to practice.** An 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, an attorney an Iowa court specially admits for a particular proceeding, and an 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; December 12, 2023, effective January 1, 2024]

**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 executive director, 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; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**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; December 12, 2023, effective January 1, 2024]

**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; December 12, 2023, effective January 1, 2024]

**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)** An 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 34.24 or 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 must, within ten days, transmit a certified record of the proceedings to the disciplinary board.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

#### **Rule 34.16 Suspension or revocation on consent.**

**34.16(1)** An attorney subject to investigation by the disciplinary board or the Iowa Supreme Court Client Security Commission (client security commission) or subject to a pending grievance proceeding involving allegations of misconduct subject to disciplinary action may acquiesce to suspension or revocation 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 revocation. 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 and file a copy with the client security commission. 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 public.

[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; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

#### **Rule 34.17 Disability suspension.**

**34.17(1)** *Certification of adjudication or commitment.* 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 ten days, certify the adjudication or commitment to the disciplinary board.

**34.17(2) *Suspension procedure.*** Upon the disciplinary board's 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 is 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. The supreme court may take judicial notice of any relevant proceedings. Any hearing will be informal and the strict rules of evidence will not apply. The supreme court may hold the hearings remotely or by telephone. 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) *Judicial officer retirement for disability.*** 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) *Prohibition on practice of law.*** An 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) *Supreme court order.*** 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) *Appointment of trustee.***

*a.* Upon being notified of the suspension of an attorney, the chief judge in the judicial district in which the attorney practiced may appoint the client security commission, 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 other than the client security commission itself 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. Upon termination of the trusteeship or upon request of the client security commission, any undistributed client files may be ordered immediately destroyed.

*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)** *Application for reinstatement to active status.* 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 from disability suspension, 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)** *Waiver of doctor-patient privilege.* 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 from disability suspension 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 expert requests.

**34.17(9)** *Supreme court reinstatement.* 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; September 14, 2021, effective October 1, 2021; July 11, 2023; December 12, 2023, effective January 1, 2024]

#### **Rule 34.18 Death, suspension, or disbarment of practicing attorney.**

**34.18(1)** Upon a client security commission determination or 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 or the client security commission 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 of an attorney as trustee 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. Upon termination of the trusteeship or upon request of the client security commission, any undistributed client files may be ordered immediately destroyed.

**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; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

#### **Rule 34.19 Reciprocal discipline.**

**34.19(1)** An 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 ten 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. Rules 34.24 and 34.25 apply to any subsequent reinstatement or reduction or stay of discipline. [Court Order January 26, 2016, effective April 1, 2016; December 12, 2023, effective January 1, 2024]

**Rule 34.20 Administrative 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 administrative 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 Child Support Services (CSS) with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, 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 CSS to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney may challenge CSS'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 CSS 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, CSS, and the office of professional regulation.

b. Prior to the hearing, the district court must receive a certified copy of CSS's written decision and certificate of noncompliance from CSS 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 CSS erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of certificate of noncompliance, the district court will order CSS to file a withdrawal of certificate of noncompliance with the office of professional regulation.

**34.20(3) Noncompliance certificate withdrawn.** If CSS 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 \$200 reinstatement fee.

**34.20(4) Sharing information.** Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with CSS for the sole purpose of allowing CSS to identify attorneys subject to enforcement under Iowa Code chapter 252J or 598.

**34.20(5) 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.* CSS 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 office of professional regulation are authorized to share information with CSS for the sole purpose of allowing CSS to identify licensees 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; September 14, 2021, effective October 1, 2021; June 30, 2023, effective July 1, 2023; December 12, 2023, effective January 1, 2024]

**Rule 34.21 Administrative 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 administrative 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 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.

**34.21(4) Sharing information.** Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of

allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

**34.21(5) 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.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 34.22 Administrative 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 administrative 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 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 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.

**34.22(5) *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.

d. *Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

### **Rule 34.23 Suspension and revocation generally.**

**34.23(1) *Timing of suspension.*** When 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. If the suspension is pursuant to rule 36.21, the suspension period will start ten days from the date of the suspension order unless the supreme court orders otherwise. The suspension period for all other suspensions begins on the same day as the suspension order unless the supreme court orders otherwise.

**34.23(2) *Post-suspension requirements.*** An attorney who is ordered to be suspended must do the following within ten days of the filing date of the suspension order as conditions for reinstatement to practice:

a. File a notice of license suspension in each pending or active matter in every court, agency, or tribunal where the attorney is listed as counsel of record. The notice of license suspension must include the date of the start of the term of suspension, the ordered duration of suspension, and a statement that the attorney cannot represent the client until the supreme court issues an order reinstating the attorney's license.

b. Send each of the attorney's active clients written notice of the following:

(1) The attorney's license is suspended and the attorney cannot provide legal advice or representation to the client until the supreme court has reinstated the attorney's license.

(2) The client should seek legal advice and representation elsewhere, calling attention to the client's need for any urgency in seeking representation from another attorney.

(3) The client has the right to retrieve the client's file, papers, and any other client property in the attorney's possession.

(4) The client has a right to a refund of fees paid in advance that have not been earned and stating the amount of the client's unearned fees.

c. Send the client security commission a copy of the attorney's or firm's balanced monthly triple reconciliation for the prior month for each trust account in which client funds are held, including copies of the bank statement for the month, the check register, and subaccount ledgers indicating the amount of funds in the trust account that belong to each client.

d. A copy of each notice sent pursuant to rules 34.23(2)(a) and (b) must be filed with the disciplinary board within 15 days of the effective date of the suspension. Failure to timely file the notices may be considered a separate disciplinary violation.

**34.23(3) Post-revocation requirements.** When an attorney's license is revoked, the attorney must do the following as conditions for readmission to practice:

a. Within ten days of the filing date of the revocation order, send each client on the attorney's active client list written notice of the following:

(1) The attorney's license has been revoked and the attorney can no longer provide legal advice or representation to the client.

(2) The client needs to seek legal advice and representation elsewhere, calling attention to the client's need for any urgency in seeking representation from another attorney.

(3) The client needs to retrieve the client's file, papers, and any other client property in the attorney's possession.

(4) The client will be refunded any fees paid in advance that have not been earned and stating the amount of the client's unearned fees.

b. Within 30 days of the date of the revocation order:

(1) Return all client files, papers, and any other client property in the attorney's possession.

(2) Return all funds owed to each client.

c. Send the client security commission a copy of the attorney's or firm's balanced monthly triple reconciliation for the prior month for each trust account in which client funds are held, including copies of the bank statement for the month, the check register, and subaccount ledgers indicating the amount of funds in the trust account that belong to each client.

d. A copy of each notice sent pursuant to rules 34.23(3)(a) and (b) must be filed with the disciplinary board within 15 days of the effective date of the revocation. Failure to timely file the notices may be considered a separate disciplinary violation.

**34.23(4) Activities during suspension.** A suspended attorney must refrain during such suspension from all facets of ordinary law practice including, but not limited to, the following: 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 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.

**34.23(5) Employment of suspended attorneys.** 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 and client security commission 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; September 14, 2021, effective October 1, 2021; September 19, 2022, effective October 1, 2022; December 12, 2023, effective January 1, 2024]

**Rule 34.24 Procedure for reinstatement from suspension of 60 days or fewer.** Unless another rule or court order states to the contrary, an attorney whose license to practice law in this state has been suspended for a period not exceeding 60 days may apply for reinstatement subject to the following rules.

**34.24(1) Application for reinstatement without hearing.** An attorney whose license has been suspended for a period not exceeding 60 days must file an application for reinstatement without hearing with the supreme court clerk, accompanied with a certification from the office of professional regulation that confirms the following:

*a.* The attorney has completed all of the requirements for reinstatement set forth in the supreme court's suspension order.

*b.* 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, and the attorney has completed all continuing legal education requirements under chapters 41 and 42 of the Iowa Court Rules.

*c.* The attorney has complied with the notice requirements of rule 34.23(2).

*d.* The attorney is not subject to any denial of reinstatement pursuant to rule 34.20(5), 34.21(5), or 34.22(5).

*e.* The attorney is not subject to any other suspension orders.

*f.* The attorney has paid a \$200 reinstatement from suspension fee.

**34.24(2) Objection; hearing.** The disciplinary board or client security commission may file and serve within the suspension period an objection to reinstatement of the attorney without hearing.

*a.* The filing of an objection stays reinstatement until the supreme court orders otherwise.

*b.* 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. If the disciplinary board or the client security commission do not object to reinstatement, the attorney may be reinstated without hearing.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

**Rule 34.25 Procedure for reinstatement from suspension of more than 60 days.** An attorney whose license to practice law in this state has been suspended for a period exceeding 60 days may apply for reinstatement subject to the following rules.

**34.25(1) Application for reinstatement.** A proceeding for reinstatement to the practice of law in Iowa must be commenced by written application for reinstatement to the supreme court filed with the supreme court clerk no sooner than 60 days prior to expiration of the suspension period. The application for reinstatement must include the following:

*a.* The date of the applicant's original admission, the date and duration of suspension, and a statement that the applicant has completed all requirements for reinstatement set forth in the supreme court's suspension order.

*b.* Verification by the oath of the applicant as to the truth of the statements made in the application.

*c.* 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 three Iowa attorneys in good standing who are in active status and currently practicing law. The recommendations may not be from judges or magistrates.

*d.* 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, has paid all costs assessed under rule 36.24, has complied with the notice requirements of rule 34.23(2), and has paid a \$200 reinstatement from suspension fee.

*e.* 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 notice containing the date of 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 executive director of the office of professional regulation.

*b.* The county attorney for the county in which the applicant currently resides.

- c. The director of the disciplinary board.
- d. The director of the client security commission.
- e. The chief judge of each judicial district.
- f. The executive director of The Iowa State Bar Association.

**34.25(3) *Written statements.*** After receipt of the notice and before the date fixed for hearing, any person or entity 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 file with the court and serve the opposing party 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 upon good cause shown.

**34.25(5) *Hearing.*** The supreme court will designate the time and place of the hearing. 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. [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021; June 30, 2023, effective July 1, 2023; December 12, 2023, effective January 1, 2024]

**Rule 34.26 Procedure for reinstatement from administrative suspension for failure to file annual forms and pay fees.**

**34.26(1) *Eligibility for reinstatement.*** An attorney suspended pursuant to Iowa Court Rule 39.8(2) or 41.5(1) for failing to pay annual fees, complete required continuing legal education, or file required annual reports, statements, supplements, or questionnaires, must comply with the following requirements before being eligible for reinstatement:

- a. Complete all continuing legal education required by rules 41.3 and 42.2 through the end of the current calendar year.
- b. File the statement required by rule 39.8(1) and the questionnaire required by rule 39.11.
- c. Pay all delinquent fees, assessments, and late filing penalties due under rules 39.5, 39.6, 39.8, 39.17, and 41.4.
- d. Pay a reinstatement from suspension fee of \$200.

**34.26(2) *Office of professional regulation request for reinstatement.*** If the attorney complies with the requirements of rule 34.26(1) within ten days of the date of the suspension order, the office of professional regulation will file with the supreme court a request for reinstatement, which will include the date that the attorney was in compliance. If the office of professional regulation certifies that the attorney was in compliance with rule 34.26(1) within ten days of the date of the suspension order, the notice requirements of rule 34.23(2) for reinstatement do not apply. The supreme court will enter an order reinstating the attorney without further application or hearing.

**34.26(3) *Application for reinstatement without hearing.*** Application for reinstatement without hearing.

a. If the attorney did not comply with rule 34.26(1) within 10 days from the date of suspension, the notice requirements of rule 34.23(2) apply. To be reinstated, the attorney must file an application for reinstatement without hearing with the supreme court clerk, which includes a certification from the office of professional regulation that:

- (1) The attorney has completed all continuing legal education required by rules 41.3 and 42.2 through the end of the current calendar year.
- (2) The attorney has filed the statement required by rule 39.8(1) and the questionnaire required by rule 39.11.
- (3) The attorney has paid all delinquent fees, assessments, and late filing penalties due under rules 39.5, 39.6, 39.8, 39.17, and 41.4.
- (4) The attorney has paid the reinstatement from suspension fee of \$200.

(5) The attorney has complied with the requirements of rule 34.23(2).

(6) The attorney is not subject to any denials of reinstatement pursuant to rule 34.20(5), 34.21(5), or 34.22(5).

b. Within seven days of the filing of the application for reinstatement without hearing either the disciplinary board or client security commission may file and serve an objection to reinstatement of the attorney without hearing. The filing of an objection stays 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. The supreme court will not order reinstatement until all costs assessed under Iowa Court Rule 36.24 are paid and the reporting and fee payment requirements of rules 39.17 and 41.10(2) are satisfied.

[Court Order December 12, 2023, effective January 1, 2024]

#### READMISSION AFTER REVOCATION

**Rule 34.27 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 34.27, "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."

**34.27(1) Prefiling 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 a \$525 administrative fee to the Iowa Board of Law Examiners (board of law examiners).

**34.27(2) 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 office of professional regulation.

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 34.23(3) and any supreme court orders, opinions, 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 Iowa 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 and that the applicant has completed all continuing legal education for the years the applicant's license was revoked through the end of the calendar year, up to a maximum of 100 hours.

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.

g. Include satisfactory proof that the applicant, prior to filing the application, has complied with the prefiling requirements of rule 34.27(1).

**34.27(3) Iowa Board of Law Examiners' report.** After the application for readmission is filed with the supreme court clerk, the board of law examiners will file a report and recommendation with the supreme court regarding the applicant's character and fitness. The board of law examiners will file its report and recommendations within 30 days of its receipt of the final results of the National Conference of Bar Examiners' report referenced in the prefiling requirements of rule 34.27(1).

**34.27(4) Supreme court actions on application.**

a. Upon filing of the report and recommendation of the board of law examiners, the supreme court will review the application for readmission from the revoked attorney and the report and recommendation of the board of law examiners.

b. 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 34.27(5).

c. 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 report of the board of law examiners.

d. 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.

**34.27(5) 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 executive director of the office of professional regulation.

b. The county attorney for the county in which the applicant currently resides.

c. The director of attorney discipline of the office of professional regulation.

d. The director of the client security commission.

e. The chief judge of each judicial district.

f. The executive director of The Iowa State Bar Association.

**34.27(6) Written statements.** Any person or entity may submit to the supreme court clerk written statements of fact and comments regarding the applicant's current fitness to practice law.

**34.27(7) 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.

**34.27(8) 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.

**34.27(9) 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 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.

**34.27(10) Applicability of rules to attorneys permanently enjoined from practicing law in Iowa.** Rule 34.27 also applies 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 this rule, and their applications will be processed in the same manner.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021; June 30, 2023, effective July 1, 2023; December 12, 2023, effective January 1, 2024]



**CHAPTER 35**  
**IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD**  
**RULES OF PROCEDURE**

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**CHAPTER 35**  
**IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD**  
**RULES OF PROCEDURE**

**Rule 35.1 Complaints.** Complaints alleging that an attorney has committed a disciplinary infraction must be accepted from any person, firm, or other entity. The Iowa Supreme Court Attorney Disciplinary Board (disciplinary board) may, upon its own motion, initiate any investigation or disciplinary action.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 35.1 substantially appeared as former Iowa Court Rule 34.1. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.2 Form of complaint.** Complaint forms, found in rule 35.15, must be available to the public from the disciplinary board. Complaints must be certified under penalty of perjury, except when filed by an officer of the court, and may include whatever supporting documents the complainant desires to submit.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 35.2 formerly appeared as Iowa Court Rule 34.2. It is amended to conform an internal reference to the new rule numbers, and to reflect actual practice with respect to dissemination of complaint forms. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.3 Filing.** Complaints must be filed, without charge, with the disciplinary board.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 35.3 formerly appeared as Iowa Court Rule 34.3. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.4 Procedure upon receipt of complaint.**

**35.4(1)** Upon receiving a complaint, the assistant director for attorney discipline must evaluate all information coming to his or her attention from the complaint or from any other sources alleging attorney misconduct or incapacity. The assistant director is authorized to decline to open an investigation of a complaint if the information, if true, would not constitute misconduct or incapacity or if the complaint is facially frivolous, stale, lacking in adequate factual detail, duplicative, outside the disciplinary board's jurisdiction, or does not otherwise reasonably warrant investigation. The disciplinary board may adopt policies to guide the assistant director in the exercise of this authority.

**35.4(2)** The disciplinary board must make a record indicating the date on which the complaint was filed, the name and address of the complainant, the name and address of the respondent, and a brief statement of the charges made. This record ultimately must show the final disposition of the matter when it is completed.

**35.4(3)** The disciplinary board must keep all files confidential, unless the board chair or the chair's designee otherwise provides or directs in writing for disciplinary purposes or pursuant to a specific supreme court rule. All files must be available for examination and reproduction by the designated officer or agent of the Client Security Commission, pursuant to proceedings under chapter 39 of the Iowa Court Rules.

**35.4(4)** Any such files, except for the work product of staff counsel, investigators, or assistant directors of the disciplinary board, must be provided to the respondent within a reasonable time upon the respondent's request. For purposes of this rule, "work product" does not include a written statement signed or otherwise adopted or approved by the person making it or a contemporaneous and substantially verbatim transcript or recording of a person's oral statement.

**35.4(5)** A potential complaint declined pursuant to this rule may not be deemed a complaint for any purpose. A potential complaint declined pursuant to this rule will not be docketed under rule 35.4(2), and the disciplinary board or the respondent must not report or disclose the complaint to any person or authority for any reason.

**35.4(6)** A true copy of any complaint against a current member of the grievance commission or the disciplinary board involving alleged violations of an attorney's oath of office or of the Iowa Rules of Professional Conduct or laws of the United States or State of Iowa must be promptly forwarded to the Chief Justice of the Iowa Supreme Court.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rules 35.4(1) through 35.4(5) formerly appeared at Iowa Court Rule 34.4. Rule 35.4(6) formerly appeared as Iowa Court Rule 35.24(3). Rule 35.4 is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.5 Notification of complainant.** Upon receipt of any complaint, the disciplinary board must notify the complainant in writing that the board has received the complaint and will act upon it or that pursuant to rule 35.4(1) the board will take no action on the complaint.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 35.5 formerly appeared as Iowa Court Rule 34.5. It is amended to conform an internal rule reference to the new rule numbers, and the rule title is changed to more accurately describe this step in disciplinary board procedure. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.6 Notification of respondent; response.**

**35.6(1)** The disciplinary board must forward to the respondent a copy of the complaint and a copy of chapter 35 of the Iowa Court Rules. However, if a potential complaint is declined pursuant to rule 35.4(1), the disciplinary board need not notify the respondent and no response is required.

**35.6(2)** The disciplinary board may forward the complaint to the respondent by restricted certified mail, marked “Confidential,” to the respondent’s last address as shown by records accessible to the supreme court, or the board may serve the complaint by personal service in the manner of an original notice in civil suits.

**35.6(3)** If service cannot be obtained pursuant to rule 35.6(2), the disciplinary board may serve the complaint on the supreme court clerk, who is appointed to receive service on behalf of attorneys subject to Iowa’s disciplinary authority. Iowa R. Prof’l Conduct 32:8.5 cmt. [1]. Service upon the supreme court clerk is deemed to be receipt of the complaint by the respondent. Simultaneously with serving a complaint on the supreme court clerk, the disciplinary board must forward the complaint to the respondent by restricted certified mail, marked “Confidential,” to the respondent’s last address as shown by records accessible to the supreme court, and the board must file with the supreme court clerk an affidavit attesting that it has done so.

**35.6(4)** The respondent must provide a written response within 20 days of receipt of the complaint. [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 11, 2023]

**COMMENT:** Rule 35.6 formerly appeared as Iowa Court Rule 34.6. It is amended to conform internal references to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.7 Failure to respond; notice; effect.**

**35.7(1) *Failure to respond—separate ethical violation.*** If after 20 days no response has been received, the respondent must be notified by restricted certified mail that unless a response is made within 10 days from receipt of notice, the disciplinary board may file a complaint with the Grievance Commission of the Supreme Court of Iowa (grievance commission) for failure to respond and concerning all or any portion of the matter about which the original complaint was made. If service cannot be obtained by restricted certified mail, the disciplinary board may serve the notice on the supreme court clerk, who is appointed to receive service on behalf of attorneys subject to Iowa’s disciplinary authority. Iowa R. of Prof’l Conduct 32:8.5 cmt. [1]. Service upon the supreme court clerk is deemed to be receipt of the notice by the respondent.

**35.7(2) *Enlargement of time to respond.*** The disciplinary board may grant an enlargement of time to respond under rule 35.6 or 35.7(1) for good cause shown.

**35.7(3) *Failure to respond—temporary suspension.*** If a response is not provided within 10 days of receipt of the notice issued pursuant to rule 35.7(1) or within the time allowed under rule 35.7(2), the disciplinary board must certify the respondent’s failure to respond to the supreme court clerk.

*a.* Upon receipt of the disciplinary board’s certificate, the supreme court clerk must issue a notice to the attorney that the attorney’s license to practice law will be temporarily suspended unless the attorney causes the board to file a withdrawal of the certificate within 20 days of the date of issuance of the clerk’s notice.

*b.* If the attorney responds to the complaint within the 20-day period, the disciplinary board must immediately withdraw the certificate and no suspension will occur.

*c.* If the disciplinary board has not withdrawn the certificate and the 20-day notice period expires, the court will enter an order temporarily suspending the attorney’s license to practice law in the State of Iowa.

*d.* If the attorney responds to the complaint after a temporary suspension order is entered, the disciplinary board must, within five days of receiving the response, either withdraw the certificate or file with the supreme court a report indicating that the attorney has responded but stating cause why the attorney’s license should not be reinstated and the suspension should be continued under the provisions of Iowa Court Rule 34.14, 34.15, or 34.17.

*e.* If the disciplinary board seeks to continue the suspension under the provisions of Iowa Court Rule 34.14, 34.15, or 34.17, the supreme court will either reinstate the attorney or enter an appropriate order under the applicable rule.

*f.* If the disciplinary board files a withdrawal of the certificate after temporary suspension of the attorney's license, and the office of professional regulation certifies that the attorney has paid the reinstatement fee, the supreme court may immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under the rules of the court.

*g.* During the initial 30 days of a temporary suspension under this rule, the attorney must give the notice Iowa Court Rule 34.24 requires to those clients whose interests may be adversely affected by the attorney's suspension.

*h.* When the suspension period under this rule exceeds 30 days, the attorney must comply with the requirements of Iowa Court Rule 34.24 as to all clients.

*i.* An attorney whose license is suspended under the provisions of rule 35.7(3)(c) must pay a fee of \$200 to the office of professional regulation as a condition precedent to reinstatement.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 11, 2023; December 12, 2023, effective January 1, 2024]

**Rule 35.8 Disciplinary board actions upon receipt of response.**

**35.8(1)** Upon receipt of a response, the disciplinary board must do one of the following:

- a.* Dismiss the complaint and notify the complainant and the respondent of the dismissal in writing.
- b.* Cause the case to be docketed for disciplinary board consideration at its next hearing-meeting.
- c.* Arrange for the disciplinary board's counsel or another entity to investigate the complaint as the board chair or the chair's designee deems appropriate.

(1) All investigations done by a person or entity other than the disciplinary board's counsel or its in-house staff must be done in a manner as directed by and under the supervision of the board.

(2) The results of the investigation must be forwarded to the disciplinary board with any recommendation for the board's final action.

**35.8(2)** The disciplinary board has subpoena power during any investigation conducted on its behalf to compel the appearance of witnesses or the production of documents before the person or entity designated to conduct the investigation on behalf of the board.

**35.8(3)** The disciplinary board chair, or any other board member in the absence of the chair, has authority to issue subpoenas.

**35.8(4)** The district court for the county in which the investigation is being conducted has jurisdiction over any objection or motion relating to a subpoena, and it has authority to punish disobedience of a subpoena in a contempt proceeding.

**35.8(5)** The board's counsel or any other person authorized to administer oaths has authority to administer an oath or affirmation to a witness.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 35.8 formerly appeared as Iowa Court Rule 34.8. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.9 Disciplinary board action upon report and recommendation of investigator.** When the report and recommendation of the investigator is returned to the disciplinary board, the board must do one of the following:

**35.9(1)** Dismiss the complaint and notify the complainant and the respondent of the dismissal.

**35.9(2)** Cause the case to be docketed for consideration at its next hearing-meeting.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 35.9 formerly appeared as Iowa Court Rule 34.9. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.10 Prior notice of witnesses.** If any witness or party is required to give testimony before the disciplinary board, the witness or party must be given at least seven days' written notice in advance of the hearing-meeting at which the witness or party is required to attend and testify.

[Court Order January 26, 2016, effective April 1, 2016]

**COMMENT:** Rule 35.10 formerly appeared as Iowa Court Rule 34.10. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.11 Hearing-meetings.** The disciplinary board must hold hearing-meetings at least quarterly and may hold them telephonically. A majority of the disciplinary board constitutes a quorum. The chair, or the chair's designee, must see to the preparation of a record of hearing-meetings, which becomes a part of the permanent files of the supreme court. Any evidence must be taken under oath

or affirmation and may be made of record. Upon completion of the consideration of any matter before the disciplinary board, the members, by majority vote of those present, must do one of the following:

**35.11(1)** Continue the matter.

**35.11(2)** Dismiss the complaint and notify the complainant and the respondent of the dismissal.

**35.11(3)** Admonish the respondent, who must be notified in writing that the respondent has 30 days from the date of mailing to file an exception with the assistant director for attorney discipline, who upon receipt of the exception must then return the admonition to the disciplinary board. The disciplinary board may dismiss, admonish, reprimand, or file a formal complaint with the grievance commission. In cases of admonition, the disciplinary board must notify the complainant of the board's opinion concerning the matter and its communication with the attorney involved.

**35.11(4)** Reprimand the respondent and file the reprimand as provided in Iowa Court Rule 35.12.

**35.11(5)** File a complaint before the grievance commission and prosecute the complaint to final determination.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 35.11 formerly appeared as Iowa Court Rule 34.11. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.12 Reprimand.** If the disciplinary board reprimands an attorney, a copy of the reprimand must be filed with the grievance commission clerk, who must cause a copy of the reprimand to be served on the attorney by personal service in the manner of an original notice in civil suits or by restricted certified mail with a notice attached stating that the attorney has 30 days from the date of completed service to file an exception to the reprimand with the grievance commission clerk. Service is complete on the date of personal service or the date shown by the postal receipt of delivery of the notice to the attorney.

**35.12(1)** If the attorney fails to file an exception to the reprimand, the failure constitutes a waiver of any further proceedings and a consent that the reprimand be made final and public. In that event, the grievance commission clerk must cause a copy of the reprimand to be forwarded to the supreme court clerk, together with proof of service of the reprimand upon the attorney and a statement that the attorney did not file an exception within the time prescribed. The supreme court will then include the reprimand in the records of the court as a public document unless the court remands the matter to the disciplinary board for consideration of another disposition.

**35.12(2)** In the event the attorney files a timely exception to the reprimand, no report of the reprimand will be made to the supreme court clerk and the reprimand must be stricken from the grievance commission records.

**35.12(3)** The board may proceed further by filing a complaint against the attorney before the grievance commission. When an exception to a reprimand is filed, the reprimand is not admissible in evidence in any hearing before the grievance commission.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 35.12 formerly appeared as Iowa Court Rule 35.3. [Court Order January 26, 2016, effective April 1, 2016]

**Rule 35.13 Order for mental or physical examination or treatment.**

**35.13(1)** *Order requiring examination or treatment.* An attorney who is licensed to practice law in the State of Iowa is, as a condition of licensure, under a duty to submit to a mental or physical examination or subsequent treatment as the disciplinary board may order. The disciplinary board may order the examination or treatment based upon a showing of probable cause to believe the attorney is suffering from a condition that impairs the attorney's ability to discharge professional duties. The disciplinary board may order that the examination or treatment be at the attorney's expense.

**35.13(2)** *Show cause hearing.* Before the disciplinary board may order an attorney to submit to examination or treatment, it must schedule a hearing to permit the attorney to show cause why the board should not enter the order. At least three members of the disciplinary board must participate in the hearing. At the hearing, the disciplinary board's staff counsel must first present evidence of probable cause supporting the need for examination or treatment. The attorney may then respond to the staff counsel's showing and rebut the claim that the examination or treatment is necessary. The hearing will be informal and the strict rules of evidence will not apply. Following the hearing, the disciplinary board, by majority vote, must either dismiss the matter or enter an order requiring examination or treatment.

**35.13(3)** *Content of order.* The disciplinary board's order for mental or physical examination or treatment must include the following:

- a. A description of the type of examination or treatment to which the attorney must submit.
- b. The name and address of the examiner or treatment facility that the disciplinary board has identified to perform the examination or provide the treatment.
- c. The time period in which the attorney must schedule the examination or enter treatment.
- d. The amount of time in which the attorney is required to complete the examination or treatment.
- e. A requirement that the attorney provide a report or reports of the examination or treatment results to the disciplinary board within a specified period of time.
- f. A requirement that the attorney communicate with the disciplinary board regarding the status of the examination or treatment.
- g. A provision allowing the attorney to request additional time to schedule the examination or complete the treatment or to request that the disciplinary board approve an alternative examiner or treatment facility. The disciplinary board has sole discretion to determine whether to grant the request.

**35.13(4) Review.** An attorney who disagrees with the disciplinary board's order may seek review from the supreme court by filing a petition for review with the supreme court clerk and serving one copy of the petition on the disciplinary board within seven days after receipt of the board's order. The disciplinary board may file a response to the petition with the supreme court clerk and serve one copy of the response on the attorney within seven days after service of the petition. The matter will be promptly set for hearing before one or more justices of the supreme court. The disciplinary board's order is stayed upon the filing of the petition for review.

**35.13(5) Hearing.** At the hearing on the petition, the disciplinary board must present evidence of probable cause supporting its order and the necessity for the examination or treatment. The attorney may then respond to the disciplinary board's showing and rebut the board's claim that the examination or treatment is necessary. The hearing will be informal and the strict rules of evidence will not apply. Following the hearing, the supreme court may affirm, vacate, or modify the disciplinary board's order or may enter such order as the circumstances warrant.

**35.13(6) Failure to submit.** An attorney's failure to submit to the examination or treatment the disciplinary board orders under this rule may be grounds for discipline through the normal disciplinary process.

**35.13(7) "Condition."** For purposes of this rule, "condition relating to the attorney's impairment" means any physiological, mental or psychological condition, impairment, or disorder, including a substance-related disorder.

**35.13(8) Confidentiality.** All records, papers, proceedings, meetings, and hearings filed or conducted under this rule are confidential unless the supreme court orders otherwise.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

**COMMENT:** Rule 35.13 formerly appeared as Iowa Court Rule 34.12. [Court Order January 26, 2016, effective April 1, 2016]

#### **Rule 35.14 Deferral of further proceedings.**

**35.14(1) Deferral.** With agreement of the 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:

- a. The conduct under investigation involves misappropriation of funds or property of a client or a third party.
- b. The conduct under investigation involves a criminal act that reflects adversely on the attorney's honesty, trustworthiness, or fitness as an attorney in other respects.
- c. The conduct under investigation resulted in or is likely to result in actual prejudice (loss of money, legal rights, or valuable property rights) to a client or other person, unless restitution is made a condition of deferral.

**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 director for attorney discipline.
- b. Supervision of the attorney's practice or accounting procedures.
- c. Satisfactory completion of a course of study.
- d. Successful completion of the Multistate Professional Responsibility Examination.
- e. Compliance with the provisions of the Iowa Rules of Professional Conduct.

- f.* Restitution.
- g.* Psychological counseling or treatment.
- h.* Substance-related disorder counseling or treatment.
- i.* Abstinence from alcohol or drugs.
- j.* Cooperation with the Iowa Lawyers Assistance Program.
- k.* Fee arbitration.

**35.14(3) *Affidavit.*** Prior to the disciplinary board's deferral of further proceedings, the attorney must execute an affidavit setting forth all of the following:

- a.* The attorney's admission of the conduct under the disciplinary board's investigation.
- b.* The conditions the disciplinary board will impose for supervision of the attorney, including the period of supervision.
- c.* The attorney's agreement to the conditions to be imposed.
- d.* An acknowledgement that the attorney understands that if the attorney fails to comply with the conditions the disciplinary board has imposed, a formal complaint may be filed with the grievance commission, both for the matters raised in the original complaint to the board and for the attorney's failure to comply with the conditions of supervision.
- e.* A statement that, if the attorney fails to comply with the conditions of supervision, the attorney's admissions with respect to the attorney's conduct may be introduced as evidence in any subsequent proceedings before the disciplinary board or the grievance commission.
- f.* An acknowledgement that the attorney joins in the disciplinary board's deferral determination freely and voluntarily and understands the nature and consequences of the board's action.

**35.14(4) *Supervision.*** The diversion coordinator, who may be the 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.

**35.14(5) *Compliance.*** Upon the attorney's successful compliance with the conditions the disciplinary board imposed, the board must dismiss or close the investigations pending before it at the time it determined to defer further proceedings. The attorney will not be considered to have been disciplined, but the attorney's admission of misconduct may be considered in imposing sanctions in a subsequent disciplinary matter not arising out of the same conduct.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 19, 2022, effective October 1, 2022]

**COMMENT:** Rule 35.14 formerly appeared as Iowa Court Rule 34.13. [Court Order January 26, 2016, effective April 1, 2016]



**Rule 35.15 Forms.**

**Rule 35.15 — Form 1: Iowa Supreme Court Attorney Disciplinary Board Complaint Form.**

**Iowa Supreme Court Attorney Disciplinary Board  
Complaint Form**

*Complete a separate form for each attorney with whom you have a complaint.*

1. \_\_\_\_\_  
*Your name* *Email address*

\_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_  
*Street address* *City* *State* *ZIP code*

(\_\_\_\_\_) \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
*Home phone* *Cell phone* *Business phone*

2. Name of attorney about whom you are complaining: \_\_\_\_\_  
*Name*

\_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_  
*Business address* *City* *State* *ZIP code*

(\_\_\_\_\_) \_\_\_\_\_  
*Business phone*

3. Did you hire the attorney? Check one  Yes  No

If yes, when did you hire the attorney? \_\_\_\_\_

If no, what is your connection to the attorney? \_\_\_\_\_

4. If your complaint is about a lawsuit or court case, answer the following:

A. Name of court: \_\_\_\_\_  
*Examples: Iowa District Court for Polk County; United States District Court for Northern District of Iowa*

B. Case title: \_\_\_\_\_  
*Examples: Smith vs. Jones; State vs. Doe*

C. Case no. \_\_\_\_\_

5. Type or write neatly on one or more separate sheets of paper a detailed factual statement of what the attorney did or did not do. Return the sheet(s) with this form. Write on only one side of the complaint form and the additional sheets of paper. Attach copies of documents that prove or help to explain your complaint, such as fee agreements, letters, checks, receipts, itemized billings, and court papers. Send only copies, not original documents, as we are not able to return your documents to you.

In filing this complaint, you are waiving confidentiality and attorney-client privileges, if any, between you and the attorney named above. This waiver allows the attorney to disclose your confidential information to the extent reasonably necessary to respond to the complaint.

**6. Oath and Signature**

I, \_\_\_\_\_, certify under penalty of perjury and pursuant to the laws  
*Print your name*

of the State of Iowa that the allegations of this complaint are true and correct.

\_\_\_\_\_, 20\_\_\_\_  
*Month* *Day* *Year* *Your Signature*

Send the completed form to: Iowa Supreme Court Attorney Disciplinary Board  
Iowa Judicial Branch Building  
1111 East Court Avenue  
Des Moines, Iowa 50319  
Telephone (515) 725-8017



## **CHAPTER 39**

### **CLIENT SECURITY COMMISSION**

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## CHAPTER 39 CLIENT SECURITY COMMISSION

### **Rule 39.1 Client Security Commission.**

**39.1(1) *Commission.*** There is hereby created a Client Security Commission (commission), which has the duties and powers provided in this chapter.

**39.1(2) *Duties of commission.*** The commission has the following duties and powers as limited and defined in this chapter:

*a.* To examine lawyer defalcations and breaches of Iowa Rules of Professional Conduct, the rules relating to the discipline of members of the Iowa bar, and to make recommendations to the supreme court concerning rule changes deemed necessary or desirable in this area.

*b.* To assist the court in administering both preventive and remedial attorney disciplinary procedures contained in these rules or other court rules.

*c.* To administer and operate the Clients' Security Trust Fund of the Bar of Iowa, as hereinafter created, designated as the "fund."

**39.1(3) *Appointment of commissioners.*** The supreme court will appoint five members of the Iowa bar and two laypersons who are residents of this state to the commission. All appointments will be for a term of four years, and any commissioner who has served two full terms is not eligible for reappointment. A vacancy occurring during a term will be filled by the supreme court for the unexpired portion thereof.

**39.1(4) *Organization and meetings.*** The commissioners must organize annually and elect from among their number a chair and a treasurer to serve for a one-year term and such other officers for such terms as they deem necessary or appropriate. Meetings thereafter will be held at the call of the chair or of the majority of the commissioners. Five commissioners will constitute a quorum and may transact all business except as may be otherwise provided by this chapter and chapter 40 of the Iowa Court Rules.

**39.1(5) *Regulations.*** The commission may adopt regulations, consistent with this chapter and subject to the approval of the supreme court, concerning all of the powers and duties granted to and imposed upon the commission by this chapter.

**39.1(6) *Reimbursement.*** The commissioners must serve without compensation but are entitled to reimbursement from the fund for their expenses reasonably incurred in the performance of their duties.

[Court Order December 5, 1973; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; May 25, 2004; April 20, 2005, and July 1, 2005, effective July 1, 2005; December 13, 2017, effective January 1, 2018]

### **Rule 39.2 Principal executive officer.**

**39.2(1) *Appointment.*** The executive director of the office of professional regulation serves as the principal executive officer of the commission. The executive director may designate a director of client security to assist with the duties described in this chapter.

**39.2(2) *Duties of the executive director.*** Subject to the supervision of the supreme court and the commission, the executive director must do the following:

*a.* Collect attorney fees and assessments for the fund and report to the commission the names and addresses of all attorneys who fail to pay the fee and assessment.

*b.* Serve as executive secretary to the commission and assist in the operation and administration of the fund.

*c.* Conduct investigations and audits of attorneys' accounts and office procedures to determine compliance with this chapter, Iowa Rule of Professional Conduct 32:1.15, and chapter 45 of the Iowa Court Rules and report violations to the commission.

*d.* Maintain an office in such place as the supreme court may designate, act as a liaison between the court, the commission, and other commissions, committees, boards, and personnel serving a function in the disciplinary system, and maintain for the court records of disciplinary proceedings and such other information and data as the court requires.

*e.* Upon request of the commission, institute disciplinary proceedings before the grievance commission pursuant to chapter 36 of the Iowa Court Rules.

*f.* Perform such other functions and duties as may be directed by the supreme court.

[Court Order December 5, 1973; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; November 20, 2015, effective

January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 39.3 Clients' Security Trust Fund of the Bar of Iowa.**

**39.3(1) *Creation, operation and purpose.*** A trust fund, to be known as the "Clients' Security Trust Fund of the Bar of Iowa" (fund) is hereby authorized and created.

**39.3(2) *Administration.*** The fund will be operated and administered by the commission in accordance with this chapter.

**39.3(3) *Purpose.*** The purpose of the fund is to prevent defalcations by members of the Iowa bar, and insofar as practicable, to provide for the indemnification by the profession for losses caused to the public by the dishonest conduct of members of the bar of this state, and to provide funding for the administration of the lawyer disciplinary system and other programs that impact the disciplinary system including, but not limited to, the Iowa Lawyer's Assistance Program.

**39.3(4) *Powers and duties of commission relating to the fund.*** The commission, in addition to the powers granted elsewhere in this chapter, also has the following powers and duties:

*a.* To receive, hold, manage, and distribute, pursuant to the direction of the supreme court and this chapter, the moneys raised hereunder, and any other amounts that may be received by the fund through voluntary contributions or otherwise.

*b.* To adopt, subject to the approval of the supreme court, regulations for the administration of the fund and the procedures for presentation, consideration, recognition, rejection and payment of claims, and for conducting business. A copy of such regulations must be filed with the clerk of the supreme court.

*c.* To enforce claims for restitution arising by subrogation or assignment or otherwise.

*d.* To invest the fund, or any portion thereof, in those investments and in the percentages authorized by Iowa Code section 97B.7, (investments for the Iowa Public Employees' Retirement System); provided, however, the commission is not required to invest such portions of the fund as it may deem necessary to be currently available for payment of claims and other expenses required by this chapter. All interest or other income received in the operation of the fund will become a part of the fund.

*e.* To employ and compensate consultants, agents, legal counsel, and employees.

*f.* To delegate the power to perform routine acts that may be necessary or desirable for the operation of the fund, including the power to authorize disbursements for routine operating expenses of the fund, and all necessary expenses of the assistant administrator and staff in the performance of their duties. Authorization for payment of claims, however, may be made only by the commission under the provisions of this chapter.

*g.* To sue in the name of the commission without joining any or all individual commissioners.

*h.* To purchase complementary fidelity coverage for the fund in such amount and with such limitations or deductible limits as in its discretion it determines proper.

*i.* To pay reasonable and necessary attorney fees incurred by the commission in connection with disciplinary proceedings based on attorney defalcations or which are initiated pursuant to rule 39.2(3)(e).

*j.* To fund programs that the commission believes will assist in preventing defalcations by attorneys. The annual allocation for any such program must not exceed two and one-half percent of the fund value as of the beginning of the fiscal year in which the funding is to occur. No such funding may be provided unless there is at least twice the minimum balance required by rule 39.6(3) in the fund at the beginning of the fiscal year in which the funding is to occur.

**39.3(5) *Applications to the supreme court.*** The commission may apply to the supreme court for interpretations of this chapter and of the extent of the commission's powers thereunder and for advice regarding the proper administration of the fund. Interpretations of the supreme court are obligatory when rendered.

[Court Order November 9, 2001, effective February 15, 2002; November 26, 2013, effective December 1, 2013; December 13, 2017, effective January 1, 2018]

**Rule 39.4 Audit; banking; budget.**

**39.4(1) *Audit and report.*** On March 1 of each year, and at such additional times as the supreme court may order, the commission must file with the supreme court a written report reviewing in detail the administration of the fund during the preceding calendar year together with an audit of the fund certified by a certified public accountant licensed to practice in Iowa.

**39.4(2) Banking and disbursements.** The executive director of the office of professional regulation must maintain the assets of the fund in a separate account and may disburse moneys from the fund only at the direction of the supreme court or upon the action of the commission pursuant to this chapter. A separate bookkeeping account designated as the disciplinary fund account must be maintained within the fund for moneys derived from the annual disciplinary fee set out in rule 39.5. Fees, penalties, or investment income derived from the investment of the income from annual disciplinary fees and penalties must be placed in the disciplinary fund account.

**39.4(3) Budget.** At least 60 days prior to the commencement of each fiscal year or on a date otherwise specified by the supreme court, the executive director of the office of professional regulation must submit to the supreme court its budget of operations of such year, which may be amended thereafter as necessity dictates.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 39.5 Annual disciplinary fee.** As a condition to continuing membership in the bar of the supreme court, including the right to practice law before Iowa courts, every bar member, unless exempt or retired, must pay to the commission through the office of professional regulation an annual fee as determined by the supreme court to finance the disciplinary system. The annual fee is due on or before March 10 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31. A member of the bar of the supreme court who certifies in writing to the commission that the member is a justice, judge, associate judge, or full-time magistrate of any court, spends full time in the military service of the United States following admission to the Iowa bar, is admitted on examination to the bar of Iowa during the current calendar year, or is issued a certificate of exemption or a certificate of retirement pursuant to the provisions of rule 39.7 is exempt from payment of this fee.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; December 2, 2011; April 25, 2014; August 19, 2016, effective September 1, 2016; December 13, 2017, effective January 1, 2018]

**Rule 39.6 Fund assessments.**

**39.6(1) Assessments.** As a condition to continuing membership in the bar of Iowa, including the right to practice law before Iowa courts, every bar member, unless exempt or retired under the provisions of rule 39.6(6) or rule 39.7, must pay to the commission through the office of professional regulation the assessment specified in rule 39.6(2), 39.6(3), or 39.6(4), or as provided by court order. The assessment is to be paid annually and deposited in the fund created pursuant to the provisions of rule 39.3. Assessments are due on or before March 10 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31.

**39.6(2) Initial and regular assessment schedule.**

For the calendar year of the member’s admission on examination to the bar of Iowa, and for the calendar year thereafter. . . . . None.

For the calendar year of the member’s admission on motion to the bar of Iowa, a payment toward the \$200 initial assessment in the amount of . . . . . \$50.

For the years after those described above, until an initial total of \$200 in assessment has been paid, a payment of . . . . . \$50 annually.

For the years after an initial total of \$200 in assessments has been paid, unless a special assessment is payable under rule 39.6(4), a regular annual assessment of . . . . . \$50 annually.

[Court Order June 13, 1979; November 13, 1984; November 15, 1985; November 11, 1986; November 19, 1987; October 20, 1988; November 16, 1989; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; December 5, 2007; November 26, 2013, effective December 26, 2013]

**39.6(3) Certificate of sufficiency.** The commission must determine the net value of the cash and securities in the fund as of December 1 of each year. The commission must file with the supreme court prior to December 31 of each year a certificate regarding sufficiency of the fund. Whenever the value of such assets equals less than \$900,000, after deducting all claims and requests for reimbursement against the fund, not disposed of at the date of valuation, and all expenses properly chargeable against the fund, a special assessment as set forth in rule 39.6(4) will be payable for the next calendar year after the date of the certificate of sufficiency. This special assessment will be paid in lieu of the regular assessment set in rule 39.6(2) by each member of the bar who has already paid the \$200 initial assessment.

**39.6(4) *Special assessment.*** For any calendar year in which a special assessment is payable in lieu of the regular assessment set in rule 39.6(2), the special assessment is established as follows:

*a. Lawyers in full-time private practice.* Members of the bar of Iowa in full-time private practice must pay to the commission a special assessment of \$140.

*b. Lawyers in part-time private practice.* Members of the bar of Iowa who derive net income of less than \$10,000 from the practice of law in Iowa during the preceding calendar year must pay to the commission a special assessment of \$70. Net income from the practice of law for the purposes of this rule is that amount shown on the federal income tax return of such members for the appropriate year as “profit or loss from a business or profession.” The commission may require members so electing to submit to the commission a copy of their federal income tax return for the appropriate year to substantiate the amount due hereunder.

*c. Judges, government attorneys, corporate counsel.* Any member of the bar of Iowa who certifies in writing to the commission that the member is a justice, judge, associate judge, or full-time magistrate of any court, or one who performs legal services only for a governmental unit, or one who performs legal services only for a particular person, firm, or corporation (other than a professional legal corporation or a law firm) and stands in the legal capacity with such person, firm, or corporation as an employee, must pay to the commission a special assessment of \$70. However, a retired judge or justice recalled for temporary service is not required to pay an assessment or surrender their certificate of exemption.

**39.6(5) *Multijurisdictional practitioners.*** Lawyers practicing in Iowa under the provisions of rule of professional conduct 32:5.5(d)(2) and rule 39.16 must pay the same initial, regular, and special assessments as members of the bar of Iowa in private practice.

**39.6(6) *Members in full-time military service.*** Any member of the bar of Iowa who certifies in writing that the member is serving full-time in the military service of the United States is exempt from any assessment under this rule.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; November 26, 2013, effective December 26, 2013; April 25, 2014; August 19, 2016, effective September 1, 2016; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

### **Rule 39.7 Exemption; retirement.**

**39.7(1) *Certificate of exemption.*** A member of the bar of the supreme court who is not engaged in the practice of law in the State of Iowa may be granted a certificate of exemption by the commission, and thereafter no fee or assessment except for an annual exemption fee of \$50 and late filing penalties will be required from such member unless the member thereafter engages in the practice of law in the State of Iowa, in which case the certificate of exemption must without further order of court stand revoked, and the member must file at once the statement required by rule 39.8(1) and the questionnaire required by rule 39.11 and pay the fee and assessment due under rules 39.5 and 39.6. A member of the bar requesting a certificate of exemption must file with the director such part of the rule 39.11 questionnaire as the executive director may deem necessary to determine the member’s status. Applications for a certificate of exemption must be submitted concurrently under rules 39.7(1), 41.7, and 42.6.

**39.7(2) *Certificate of relinquishment.*** A member of the bar of the supreme court who does not intend ever again to practice law in Iowa may be granted a certificate of relinquishment. Thereafter, no fee, assessment, annual statement, or questionnaire is required from such member. A member granted a certificate of relinquishment is not entitled to practice law in the State of Iowa and may not apply for reinstatement, but the member may be certified as an emeritus attorney under Iowa Court Rule 31.19. A member granted a certificate of relinquishment who desires to again practice law other than as an emeritus attorney must seek admission under the provisions of chapter 31 of the Iowa Court Rules. A member of the bar requesting a certificate of relinquishment must file with the commission such part of the rule 39.11 questionnaire as the executive director may deem necessary to determine the member’s status. Applications for a certificate of relinquishment must be submitted concurrently under rules 39.7(2) and 41.13.

**39.7(3) *Practice of law.*** The practice of law as that term is employed in this chapter includes the following: examining abstracts; consummating real estate transactions; preparing legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; representing others in any Iowa courts; the right to represent others in any Iowa courts; regularly preparing legal instruments; securing legal rights, advising others as to their legal rights or the effect of contemplated actions upon their legal rights, or holding oneself out to so do; instructing others in legal rights; and being a judge or one who



rules upon the legal rights of others unless neither state nor federal law requires the person so judging or ruling to hold a license to practice law.

**39.7(4) Transition provisions.**

a. The provisions of rule 39.7(1) regarding an annual \$50 fee for exempt practitioners and concurrent application for exempt status and of rule 39.7(2) regarding a separate fully relinquished status are effective January 1, 2018.

b. On or before December 31, 2017, attorneys in active status may apply for and be granted exempt status without payment of an annual fee, or emeritus status under Iowa Court Rule 31.19.

c. On or after January 1, 2018, attorneys in active status may apply for and be granted exempt status with payment of an annual fee, emeritus status under rule 31.19, or retired status under rule 39.7(2).

d. Attorneys who are in exempt status as of December 31, 2017, will be accorded legacy status. Attorneys in legacy status will have no fee payment or reporting responsibilities for a period of five years commencing January 1, 2018, and ending December 31, 2022. On or after January 1, 2023, attorneys in legacy status may apply for conversion to exempt status or apply for reinstatement to active status under rule 39.14(3), but will be required to pay the \$50 annual fee for each year they were in legacy inactive status after January 1, 2023. Attorneys in legacy inactive status may apply for emeritus status under rule 31.19 or relinquished status under rule 39.7(2) at any time.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; August 19, 2016, effective September 1, 2016, rules 39.7(1) and 39.7(2), effective January 1, 2018; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021; July 11, 2023]

**Rule 39.8 Enforcement.**

**39.8(1)** To facilitate the collection of the annual fees and assessments provided for in rules 39.5, 39.6, 39.7(1), and 39.17, all members of the Iowa bar required to pay the fees and assessments must, on or before March 10 of each year, file a statement, on a form prescribed by the executive director, setting forth their date of admission to practice before the supreme court, their current residence and office addresses, and such other information as the executive director may from time to time direct. In addition to such statement, every bar member must file a supplemental statement of any change in the information previously submitted within 30 days of such change. All persons admitted to practice before the supreme court must file the statement required by this rule at the time of admission but no annual fees or assessments are payable until the time above provided. All attorneys failing to file the required statement by March 10 of each year must, in addition to the annual fees and assessments provided for above, pay a penalty as set forth in the following schedule if the statement is filed after March 10. The penalty fees collected will be used to pay the costs of administering the fund, or for such other purposes within the office of professional regulation as the supreme court may direct.

Penalty schedule:

If filed:	Penalty:
After March 10 but before April 12	\$100
After April 11 but before May 12	\$150
After May 11 but before June 12	\$200
After June 11	\$250

**39.8(2)** Attorneys who fail to timely pay the fees and assessments required under rules 39.5, 39.6, 39.7(1), and 39.17, or fail to file the statement or supplement thereto provided in rule 39.8(1), may have their right to practice law suspended by the supreme court, provided that at least 15 days prior to such suspension, a notice of delinquency has been served upon them in the manner provided for the service of original notices in Iowa Rule of Civil Procedure 1.305, or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys must be given the opportunity during said 15 days to file in duplicate in the office of professional regulation an affidavit disclosing facts demonstrating the noncompliance was not willful and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of the clerk of the supreme court a request for hearing to show cause why their license to practice law should not be suspended, accompanied with an affidavit stating why

the attorney is not required to comply with the annual filing requirement. A hearing will be held at the discretion of the court. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney must be notified thereof by either of the two methods provided above for notice of delinquency.

**39.8(3)** An attorney suspended pursuant to this chapter must comply with the requirements of Iowa Court Rule 34.23(2).

**39.8(4)** An attorney suspended pursuant to this chapter must refrain during such suspension from all facets of the 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; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, conservatorship, or guardianship of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**39.8(5)** Attorneys who have been suspended pursuant to this chapter or who currently hold a certificate of exemption or certificate issued pursuant to rule 39.7(2) and who practice law or who hold themselves out as being authorized to practice law in this state are engaged in the unauthorized practice of law and may also be held in contempt of the court or may be subject to disciplinary action as provided by chapter 35 of the Iowa Court Rules.

**39.8(6)** An attorney who has been administratively suspended pursuant to this chapter must follow the reinstatement procedures in rule 34.26

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; April 25, 2008; June 5, 2008, effective July 1, 2008; January 19, 2010; April 25, 2014; November 20, 2015, effective January 1, 2016; August 19, 2016, effective September 1, 2016; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021; July 11, 2023; December 12, 2023, effective January 1, 2024]

### **Rule 39.9 Claims.**

**39.9(1)** The commission will consider for payment all claims resulting from the dishonest conduct of a member of the bar of this state acting either as an attorney or fiduciary, provided that all of the following are established:

*a.* The conduct was engaged in while the attorney was a practicing member of the bar of this state, and the claim arises out of the practice of law in this state. The commission must not consider any claim resulting from conduct engaged in after an attorney's license to practice in Iowa has been revoked. For purposes of this rule, a practicing member of the bar of this state is:

(1) A member of the bar of Iowa whose license is active and in good standing at the time of the dishonest conduct giving rise to the claim.

(2) A member of the bar of Iowa whose license has been suspended and whom the client reasonably believes to be licensed, active, and in good standing at the time of the dishonest conduct giving rise to the claim. If the attorney has been suspended more than six months prior to the time of the dishonest conduct giving rise to the claim, it will be presumed that the client was unreasonable in believing that the attorney was licensed, active, and in good standing at the time of the dishonest conduct.

(3) An attorney who establishes an office or other systematic and continuous presence in Iowa for the practice of law under the provisions of rule of professional conduct 32:5.5(d)(2) and pays the annual fee and assessment due under rules 39.5 and 39.6.

*b.* Such defalcation or dishonest conduct occurred after January 1, 1974.

*c.* The claim is made within one year after the client's discovery of the loss; provided, however, such time limitation in unusual circumstances may be extended by the commission in its discretion for good cause shown.

*d.* The claim is made directly by or on behalf of the injured client or the client's personal representative or, if a corporation, by or on behalf of itself or its successors in interest.

*e.* The commission is satisfied that there is no other source or collateral source for the reimbursement of the loss.

*f.* The claim did not arise out of an employer-employee relationship as distinguished from a lawyer-client relationship or a fiduciary relationship.

**39.9(2)** The commission is invested with the power, which it will exercise in its sole discretion, to determine whether a claim merits reimbursement from the fund, and if so, the amount of such reimbursement, the time, place, and manner of its payment, the conditions upon which payment will be made, and the order in which payment will be made. The commission's powers in this

respect may be exercised only by the affirmative vote of at least four commissioners. In making such determinations, the commission may consider among other appropriate factors, the following:

- a. The amounts available and likely to become available to the fund for the payment of claims and the size and number of claims which are likely to be presented.
- b. The total amount of reimbursable losses in previous years for which total reimbursement has not been made, if any, and the total assets of the fund.
- c. The amount of the claimant's loss as compared to the amount of losses sustained by other eligible claimants.
- d. The degree of hardship suffered by the claimant as a result of the loss.
- e. The degree of negligence, if any, of the claimant which may have contributed to the loss.
- f. The total amount of losses caused by defalcations of any one attorney or associated group of attorneys.

**39.9(3)** By regulation approved by the supreme court, the commission must fix the maximum amount that any one claimant may recover from the fund and the aggregate maximum amount that may be recovered because of the dishonest conduct of any one attorney.

**39.9(4)** No claimant or any other person or organization has any right in the fund as third-party beneficiary or otherwise. Reimbursement by claim on the fund is a matter of grace and not of right.

**39.9(5)** The commission may require as a condition to payment that the claimant execute an assignment of claimant's right against the defaulting lawyer.

**39.9(6)** No claimant need be represented by counsel before the commission. No attorney representing a claimant will receive a fee for services from the fund. Any agreement for compensation between a claimant and any attorney retained for prosecution of the claim is subject to the approval of the commission.

**39.9(7)** The commission may request individual lawyers, bar associations, and other organizations of lawyers to assist the commission in the investigation of claims.

**39.9(8)** The payment or denial of any claim filed under the provisions of this rule is inadmissible as evidence in any disciplinary or contempt proceeding.

[Court Order December 5, 1973; April 22, 1974; October 16, 1974; April 9, 1975; April 10, 1975; August 29, 1975; October 28, 1976; November 21, 1977; January 15, 1979; June 20, 1980; April 21, 1982; November 13, 1984; April 25, 1985; February 16, 1990, effective March 15, 1990; December 15, 1994, effective January 3, 1995; March 6, 1995; January 24, 2000; November 9, 2001, effective February 15, 2002; February 20, 2012; December 10, 2012; December 13, 2017, effective January 1, 2018]

#### **Rule 39.10 Investigations; audits.**

**39.10(1)** Each member of the bar of Iowa, in filing the statement required by rule 39.8(1), must authorize the executive director to investigate, audit, and verify all funds, securities, and other property held in trust by the member, and all related accounts, safe deposit boxes, and any other forms of maintaining trust property as required by Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the Iowa Court Rules, together with deposit slips, canceled checks, and all other records pertaining to transactions concerning such property.

**39.10(2)** Each member of the bar of Iowa must comply promptly with any request by the executive director to execute and deliver to the director a written authorization, directed to any bank or depository, for the director to audit and inspect such accounts, safe deposit boxes, securities, and other forms of maintaining trust property by the member in such bank or other depository.

**39.10(3)** Each member of the bar of Iowa must do all of the following:

- a. Cooperate fully with the executive director in any investigation, audit, or verification of any funds, securities, or property held in trust by that lawyer.
- b. Answer all questions posed by the executive director that relate to any investigation, audit, or verification, unless claiming the privilege against self-incrimination.
- c. Retain complete records of all trust fund transactions for a period of not less than six years following completion of the matter to which they relate, in accordance with Iowa Rule of Professional Conduct 32:1.15 and Iowa Court Rule 45.2(3).

**39.10(4)** The commission with the approval of the supreme court may retain, compensate from the fund, and furnish as staff for the executive director, such public or certified accountants, investigators, or attorneys as may be deemed necessary to carry out the duties and functions imposed upon the executive director. When acting under the executive director's supervision and direction, such staff personnel have all the powers granted to the executive director by this chapter.

**39.10(5)** When the investigation, audit, or verification provisions of this chapter disclose, in the opinion of the executive director, a violation of the Iowa Rules of Professional Conduct, or when the member of the bar of Iowa affected by the investigation, audit, or verification has refused to comply with the provisions of this chapter, the director must promptly report such circumstances to the commission. A copy of such report must be furnished to the member affected.

**39.10(6)** Client trust funds and property held by an Iowa licensed attorney whose law office is situated in another state are not subject to investigation, audit, or verification except to the extent such funds and property are related to matters affecting Iowa clients. State or federal funds or property subject to state or federal auditing procedures and in control of an Iowa licensed attorney employed full- or part-time by a state or the United States are not subject to investigation, audit, or verification under the provisions of this chapter.

**39.10(7)** The costs of performing a trust account audit must be assessed to the attorney or attorneys who are signatories on the account if the audit reveals the account was not in substantial compliance with Iowa Rule of Professional Conduct 32:1.15 or chapter 45 of the Iowa Court Rules, and one or more of the following circumstances caused performance of the audit:

*a.* A claim for reimbursement was filed under the provisions of rule 39.9 based on the alleged conduct of the attorney or attorneys who are signatories on the account.

*b.* A notice of insufficient funds to honor an instrument drawn on the account was reported to the commission under the provisions of Iowa Court Rule 45.4(4)(c).

*c.* A complaint alleging an attorney signatory on the account committed a disciplinary infraction was filed with the attorney disciplinary board under the provisions of Iowa Court Rule 35.1.

*d.* An attorney signatory on the account was suspended from practice under the provisions of chapter 34 of the Iowa Court Rules.

*e.* An attorney signatory on the account failed to timely file the statement and questionnaire required by rule 39.8.

*f.* An attorney signatory on the account was served a 15-day notice under rule 39.8(2) based on failure to cooperate with investigation and audit of the account as required by rule 39.10.

*g.* A trustee was appointed under the provisions of Iowa Court Rule 34.17 or 34.18 for an attorney signatory on the account.

*h.* An attorney signatory on the account was issued a certificate of noncompliance pursuant to Iowa Court Rule 34.20(1), 34.21(1), or 34.22(1).

*i.* The Client Security Commission specifically directed the audit.

**39.10(8)** Costs assessed under rule 39.10(7) are due upon assessment by the commission. Costs assessed under this rule must be paid as a condition of reinstatement, and may be collected by the commission as part of the annual statement and assessment required by rule 39.8 if not previously paid.

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; November 20, 2015, effective January 1, 2016; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021; July 11, 2023]

### **Rule 39.11 Annual questionnaire.**

**39.11(1)** The executive director, under the supervision of the supreme court and the commission, will prepare a questionnaire to be annually submitted to and completed by each member of the bar of Iowa, except those who have been issued a certificate of exemption pursuant to rule 39.7. The questionnaire may be, but is not required to be, incorporated as a part of the annual statement provided in rule 39.8(1). This purpose of this questionnaire is to elicit information to determine whether the member is complying with the Iowa Court Rules, including but not restricted to, Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the rules. The commission may prescribe an electronic format for the questionnaire and annual statement and require submission of the questionnaire and annual statement in that form.

**39.11(2)** A failure to complete and return a questionnaire will be addressed as provided in rule 39.12.

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; June 5, 2008, effective July 1, 2008; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

### **Rule 39.12 Investigations; audits; annual questionnaire; enforcement.**

**39.12(1)** *Failure of bar members to cooperate.*

a. The right of a member of the Iowa bar to practice law in this state is conditioned upon the member executing and delivering the authorization provided in rule 39.10(2), furnishing the cooperation required in rule 39.10(3), and completing and returning the annual questionnaire described in rule 39.11. Upon failure of a member of the Iowa bar to comply with any of the rules specified in this paragraph, the member's right to practice law before Iowa courts may be suspended, following the procedure specified in rule 39.8(2).

b. A member of the bar of Iowa who willfully fails to comply with the rules enumerated in rule 39.12(1)(a) may be held in contempt of the supreme court or may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules.

**39.12(2) *Violation of the Iowa Rules of Professional Conduct.***

a. When the audit, investigation, or verification of funds, securities, or other property held in trust by any member of the bar of Iowa, or an answer of any member on the annual questionnaire, discloses an apparent violation of the Iowa Rules of Professional Conduct, the director upon request of the commission, or the commission, may privately admonish, refer to the Attorney Disciplinary Board, or institute disciplinary proceedings under chapter 36 of the Iowa Court Rules for the suspension or revocation of the member's license to practice law in this state.

b. All information obtained by the director and staff by virtue of the audits, investigations and verifications, and annual questionnaire, must be held in strict confidence by them and by the supreme court and the commission unless otherwise directed by the supreme court or unless proceedings are initiated pursuant to chapter 36 of the Iowa Court Rules or Iowa Code section 602.10123. If proceedings are initiated pursuant to chapter 36 of the Iowa Court Rules, such information relating to the named respondent may be released only to the respondent, the disciplinary board, and the grievance commission. If proceedings are initiated pursuant to Iowa Code section 602.10123, such information relating to the named accused may be released only to the accused and the attorney general or the special assistant attorney general designated pursuant to Iowa Code section 602.10127, to prosecute the charges.

**39.12(3) *Commission subpoena authority.***

a. The commission has subpoena power during any investigation conducted on its behalf to compel the appearance of witnesses or the production of documents before the person designated to conduct the investigation on behalf of the commission.

b. The commission chair, or other commission member in the absence of the chair, has the authority to issue a subpoena.

c. The district court for the county in which the investigation is being conducted has jurisdiction over any objection or motion relating to a subpoena and authority to punish disobedience of a subpoena in a contempt proceeding.

d. Counsel for the commission, the director, or any other person authorized to administer oaths has authority to administer an oath or affirmation to a witness.

[Court Order December 5, 1973; September 19, 1974; October 16, 1974; April 9, 1975; April 30, 1982; August 14, 1986, and August 18, 1986, effective September 2, 1986; May 10, 1990, effective July 2, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 9, 2003; April 20, 2005, effective July 1, 2005; December 5, 2007; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 39.13 Attorneys acting as fiduciaries.**

**39.13(1)** After January 1, 1974, unless a lawyer is the spouse of or is the son-in-law or daughter-in-law of or is related by consanguinity or affinity within the third degree to the decedent in an estate, the ward in a conservatorship, the settlor or beneficiary of a trust, or unless such attorney is coexecutor, cotrustee, or coconservator with another party or parties and such other party or parties will receive and pay out any of the funds, securities or other property of the estate, trust, or conservatorship, such lawyer must not be appointed by a court in any fiduciary capacity for an estate, trust, or conservatorship until the lawyer has posted a bond in an amount to be determined by the court with sureties approved by the court, and no waiver of such bond will be recognized by any court of this state. In the event the surety on the bond posted by the lawyer is not a corporate surety, the surety thereon must not be the ward, any beneficiary or distributee or be related to the lawyer, the ward, or any beneficiary or distributee within the third degree of consanguinity or affinity.

**39.13(2)** A lawyer who willfully fails to comply with the provisions of this rule may be held in contempt of the supreme court, or may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules.

[Court Order November 9, 2001, effective February 15, 2002; December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 39.14 Reinstatement from exemption or suspension.**

**39.14(1)** An attorney who has been suspended for failure to pay the annual fee or assessment or for failure to file the statement, supplement, or questionnaire required by these rules may be reinstated by following the reinstatement procedures in rule 34.26.

**39.14(2)** An attorney who seeks or applies for reinstatement from suspension under chapters 34 or 36 of the Iowa Court Rules must follow the procedures for reinstatement in rule 34.24 or 34.25 depending on the length of the suspension.

**39.14(3)** An attorney who has been granted a certificate of exemption under the provisions of rule 39.7 may be reinstated after filing the statement required by rule 39.8(1) and the questionnaire required by rule 39.11, paying all fees, assessments, and late filing penalties due and unpaid, paying the current fee and assessment required by rules 39.5 and 39.6 and paying a reinstatement fee of \$200. [Court Order April 25, 2008; August 10, 2009; November 20, 2015, effective January 1, 2016; December 10, 2012; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021; December 12, 2023, effective January 1, 2024]

**Rule 39.15 Denial of reinstatement for failure to comply with certain obligations.**

**39.15(1)** *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.* The supreme court may deny an attorney's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. The procedure is governed by Iowa Court Rule 34.22(5).

**39.15(2)** *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission.* The supreme court may deny an attorney's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. The procedure is governed by Iowa Court Rule 34.21(5).

**39.15(3)** *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny an attorney's application for reinstatement under rule 39.14 for failure to comply with a support order. The procedure is governed by Iowa Court Rule 34.20(5).

[Court Order June 5, 2008, effective July 1, 2008; February 20, 2012; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

**Rule 39.16 Attorneys practicing in Iowa under the multijurisdictional practice rule.** An attorney who establishes an office or other systematic and continuous presence in Iowa for the practice of law under the provisions of rule of professional conduct 32:5.5(d)(2) must file the annual statement required by rule 39.8(1) and annual questionnaire required by rule 39.11, pay the annual fee and assessment due under rules 39.5 and 39.6, comply with all provisions of chapter 45 of the Iowa Court Rules, cooperate with investigations and audits under rule 39.10, and be subject to the provisions of rules 39.12 and 39.17.

[Court Order December 10, 2012; December 13, 2017, effective January 1, 2018]

**Rule 39.17 Collection of court costs and other fees.**

**39.17(1)** As a part of the annual statement provided by rule 39.8(1), the office of professional regulation must assess against each active attorney all fees, penalties, or court costs due any district court clerk or the clerk of the supreme court, or the office of professional regulation, and any client security trust fund claim reimbursement due the Client Security Commission, that are a personal obligation of such attorney, as of the preparation date of the annual statement.

**39.17(2)** As a condition to continuing or regaining membership in the bar of the supreme court, including the right to practice before Iowa courts, every bar member must pay to the supreme court through the office of professional regulation, all fees, penalties, court costs, and client security trust fund claim reimbursements assessed on the annual statement.

**39.17(3)** Assessments are due on or before March 10 of each year.

**39.17(4)** The executive director of the office of professional regulation must pay to the state general fund all fees, penalties, and court costs due the state general fund and collected under this provision.

[Court Order November 20, 2015, effective January 1, 2016; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

**Rule 39.18 Requirement for death or disability designation and authorization.**

**39.18(1)** *Required designation and authorization in annual questionnaire.*

*a.* Each attorney in private practice must identify and authorize each year, as part of the annual questionnaire required by rule 39.11, a qualified attorney-servicing association, an Iowa law firm that includes Iowa attorneys in good standing, or an active Iowa attorney in good standing, to serve as the attorney's designated representative or representatives under this rule. An attorney may identify and authorize an Iowa law firm of which the attorney is a member to serve under this rule.

*b.* The attorney or entity designated under this rule is authorized to review client files, notify each client of the attorney's death or disability, and determine whether there is a need for other immediate action to protect the interests of clients.

*c.* The attorney or entity designated under this rule also is authorized to serve as a successor signatory for any client trust account maintained by the private practitioner under Iowa Court Rule 45.11, prepare final trust accountings for clients, make trust account disbursements, properly dispose of inactive files, and arrange for storage of files and trust account records.

*d.* The authority of the attorney or entity designated under this rule takes effect upon the death or disability of the designated attorney. The designated attorney or entity may apply to the chief judge of the judicial district in which the designating attorney practiced for an order confirming the death or disability of the designating attorney. A copy of the order will be delivered to the office of professional regulation.

**39.18(2)** *Client list and location of key information.* Each attorney in private practice must maintain a current list of active clients, in a location accessible by the attorney or entity designated under this rule. As part of the annual questionnaire required by rule 39.11, each attorney in private practice must identify a person with knowledge of the location of the client list, a person with knowledge of the location of electronic and paper files and records, and a person with knowledge of the location of passwords and other security protocols required to access the electronic files and records. The attorney or entity designated under this rule is authorized to access electronic and paper files and records as necessary to perform duties as a designated attorney, and is authorized to access passwords and other security protocols required to access those electronic files and records.

**39.18(3)** *Supplemental plan.* An attorney in private practice may prepare a written plan that is supplemental to the designation and authority in the annual client security questionnaire. The supplemental written plan may designate an attorney or entity to collect fees, pay firm expenses and client costs, compensate staff, terminate leases, liquidate or sell the practice, or perform other law firm administration tasks. The supplemental written plan also may nominate an attorney or entity to serve as trustee if proceedings are commenced under the provisions of Iowa Court Rule 34.17 or 34.18.

**39.18(4)** *Durability.* A designation or plan under this rule must include language sufficient to make the designated attorney's or entity's powers durable in the event of the private practitioner's disability. *See* Iowa Code §633B.104; Iowa R. Prof'l Conduct 32:1.3 cmt. [5].

**39.18(5)** *Conflicts of interest.* A designated attorney or entity must not examine any documents or acquire any information containing real or potential conflicts with the designated attorney's clients. Should any such information be acquired inadvertently, the designated attorney or entity must, as to such matters, protect the privacy interests of the planning attorney's clients by prompt recusal or refusal of employment.

**39.18(6)** *Availability of trustee provisions.* A designated attorney or entity may petition the court, at any time, for appointment as the trustee or appointment of an independent trustee under the provisions of Iowa Court Rule 34.17 or 34.18, as applicable.

**39.18(7)** *Definitions.* For purposes of this rule, the following definitions apply:

*a.* A "qualified attorney-servicing association" is a bar association, all or part of whose members are admitted to practice law in the State of Iowa, a company authorized to sell attorneys professional liability insurance in Iowa, or an Iowa bank with trust powers issued by the Iowa Division of Banking.

*b.* A "law firm" is a minimum of two attorneys in a law partnership, professional corporation, or other association authorized to practice law.

c. An “attorney in private practice” includes an active Iowa attorney who resides outside Iowa but engages in the private practice of law in Iowa.

[Court Order November 20, 2015, effective January 1, 2016; November 24, 2015, effective March 1, 2016; January 15, 2016, effective January 1, 2017; August 29, 2016, effective January 1, 2018; November 18, 2016, effective December 25, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018]



**CHAPTER 41**  
**CONTINUING LEGAL EDUCATION FOR LAWYERS**

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Rule 41.3	Continuing legal education requirement
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Rule 41.13	Retired practitioners



## CHAPTER 41 CONTINUING LEGAL EDUCATION FOR LAWYERS

**Rule 41.1 Purpose.** Only by continuing their legal education throughout their period of the practice of law can attorneys fulfill their obligation competently to serve their clients. Failure to do so will be grounds for disciplinary action by the supreme court. This chapter establishes minimum requirements for such continuing legal education and the means by which the requirements will be enforced.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

### **Rule 41.2 Continuing legal education commission.**

**41.2(1)** There is hereby established a Commission on Continuing Legal Education (commission) consisting of 12 members. The supreme court will appoint to the commission 10 resident members of this state who are currently licensed to practice law in the State of Iowa, and 2 residents of this state who are not attorneys. The court must designate from among the members of the commission a chair who will serve at the pleasure of the court. All members, except for those appointed to fill unexpired terms, are appointed for a term of three years. No member can serve more than two consecutive complete terms as a member of the commission. The supreme court may adopt rules and regulations governing the operations and activities of the commission.

**41.2(2)** The commission has the following duties:

- a. To exercise general supervisory authority over the administration of this chapter.
- b. To accredit courses, programs, and other educational activities that will satisfy the educational requirements of this chapter; all being subject to continuous review by the commission.
- c. To foster and encourage the offering of such courses, programs and educational activities.
- d. To submit to the supreme court proposed rules and regulations not inconsistent with this chapter to govern the operations and activities of the commission. *See* chapter 42 of the Iowa Court Rules.
- e. Subject to the approval of the supreme court, to employ such persons as it deems necessary for the proper administration of this chapter.
- f. To make recommendations to the supreme court concerning this chapter and the enforcement thereof.
- g. To present an annual budget and a recommended annual fee for costs of administering this chapter.
- h. To report promptly to the supreme court concerning any violation of this chapter by any member of the bar of this state.
- i. To file with the supreme court on March 1 of each year, and at such additional times as the supreme court may order, a written report reviewing in detail the activities of the commission during the preceding calendar year together with an audit of commission funds certified by a certified public accountant licensed to practice in Iowa.

**41.2(3)** Members of the commission will not be compensated but may be reimbursed for expenses incurred by them in the performance of their duties upon vouchers approved by the supreme court.

[Court Order April 9, 1975; July 5, 1978; November 13, 1984; November 14, 1985; November 11, 1986; November 19, 1987; November 21, 1988; November 16, 1989; November 9, 2001, effective February 15, 2002; February 22, 2002; December 5, 2007; December 13, 2017, effective January 1, 2018]

### **Rule 41.3 Continuing legal education requirement.**

**41.3(1)** Each attorney admitted to practice in this state must complete a minimum of 15 hours of legal education accredited by the commission during each calendar year. The commission is authorized pursuant to guidelines established by the supreme court to determine the number of hours for which credit will be given for particular courses, programs, or other legal education activities. Under rules to be promulgated by the supreme court, an attorney may be given credit in one or more succeeding calendar years, not exceeding two such years, for completing more than 15 hours of accredited education during any one calendar year.

**41.3(2)** Beginning January 1, 2021, the 15 hours required by rule 41.3(1) must include a minimum of 1 hour devoted exclusively to the area of legal ethics and 1 hour devoted exclusively to the area of either attorney wellness or diversity and inclusion. Excess hours of education devoted to legal ethics, attorney wellness, and diversity and inclusion can be carried over for purposes of the annual

15-hour requirement under rule 41.3(1) but cannot be carried over for the special legal ethics, attorney wellness, and diversity and inclusion requirements under this rule.

[Court Order April 9, 1975; December 6, 1978; January 8, 1988; November 9, 2001, effective February 15, 2002; February 22, 2002; February 21, 2012; March 21, 2014; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; August 28, 2020]

**Rule 41.4 Annual fee and report by attorneys to commission.**

**41.4(1)** On or before March 10 of each year, each attorney admitted to practice in this state must pay to the commission a prescribed fee for costs of administering this chapter.

**41.4(2)** On or before March 10 of each year, each attorney admitted to practice in this state must make a written report to the commission, in such form as the commission prescribes, concerning completion of accredited legal education during the preceding calendar year. However, an attorney is not required to comply with this rule or comply with the continuing legal education requirements set forth in rule 41.3 for the year during which the attorney was admitted to practice in this state. Each annual report must be accompanied by proof satisfactory to the commission that the attorney has met the requirements for continuing legal education for the calendar year for which such report is made.

**41.4(3)** Each attorney admitted to practice in this state must make a written report to the commission, in such form as the commission prescribes, concerning completion of accredited legal ethics, attorney wellness, and diversity and inclusion education. The report is to be filed on or before March 10 of each year. An attorney is not required to comply with this requirement for the year of admission to practice.

**41.4(4)** All attorneys who fail by March 10 of each year to file the annual report or to pay the prescribed fee must, in addition, pay a penalty as set forth in the following schedule if either the annual report is filed or the prescribed fee is paid after March 10. The penalty fees collected must be used to pay the costs of administering this chapter, or for such other purposes within the office of professional regulation as the supreme court may direct.

Penalty schedule:

If filed:	Penalty:
After March 10 but before April 12	\$100
After April 11 but before May 12	\$150
After May 11 but before June 12	\$200
After June 11	\$250

**41.4(5)** The commission may prescribe an electronic format for the annual report and require submission of the report in that form.

[Court Order April 9, 1975; August 28, 1975; August 12, 1980; January 8, 1988; January 24, 2000; November 9, 2001, effective February 15, 2002; April 25, 2008; June 5, 2008, effective July 1, 2008; January 19, 2010; April 25, 2014; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

**Rule 41.5 Penalty for failure to satisfy continuing legal education requirements.**

**41.5(1)** Attorneys who fail to comply with the provisions of rule 41.4 or who file a report showing on its face that they have failed to complete the required number of hours of continuing legal education may have their right to practice law administratively suspended by the supreme court, provided that at least 15 days prior to such suspension, notice of such delinquency has been served upon them in the manner provided for the service of original notices in Iowa Rule of Civil Procedure 1.305 or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys must be given the opportunity during said 15 days to file in the office of professional regulation an affidavit disclosing facts demonstrating their noncompliance was not willful and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of clerk of the supreme court a request for hearing to show cause why their license to practice law should not be suspended, accompanied with an affidavit stating why the attorney is not required to comply with the annual filing requirement. A hearing will be held at the discretion of the court. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney will be notified thereof by either of the two methods above provided for notice of delinquency.

**41.5(2)** An attorney suspended pursuant to this chapter must comply with the requirements of Iowa Court Rule 34.23(2).

**41.5(3)** An attorney suspended pursuant to this chapter must refrain during such suspension from all facets of the 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; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, conservatorship, or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**41.5(4)** In addition, an attorney who willfully fails to comply with this chapter may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules, upon report filed by the commission with the disciplinary board.

**41.5(5)** For good cause shown, the commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the requirements or make the required reports.

[Court Order April 9, 1975; November 21, 1977; December 6, 1978; January 15, 1979; August 12, 1980; April 25, 1985; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; April 25, 2008; June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018; July 11, 2023; December 12, 2023, effective January 1, 2024]

**Rule 41.6 Confidentiality.** Unless otherwise directed by the supreme court, the files, records and proceedings of the commission, as they relate to or arise out of any failure of any attorney to satisfy the requirements of this chapter, are deemed confidential and must not be disclosed, except in furtherance of the commission's duties or upon the request of the attorney affected, or as they may be introduced in evidence or otherwise produced in proceedings taken in accordance with this chapter.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 41.7 Inactive practitioners.** A member of the bar who is not engaged in the practice of law in the State of Iowa as defined in Iowa Court Rule 39.7, upon application to the commission, may be granted a waiver of compliance with this chapter and obtain a certificate of exemption. No person holding such certificate of exemption is permitted to practice law in this state until reinstated. The supreme court will make rules and regulations governing the continuing legal education requirements for reinstatement of attorneys who, for any reason, have not been entitled to practice law in this state for any period of time subsequent to their admission to the bar. Applications for a certificate of exemption must be submitted concurrently under Iowa Court Rules 39.7 and 42.6 and this rule.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; August 19, 2016, effective January 1, 2018; December 13, 2017, effective January 1, 2018]

**Rule 41.8 Application of this chapter.** This chapter applies to every person licensed to practice law in the State of Iowa.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 41.9 Attendance exemption for out-of-state attendance of equivalent hours.**

**41.9(1)** An active member of the bar who resides in another state or the District of Columbia, did not practice law in Iowa during the reporting period, and who attends at least 15 clock-hours of continuing legal education accredited by the continuing legal education regulatory body in his or her state of residence, including 1 clock-hour in the area of legal ethics and 1 clock-hour of either attorney wellness or diversity and inclusion is exempt from the attendance requirements of rule 41.3. However, any member exempt from attendance under this rule must file the annual report and pay the annual fee required under rule 41.4, and must certify qualification for the exemption on the annual report.

**41.9(2)** The commission may require any member who claims exemption under this rule to provide proof of attending the accredited continuing legal education in the other jurisdiction.

**41.9(3)** The practice of law as that term is employed in this rule includes: the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; representation of others in any Iowa courts; regular preparation of legal instruments, securing of legal rights, advising others as to their legal rights or the effect of contemplated actions upon their legal rights, or holding oneself out to so do; instructing others in legal rights; being a judge or one who rules upon the legal rights of others unless neither the state nor federal law requires the person so judging or ruling to hold a license to practice law.

[Court Order November 20, 2015, effective January 1, 2016; October 24, 2019, effective January 1, 2020]

**Rule 41.10 Reinstatement from suspension.**

**41.10(1)** An attorney who has been suspended for failure to pay the annual fee, complete required continuing legal education, or file the annual report required by rule 41.4 may be reinstated by following the procedures for reinstatement in rule 34.26.

**41.10(2)** An attorney who seeks or applies for reinstatement from suspension under the provisions of chapter 34 or 36 of the Iowa Court Rules must follow the procedures for reinstatement in rule 34.24 or 34.25 depending on the length of suspension. 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.

[Court Order April 25, 2008; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021; September 19, 2022, effective October 1, 2022; December 12, 2023, effective January 1, 2024]

**Rule 41.11 Denial of reinstatement for failure to comply with certain obligations.**

**41.11(1)** *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.* The supreme court may deny an attorney's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. The procedure is governed by Iowa Court Rule 34.22(5).

**41.11(2)** *Denial of reinstatement for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission.* The supreme court may deny an attorney's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. The procedure is governed by Iowa Court Rule 34.21(5).

**41.11(3)** *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny an attorney's application for reinstatement under rule 41.7 or 41.10 for failure to comply with a support order. The procedure is governed by Iowa Court Rule 34.20(5).

[Court Order June 5, 2008, effective July 1, 2008; February 20, 2012; December 13, 2017, effective January 1, 2018; December 12, 2023, effective January 1, 2024]

**Rule 41.12 Basic skills course requirement.**

**41.12(1)** Every Iowa attorney admitted to practice by examination after December 31, 2008, but before January 1, 2015, must complete a Basic Skills Course. The course must be completed within one year of the newly admitted attorney's date of admission to practice in Iowa. The course may be completed after the last day of the bar examination that resulted in admission. If the course is completed after the last day of the bar examination, but the applicant fails the examination, the applicant will remain in compliance with this rule so long as the applicant passes the next examination offered.

**41.12(2)** The Basic Skills Course must total at least eight actual hours of instruction and include at least one actual hour qualifying for credit in the area of legal ethics. The course will include instruction on Iowa law selected from at least eight of the following topic areas:

- Civil Procedure
- Criminal Law
- Criminal Procedure
- Family Law
- Guardianships, Conservatorships, Trusts, and Powers of Appointment
- Business Entities
- Probate
- Torts
- Contracts
- Real Estate Transactions
- Ethics and Professionalism

**41.12(3)** Newly admitted attorneys shall be entitled to claim credit for attendance at an accredited Basic Skills Course against the continuing legal education requirements of rules 41.3 and 42.2, but are not exempt from reporting and fee payment duties of rule 41.4.

**41.12(4)** An attorney who fails to complete the Basic Skills Course within one year of the date of admission may have the right to practice law suspended under the provisions of rule 41.5.

**41.12(5)** The commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the Basic Skills Course requirement or extensions of time in which to complete the Basic Skills Course.

**41.12(6)** The Basic Skills Course may be offered by any provider of continuing legal education, but must be reviewed and accredited by the Commission on Continuing Legal Education as provided in Iowa Court Rule 42.4. The Basic Skills Course may be conducted in installments over time, and may be offered by computer-based transmission as provided in Iowa Court Rule 42.3. Any provider of the Basic Skills Course is required to report attendance in the manner specified by the commission. [Court Order October 9, 2009; November 24, 2010; January 21, 2015; December 13, 2017, effective January 1, 2018]

### **Rule 41.13 Retired practitioners.**

**41.13(1)** *Certificate of relinquishment.* A member of the bar of the supreme court who does not intend ever again to practice law in Iowa may be granted a certificate of relinquishment. Thereafter, no continuing legal education, annual report, or annual fee is required from such member. A member granted a certificate of relinquishment is not entitled to practice law in the State of Iowa and may not apply for reinstatement, but the member may be certified as an emeritus attorney under Iowa Court Rule 31.19. A member granted a certificate of relinquishment who desires to again practice law other than as an emeritus attorney must seek admission under the provisions of chapter 31 of the Iowa Court Rules. A member of the bar requesting a certificate of relinquishment must file with the director an application in such form as the director may deem necessary to determine the member's status. Applications for a certificate of relinquishment must be submitted concurrently under rules 39.7(2) and 41.13(1).

**41.13(2)** *Transition provisions.*

*a.* The provisions of rule 41.13(1) regarding a separate fully relinquished status and the provisions of rules 41.7 and 42.6 regarding concurrent applications for exempt status are effective January 1, 2018.

*b.* On or before December 31, 2017, attorneys in active status may apply for and be granted exempt status under rules 41.7 and 42.6 or emeritus status under rule 31.19.

*c.* On or after January 1, 2018, attorneys in active status may apply for and be granted exempt status under rules 41.7 and 42.6, emeritus status under rule 31.19, or relinquished status under rule 41.13(1).

*d.* Attorneys in active status under rules 41.7 and 42.6 but exempt status under rule 39.7 as of December 31, 2017, will be administratively transferred to exempt status under rules 41.7 and 42.6 as of January 1, 2018. Attorneys administratively transferred to exempt status under this provision nonetheless will be allowed to record their continuing legal education attendance on their attorney account pages while in exempt status.

[Court Order August 19, 2016, effective September 1, 2016, rule 41.13(1), effective January 1, 2018; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018]





**CHAPTER 42**  
**REGULATIONS OF THE COMMISSION ON CONTINUING**  
**LEGAL EDUCATION**

Rule 42.1	Definitions
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## CHAPTER 42

### REGULATIONS OF THE COMMISSION ON CONTINUING LEGAL EDUCATION

**Rule 42.1 Definitions.** For the purpose of these regulations, the following definitions apply:

(1) “Accredited program or activity” means a continuing legal education activity meeting the standards set forth in rule 42.3, which has received accreditation by the commission pursuant to rule 42.4.

(2) “Attorney” means any person licensed to practice law in the State of Iowa.

(3) “Commission” means the Commission on Continuing Legal Education or any division thereof.

(4) “Guidelines” means the requirements for accreditation of continuing legal education programs made available to sponsors and attorneys on the commission webpage.

(5) “Hour” of continuing legal education means one clock-hour spent by an attorney in actual attendance at or completion of an accredited legal education activity.

(6) “Legal ethics” means a separate, designated, and dedicated session of instruction referring to and based on the disciplinary rules or ethical considerations of the ethics or professional responsibility code for attorneys in the jurisdiction where the instruction is presented.

(7) “Attorney wellness” means a separate, designated, and dedicated session of instruction designed to help attorneys detect, prevent, or respond to substance-related disorders or mental illness that impairs professional competence. The instruction must focus on issues in the legal profession and in the practice of law, and not issues of substance-related disorders or mental health in general; or

(8) “Diversity and inclusion” means a separate, designated, and dedicated session of instruction regarding the impact of race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation on court system interaction or case or controversy outcome, and professional relationships between attorneys, judges, and clients where race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation is a potential factor.

(9) “Unmoderated activity” means a continuing legal education (CLE) activity presented by delayed or on-demand transmission or broadcast, or pre-recorded media, that has an interactive component and is approved by the commission based on its guidelines. “Pre-recorded media,” for purposes of this rule, includes but is not limited to audiotape, videotape, CD, podcast, CD-ROM, DVD, and self-paced computer-based instruction.

(10) “Quorum” of the entire commission means six or more members of the commission.

(11) “Moderated activity” includes the following:

*a. Standard (live).* A live CLE activity presented in a suitable classroom setting devoted to the program.

*b. Satellite.* A live CLE activity broadcast by satellite link to a classroom setting or a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

*c. Video conference.* A live CLE activity broadcast by cable, wire, or fiber optic link to a classroom setting or a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

*d. Live webcast.* A live CLE activity broadcast over the Internet in audio or audio plus video form to viewers at remote locations or at a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

*e. Live teleconference.* A live CLE activity broadcast over the telephone in audio or audio plus video form to listeners at remote locations or at a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.

*f. Video replay.* A recorded CLE activity presented in audio plus video form in a suitable classroom setting or central viewing location to a broad attorney population. The attorney must be able to contact a live moderator during the activity to comment or ask questions.

*g. Audio replay.* A recorded CLE activity presented in audio form in a suitable classroom setting, central listening location, or by telephone to a broad attorney population. The attorney must be able to contact a live moderator during the activity to comment or ask questions.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; February 20, 2012; August 24, 2012; March 21, 2014; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

**Rule 42.2 Continuing legal education requirements.**

**42.2(1)** A minimum of 15 hours of continuing legal education must be completed by each attorney for each calendar year in the manner stated in Iowa Court Rule 41.3(1). Beginning January 1, 2021, at least one hour of these 15 hours must be devoted specifically to the area of legal ethics and at least one hour devoted specifically to the area of either attorney wellness or diversity and inclusion.

**42.2(2)** Hours of continuing legal education credit may be obtained by attending or participating in a CLE activity, either previously accredited by the commission or which otherwise meets the requirements herein and is retroactively accredited by the commission pursuant to rule 42.4.

**42.2(3)** Hours of continuing legal education credit may be awarded for preparation of an accredited continuing legal education presentation. An attorney is entitled to one hour of preparation credit for each hour of accredited continuing legal education for which they prepare written materials and present, up to a maximum of three hours per calendar year. Hours of preparation credit are credited against the regular attendance requirement of 15 hours per calendar year, but not against the attendance requirement for legal ethics, attorney wellness, and diversity and inclusion. Hours of preparation credit in excess of three do not carry over to a subsequent year. Preparation credit may not be awarded to:

*a.* An attorney who prepares written materials without making the presentation or serving on a panel of speakers.

*b.* An attorney who makes a presentation or serves on a panel of speakers without preparing written materials.

*c.* An attorney who prepares a course directed primarily to persons preparing for admission to practice law.

*d.* An attorney who receives compensation, other than reasonable expenses, for preparing or presenting the continuing legal education.

**42.2(4)** An attorney desiring to obtain credit for one or more succeeding calendar years, not exceeding two such years, for completing more than 15 hours of accredited legal education during any one calendar year, under Iowa Court Rule 41.3(1), must report such “carry-over” credit at the time of filing the annual report to the commission on or before March 10 of the year following the calendar year during which the claimed additional legal education hours were completed.

[Court Order November 25, 1975; December 6, 1978; January 8, 1988; November 9, 2001, effective February 15, 2002; March 21, 2014; April 25, 2014; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021]

**Rule 42.3 Standards for accreditation.**

**42.3(1)** A CLE activity qualifies for accreditation if the commission determines that the activity complies with all of the following:

*a.* It constitutes an organized program of learning (including a workshop or symposium) that contributes directly to the professional competency of an attorney.

*b.* It pertains to common legal subjects or other subject matters that integrally relate to the practice of law.

*c.* It is conducted by attorneys or individuals who have a special education, training, and experience by reason of which the attorneys or individuals should be considered experts concerning the subject matter of the program, and the activity preferably is accompanied by a paper, manual, or written outline that substantively pertains to the subject matter of the program.

*d.* It is presented in the form of moderated programming, or in the form of unmoderated programming approved by the commission according to its guidelines.

**42.3(2)** No activity will be accredited that involves solely self-study, including television viewing, video or sound recorded programs, or correspondence work, except as may be allowed pursuant to rule 42.5.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; March 21, 2014; December 13, 2017, effective January 1, 2018]

**Rule 42.4 Accreditation of programs and activities.**

**42.4(1)** *Accreditation of activities.* A program sponsor that desires accreditation of a program, course, or other legal education activity or an attorney who desires to establish accreditation of a program, course, or other legal education activity must apply for accreditation to the commission in advance of the commencement of the activity or after completion of the activity in the manner the

commission prescribes. The commission must approve or deny such application in writing or by electronic mail within 30 days of receipt of such application. The application must state the dates, subjects offered, total hours of instruction, names and qualifications of speakers, and other pertinent information.

**42.4(2)** *Fee for organization applications for accreditation.* To support administration of this chapter, any organization or other activity sponsor applying for accreditation of an activity must pay to the commission a prescribed nonrefundable application fee for each activity. No application fee is required of an attorney who applies for accreditation solely as an attendee. The commission may waive the application fee for any of the following reasons:

- a. For any activity offered at no charge to attendees for the educational portion of the activity.
- b. For any presentation of the identical program at additional places or dates during a calendar year, provided the original presentation of the program was approved.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; November 23, 2004, effective July 1, 2005; March 21, 2014; December 13, 2017, effective January 1, 2018]

#### **Rule 42.5 Hardships or extenuating circumstances.**

**42.5(1)** The commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational 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 therefor is made on forms prescribed by the commission. A \$100 fee will be assessed on all waiver or extension of time applications received after January 15 of the year following the year in which the alleged hardship occurred.

**42.5(2)** Waivers of the minimum educational requirements may be granted by the commission for any period of time not to exceed one year. In the event that the hardship or extenuating circumstances upon which a waiver has been granted continue beyond the period of the waiver, the attorney must reapply for an extension of the waiver. The commission 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 commission.

**42.5(3)** Extensions of time within which to fulfill the minimum educational requirements may, in individual cases involving hardship or extenuating circumstances, be granted by the commission for a period not to exceed six months immediately following expiration of the year in which the requirements were not met. Hours of minimum educational requirement completed within such an extension period must be applied first to the minimum educational requirement for the preceding year and will then be applied to the current or following year only to the extent that such hours are not required to fulfill the minimum educational requirement for the preceding year.

[Court Order November 25, 1975; August 12, 1980; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

**Rule 42.6 Exemptions for inactive practitioners.** A member of the bar who is not engaged in the practice of law in the State of Iowa as defined in Iowa Court Rule 39.7 residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the commission. The application must contain a statement that the applicant will not engage in the practice of law in Iowa, as defined in Iowa Court Rule 39.7, without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption must be submitted upon the form prescribed by the commission. Applications for a certificate of exemption must be submitted concurrently under Iowa Court Rules 39.7 and 41.7 and this rule.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; August 19, 2016, effective January 1, 2018; December 13, 2017, effective January 1, 2018]

#### **Rule 42.7 Reinstatement of inactive practitioners.**

**42.7(1)** Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption must, prior to engaging in the practice of law in the State of Iowa as defined in Iowa Court Rule 39.7, satisfy the following requirements for reinstatement:

- a. Submit written application for reinstatement to the commission upon forms prescribed by the commission together with a reinstatement fee of \$100 and all late filing penalties due at the time the exemption was granted.

- b. Furnish in the application evidence of one of the following:

(1) Having engaged in the full-time practice of law, as defined in Iowa Court Rule 39.7, in another state of the United States or the District of Columbia and completion of continuing legal education for each year of inactive status substantially equivalent in the opinion of the commission to that required under chapter 41 of the Iowa Court Rules.

(2) Successful completion of an Iowa state bar examination conducted within one year immediately prior to the submission of such application for reinstatement.

(3) Completion of a total number of hours of accredited continuing legal education computed by multiplying 15 by the number of years a certificate of exemption has been in effect for such applicant, but limited to a maximum requirement of 100 hours. The continuing legal education required for reinstatement includes hours devoted specifically to legal ethics, attorney wellness, and diversity and inclusion in accordance with the requirements in effect for the years the attorney was in exempt or inactive status. Alternatively, the legal ethics requirement may be satisfied by obtaining a scaled score of 80 or higher on the Multistate Professional Responsibility Examination within one year immediately prior to submission of the application for reinstatement.

**42.7(2)** Notwithstanding that an applicant for reinstatement has not fully complied with the requirements for reinstatement set forth in rule 42.7(1)(b), the commission may conditionally reinstate such applicant on such terms and conditions as it may prescribe regarding the period of time in which the applicant must furnish evidence of compliance with the requirements of rule 42.7(1)(b). [Court Order November 25, 1975; July 28, 1977; January 8, 1988; December 15, 1994, effective January 3, 1995; April 10, 1997; November 9, 2001, effective February 15, 2002; August 10, 2009; December 10, 2012; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 12, 2023, effective January 1, 2024]

**Rule 42.8 Staff.** The executive director of the office of professional regulation may designate a director of boards and commissions of the office of professional regulation to serve as the principal executive officer of the commission. The commission may, subject to the approval of the court, employ such other employees as the commission deems necessary to carry out its duties under chapter 41 of the Iowa Court Rules, who must perform such duties as the commission may from time to time direct.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 5, 2007; November 20, 2015, effective January 1, 2016; September 14, 2021, effective October 1, 2021]

**Rule 42.9 Divisions.** The commission may organize itself into divisions of not fewer than three members for the purpose of considering and deciding matters assigned to them.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002]

**Rule 42.10 Hearings.** In the event of denial in whole or in part of any application, the applicant has the right, within 20 days after receipt of the notification of the denial, to request in writing a hearing before the commission. The decision of the commission after such hearing is final. Any hearing on a revocation of the accreditation of an accredited sponsor, the denial of a hardship application, or a recommendation for disciplinary action under Iowa Court Rule 41.5(4) must be before a quorum of the entire commission.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

**Rule 42.11 Notice of failure to comply.** In the event an attorney fails to comply with the provisions of Iowa Court Rule 41.4 or files a report showing on its face failure to complete the required number of accredited hours of continuing legal education, the commission must notify the attorney in writing of such apparent noncompliance and the attorney will have 15 days from the mailing of the notice to cure the failure to comply or make an appropriate application under rule 42.5. If the failure to comply is not cured or such application is not approved, the commission must report promptly to the supreme court the failure of the attorney to comply with chapter 41 of the Iowa Court Rules.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]