

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to the impaired practitioner review committee and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 193, “Impaired Practitioner Review Committee,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 272C.3(1)“k.”

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 272C.3(1)“k.”

Purpose and Summary

This rulemaking proposes repromulgation of Chapter 193 and implements Iowa Code section 272C.3(1)“k” in accordance with the goals of Executive Order 10 (January 10, 2023). This proposed rulemaking explains the processes of the impaired practitioner review committee and how the committee supports the recovery or rehabilitation of licensees. The committee is composed of at least one practitioner licensed under the same or similar professional licensing board who has successfully completed a board-approved recovery program and board-ordered probation and remained free of addiction for at least two years; one practitioner with expertise in substance use disorder, dependency, or addiction treatment programs; and one member of the public. The goal of this composition is to ensure the committee is well-rounded and has expertise in addiction and recovery, in addition to having members with pertinent perspectives to balance the needs of a licensee with protection of the public. Because this program is confidential, and participation is not a matter of public record, specific eligibility criteria must be met to ensure that matters that may need to be addressed by a professional licensing board are routed appropriately. Substantively, the goal of the terms of participation is to ensure that a licensee is safe to practice the profession through ongoing committee monitoring. Participants enter into a contract with the committee and agree to adhere to all terms and agreements set forth in the contract. If a contract provision is breached that poses an immediate risk to the public, the committee will immediately refer the matter to a professional licensing board for appropriate action to protect the public. Participation does not relieve a professional licensing board or licensee of any duties or consequences related to violations of the standards of practice, nor does it divest a professional licensing board of its authority. The committee also will refer any violations of the laws or rules governing the licensee’s practice to a professional licensing board for appropriate action. All information related to participation in this program is confidential, including names of participants.

No public comments were received on the published Regulatory Analysis for this chapter (IAB 11/1/23). A change has been made to the proposed chapter from the Regulatory Analysis to update the term “substance abuse disorder” to “substance use disorder.”

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa in an amount requiring a fiscal impact statement pursuant to Iowa Code section 17A.4(4).

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on January 31, 2024. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 30, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa
January 31, 2024 9:20 a.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 193 and adopt the following **new** chapter in lieu thereof:

CHAPTER 193
IMPAIRED PRACTITIONER REVIEW COMMITTEE

641—193.1(272C) Definitions. For the purpose of these rules, the following definitions apply:

“Committee” means the impaired practitioner review committee as established by a licensing board pursuant to the authority of Iowa Code section 272C.3(1) “k.”

“Contract” means the written document establishing the terms for participation in the impaired practitioner program prepared by the committee.

“Impairment” means an inability to practice with reasonable safety and skill as a result of substance use disorder, dependency, or addiction or any mental or physical disorder or disability.

“Licensing board” or “board” means “licensing board” or “board” as defined in Iowa Code section 272C.1.

“*Practitioner*” means a person licensed under Iowa Code chapter 105, 147, 148C, 149, 152B, 152C, 152D, 154A, 154E, or 155.

“*Self-report*” means the licensee’s providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging the same from a second party.

641—193.2(272C) Purpose. The impaired practitioner review committee evaluates, assists, monitors and, as necessary, makes reports to the licensing board on the recovery or rehabilitation of practitioners who self-report impairments. These rules do not apply to an impaired practitioner review committee governed by other administrative rule or statute.

641—193.3(272C) Composition of the committee. The chairperson of the board shall appoint the members of the committee. The committee will meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring. The membership of the committee includes, but is not limited to:

193.3(1) One practitioner, licensed under the same board or similar professional licensing board, who has successfully completed a board-approved recovery program and board-ordered probation for substance use disorder, dependency, or addiction and who has remained free of addiction for a period of no less than two years.

193.3(2) One practitioner with expertise in substance use disorder, dependency, or addiction treatment programs.

193.3(3) One public member of the board.

641—193.4(272C) Eligibility. To be eligible for participation in the impaired practitioner recovery program, a licensee must meet all of the following criteria:

193.4(1) The licensee self-reports an impairment or suspected impairment directly to the office of the board.

193.4(2) The licensee has not engaged in the unlawful diversion or distribution of controlled substances or illegal substances.

193.4(3) At the time of the self-report, the licensee is not already under board order for an impairment or any other violation of the laws and rules governing the practice of the profession.

193.4(4) The licensee has not caused harm or injury to a client.

193.4(5) There is currently no board investigation of the licensee that, as determined by the committee, concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care.

193.4(6) The licensee has not been subject to a civil or criminal sanction or ordered to make reparations or remuneration by a government or regulatory authority for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the licensee’s profession.

193.4(7) The licensee has provided truthful information and fully cooperated with the board or committee.

641—193.5(272C) Terms of participation in the impaired practitioner recovery program. A licensee shall agree to comply with the terms for participation in the impaired practitioner recovery program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period will be established by the committee and communicated to the licensee in writing.

193.5(1) Noncompliance. Failure to comply with the provisions of the contract will result in the committee immediately referring the matter to the board for possible disciplinary action.

193.5(2) Practice limitations. The committee may impose limitations on the licensee’s practice as a term of the contract until such time as the committee receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill.

a. As a condition of participating in the program, a licensee must agree to limited practice in accordance with the terms specified in the contract.

b. In the event that the licensee refuses to agree to or comply with the limitations established in the contract, the committee will refer the licensee to the board for appropriate action.

641—193.6(272C) Limitations. The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired practitioner program. As set forth in Iowa Code section 272C.3(1)"k," participation in the program does not relieve the board of any duties or divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant will be referred to the board for appropriate action.

641—193.7(272C) Confidentiality. The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Participation in the impaired practitioner program and information in the possession of the board or the committee about licensees in the program will not be disclosed to the public.

These rules are intended to implement Iowa Code chapter 272C.