

**PROFESSIONAL LICENSURE DIVISION[645]**

**Notice of Intended Action**

**Proposing rulemaking related to discipline for marital and family therapists, mental health counselors, behavior analysts, and assistant behavior analysts and providing an opportunity for public comment**

The Board of Behavioral Science hereby proposes to rescind Chapter 33, “Discipline for Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts,” 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 chapters 17A, 147, 154D and 272C.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 154D and 272C.

*Purpose and Summary*

This proposed rulemaking provides protection to Iowans because it publicly defines disciplinary options when a mental health counselor, marital and family therapist, behavior analyst, or assistant behavior analyst fails to provide the standard of care. This is important to both the public and to the licensee because it creates a shared understanding of what is and is not appropriate for certain types of licensed individuals in the state of Iowa. When professional standards are not met, a licensee can be subject to discipline against a license. Iowans have the ability to submit a complaint to the licensing board, which can then investigate the allegation. The Board has the ability to seek discipline against the licensee for those items outlined, ensuring that the public is protected.

The 19 boards in the legacy Department of Health and Human Services (HHS) Bureau of Professional Licensure have similar disciplinary standards for all professions. For this reason, one shared disciplinary chapter has been created that applies to all professions. This chapter contains only those disciplinary grounds that are unique to the Board of Behavioral Science and are therefore excluded from the general disciplinary chapter.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*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 Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Tony Alden  
Iowa Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.281.4401  
Email: [tony.alden@dia.iowa.gov](mailto:tony.alden@dia.iowa.gov)

*Public Hearing*

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

February 13, 2024  
9:40 to 10 a.m.

6200 Park Avenue  
Des Moines, Iowa  
Video call link:  
[meet.google.com/isb-pmab-qob](https://meet.google.com/isb-pmab-qob)  
Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

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Phone numbers:  
[tel.meet/isb-pmab-qob?pin=8352415222450](tel:meet/isb-pmab-qob?pin=8352415222450)

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 Board 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 645—Chapter 33 and adopt the following **new** chapter in lieu thereof:

CHAPTER 33  
DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS,  
MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS,  
AND ASSISTANT BEHAVIOR ANALYSTS

**645—33.1(154D,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—33.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses or those listed in 645—Chapter 13:

**33.1(1)** Failure to comply with the national association's code of ethics.

*a. Marital and family therapists.* Failure to comply with the current American Association for Marriage and Family Therapy (AAMFT) Code of Ethics revised January 2015, which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the AAMFT's website.

*b. Mental health counselors.* Failure to comply with the current Code of Ethics of the American Counseling Association (ACA) published 2014, which is hereby adopted by reference. Copies of the Code of Ethics may be obtained from the ACA website.

*c. Behavior analysts and assistant behavior analysts.* Failure to comply with the current Behavior Analyst Certification Board (BACB) Professional and Ethical Compliance Code for Behavior Analysts published January 2023, which is hereby adopted by reference. Copies of the Professional and Ethical Compliance Code may be obtained from the BACB website.

**33.1(2)** Sexual relationships.

*a.* Current clients. A licensee shall not engage in sexual activities or sexual contact with a client, regardless of whether such contact is consensual or nonconsensual.

*b.* Former clients. A licensee shall not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A licensee shall not engage in sexual activities or sexual contact with a former client, regardless of the length of time elapsed since termination of the client relationship, if the client has a history of physical, emotional, or sexual abuse or if the client has ever been diagnosed with any form of psychosis or personality disorder or if the client is likely to remain in need of therapy due to the intensity or chronicity of a problem.

*c.* A licensee shall not engage in sexual activities or sexual contact with a client's or former client's spouse or significant other.

*d.* A licensee shall not engage in sexual activities or sexual contact with a client's or former client's relative within the second degree of consanguinity (client's parent, grandparent, child, grandchild, or sibling) when there is a risk of exploitation or potential harm to a client or former client.

*e.* A licensee shall not provide clinical services to an individual with whom the licensee has had prior sexual contact.

**33.1(3)** Physical contact. A licensee shall not engage in physical contact with a client when there is a possibility of psychological harm to the client as a result of the contact. A licensee who engages in appropriate physical contact with a client is responsible for setting clear, appropriate, and culturally and age-sensitive boundaries which govern such contact.

This rule is intended to implement Iowa Code chapters 17A, 147, 154D and 272C.