

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 16, “Impaired Practitioner Review Committee,” and adopt a new Chapter 16, “Iowa Professional Review Committee,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 272C.3 and Executive Order 10 (January 10, 2023).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

The purpose of this proposed rulemaking is to form a committee to monitor impaired professionals for the purpose of public safety. The committee may include a licensed practitioner who has expertise in the area of substance abuse and addiction treatment; a licensed practitioner who has expertise in diagnosis and treatment of psychological disorders and disabilities; a specialty board-certified psychiatrist; a licensee who has remained free of addiction for a period of no less than two years since successfully completing the board-approved recovery program; and a licensed physician, physician assistant or advanced registered nurse practitioner whose specialty area is family practice or who has expertise in neurological disorders. The goal of this composition is to ensure that the committee has expertise in medicine, addiction, disability and/or recovery. The 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 the board are routed appropriately. The goal of the program is to ensure that a licensee is safe to practice the licensee’s 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. Failure to comply with the provisions of the contract gives the committee the authority to make a referral to the board for possible disciplinary action. If a contract provision is breached that poses an immediate risk to the public, the committee may place immediate practice restrictions on the licensee.

A public hearing was held November 21, 2023, after proper notice. No public comment was received.

Fiscal Impact

This rulemaking will have no fiscal impact on the State of Iowa. Staff salaries to support the work of the boards are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the Fund to cover operations of the regulated professional licensing boards.

Jobs Impact

After analysis and review of this rulemaking, there will be a positive impact on jobs in Iowa since the rulemaking reduces the regulatory burdens on Iowans and allows Iowans to more freely engage in individual and business pursuits.

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 or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 13, 2024. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.249.7038
Email: emily.deronde@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 to 9:20 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: meet.google.com/isb-pmab-qob Or dial: +1 813.252.1868 PIN: 724 486 884# More phone numbers: tel.meet/isb-pmab-qob?pin=8352415222450
February 14, 2024 9 to 9:20 a.m.	6200 Park Avenue Des Moines, Iowa Video call link: meet.google.com/isb-pmab-qob Or dial: +1 813.252.1868 PIN: 724 486 884# More phone numbers: 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 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 645—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
IOWA PROFESSIONALS REVIEW COMMITTEE

645—16.1(272C) Definitions.

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

“*Initial agreement*” means the written document establishing the initial terms for participation in the impaired practitioner program.

“*IPRC*” or “*committee*” means the impaired Iowa professionals review committee.

“*Participant*” means an applicant or person licensed under Iowa Code chapter 147, 153, 154A, 154E, 155, or 155A who self-reports a potential impairment to the program, is referred to the program by the board, or signs an initial agreement or contract with the committee.

“*Self-report*” means written notification provided by the licensee to the board or committee that the licensee has been, is, or may be impaired. Information relative to impairment or a potential impairment provided on a license application or a renewal form may be considered a self-report. A self-report can be received even if the applicable licensing board has received a complaint or a third party has alleged the same.

645—16.2(272C) Composition of the committee. The division of licensing shall appoint members of the committee.

16.2(1) *Membership.* The committee may be composed of, but not limited to, members with the following qualifications:

- a. A licensed practitioner who has expertise in the area of substance abuse and addiction treatment.
- b. A licensed practitioner who has expertise in the diagnosis and treatment of psychological disorders and disabilities.
- c. A specialty board-certified psychiatrist who holds a current, active Iowa license as defined in rule 653—9.1(147,148,150,150A).
- d. A licensee who has remained free of addiction for a period of no less than two years since successfully completing a board-approved recovery program; board-ordered probation for drug or alcohol dependency, addiction or abuse; or an Iowa professionals review committee contract.
- e. An Iowa licensed physician, a physician assistant or an advanced registered nurse practitioner (ARNP) whose specialty area is family practice or who has expertise in neurological disorders.
- f. A board of pharmacy specialty certified psychiatric pharmacist who holds a current, active Iowa pharmacist license.
- g. An at-large public member.
- h. The board administrator for professional licensure or designee.

16.2(2) *Officers.* At the last meeting of each calendar year, the committee elects co-chairpersons to serve a one-year term beginning January 1. A chairperson, in consultation with counsel, may offer guidance and direction to staff between regularly scheduled committee meetings concerning program descriptions, interim restrictions on practice, and negotiation and execution of initial agreements and contracts on behalf of the committee. The committee retains authority to review all interim decisions at its discretion.

16.2(3) *Terms.* Committee members are appointed to a three-year term, for a maximum of three terms. Each term expires on December 31 of the third year of the term. Initial terms are for a period of one to three years as designated by the division to provide continuity to the committee.

645—16.3(272C) Eligibility.

16.3(1) To be eligible for participation in the program, an applicant or licensee must self-report or be referred by the board for an impairment or suspected impairment. The committee will determine for each self-report or referral whether the applicant or licensee is an appropriate candidate for participation in the program. An applicant or licensee is ineligible if the committee finds sufficient evidence that the applicant or licensee:

- a. Diverted medication for distribution to third parties or for personal profit;
- b. Adulterated, misbranded, or otherwise tampered with medication intended for a patient;

- c. Provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the committee;
- d. Participated in the program, or a similar program offered by another state, without success;
- e. Failed to sign an initial agreement or a contract when offered by the committee; or
- f. Caused injury or harm to a patient or client.

16.3(2) Discretion. Eligibility of a person to participate in the program is at the sole discretion of the committee. No person is entitled to participate in the program.

16.3(3) 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 program. Participation in the program shall not relieve the licensee's 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.

645—16.4(272C) Terms of participation. A participant is responsible for complying with the terms of participation established in the initial agreement and the contract, and for all expenses incurred to comply with the terms imposed by the program. Terms of participation specified in the contract shall include, but not be limited to:

16.4(1) Duration. The length of participation in the program is determined by the committee and will vary depending upon the recommendations of an approved evaluator and review of all relevant information.

16.4(2) Noncompliance. Participants are responsible for notifying the committee of any instance of noncompliance including, but not limited to, a relapse. Notification of noncompliance made to the IPRC by the participant, a monitoring provider, or another party may result in notice to the board for the filing of formal charges or other action the board deems appropriate.

16.4(3) Practice restrictions. The IPRC may impose practice restrictions on a participant as a term of the initial agreement or contract until such time as an approved evaluator and the IPRC determines, based on all relevant information, that the participant is capable of practicing with reasonable safety and skill. Participation in the program requires that participants agree to restrict practice in accordance with a request from the IPRC. If a participant refuses to agree to or comply with the restrictions established in the initial agreement or contract, the committee will refer the practitioner to the board for appropriate action.

645—16.5(272C) Confidentiality. Information in the possession of the board or the committee is subject to the confidentiality requirements of Iowa Code section 272C.6.

16.5(1) Program participants must report their participation to the applicable monitoring program or licensing authority in any state in which the participant is currently licensed or in which the participant seeks licensure.

16.5(2) The committee is authorized to communicate information about a participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance for the duration of the contract.

16.5(3) The committee is authorized to communicate information about a program participant to the board in the event a participant does not comply with the terms of the contract as set forth in rule 701—16.4(272C). The committee may provide the board with a participant's program file when the committee refers the case to the board for noncompliance. If the board initiates disciplinary action against a licensee as a result of the noncompliance, the board may include in the public disciplinary documents information about a licensee's participation in the program.

16.5(4) The committee is authorized to communicate information about a current or former program participant to the board if reliable information held by the committee reasonably indicates that a significant risk to the public exists. If the board initiates disciplinary action based upon this information, the board may include in the public disciplinary documents information about a licensee's

participation if necessary to address impairment issues related to the violations which are the subject of the disciplinary action.

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