

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

**Proposing rulemaking related to investigations and disciplinary procedures
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 18, “Investigations and Disciplinary Procedures,” 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 chapter 543B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

Purpose and Summary

This proposed chapter provides guidelines for investigations and complaints. The rules also provide guidelines for discipline that the Commission may impose following a complaint and investigation. The Commission receives 300 to 400 complaints per year. This is a necessary chapter to protect the public.

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 Department of Inspections, Appeals, and Licensing 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 Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen
Real Estate Commission
6200 Park Avenue
Des Moines, Iowa 50321
Email: renee.paulsen@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
11 to 11:20 a.m.

6200 Park Avenue
Des Moines, Iowa

January 31, 2024
11 to 11:20 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 Commission 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 193E—Chapter 18 and adopt the following **new** chapter in lieu thereof:

CHAPTER 18
INVESTIGATIONS AND DISCIPLINARY PROCEDURES

193E—18.1(17A,272C,543B) Disciplinary and investigative authority. The commission is empowered to administer Iowa Code chapters 17A, 272C, and 543B and related administrative rules for the protection and well-being of those persons who may rely upon licensed individuals for the performance of real estate services within this state or for clients in this state. To perform these functions, the commission is broadly vested with authority, pursuant to Iowa Code sections 17A.13, 272C.3 through 272C.6, 272C.10, 543B.9, 543B.29, 543B.34 to 543B.41, and 543B.61 to review and investigate alleged acts or omissions of licensees, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline.

193E—18.2(17A,272C,543B) Grounds for discipline. The commission may initiate disciplinary action against a licensee on any of the following grounds:

1. All grounds set forth in Iowa Code sections 543B.29, 543B.34 and 543B.61.
2. A violation of the rules of professional and business conduct described in 193E—Chapters 6 through 8, 10 through 15, and 19.
3. Failure to comply with an order of the commission imposing discipline.
4. Violation of Iowa Code sections 272C.3(2) and 272C.10.
5. Continuing to practice real estate with an expired or inactive license, or without satisfying the continuing education mandated by 193E—Chapter 16 or the errors and omissions insurance mandated by 193E—Chapter 19.
6. Knowingly aiding or abetting a licensee, license applicant or unlicensed person in committing any act or omission which is a ground for discipline under this rule or otherwise knowingly aiding or abetting the unlicensed practice of real estate in Iowa.
7. Failure to fully cooperate with a licensee disciplinary investigation, including failure to respond to a commission inquiry within 14 calendar days of the date of mailing by certified mail of a written communication directed to the licensee's last address on file at the commission office.
8. A violation of one or more of the acts or omissions upon which civil penalties may be imposed, as described in subrule 18.14(5).

193E—18.3(17A,272C,543B) Initiation of disciplinary investigations. The commission may initiate a licensee disciplinary investigation upon the commission's receipt of information suggesting that a

licensee may have violated a law or rule enforced by the commission which, if true, would constitute a ground for licensee discipline.

193E—18.4(272C,543B) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. News articles or other media sources.
2. Reports filed with the commission by the commissioner of insurance pursuant to Iowa Code section 272C.4(9).
3. Complaints filed with the commission by any member of the public.
4. License applications or other documents submitted to the commission.
5. Reports to the commission from any regulatory or law enforcement agency from any jurisdiction.
6. Commission audits of licensee compliance, such as those involving continuing education, trust accounts, or errors and omissions insurance.

193E—18.5(17A,272C,543B) Conflict of interest. If the subject of a complaint is a member of the commission, or if a member of the commission has a conflict of interest in any disciplinary matter before the commission, that member abstains from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193E—18.6(272C,543B) Complaints. Written complaints may be submitted to the commission office by mail, email, online via the commission's website, or personal delivery by any member of the public with knowledge of possible law or rule violations by licensees. Timely filing is encouraged to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may become substantially altered during a period of delay.

18.6(1) Contents of a written complaint. Written complaints may be submitted on forms provided by the commission which are available from the commission office and on the commission's website. Written complaints, whether submitted on a commission complaint form or in other written medium, contains the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (licensee against whom the complaint is filed).
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions which the complainant believes demonstrates that the respondent has violated or is violating laws or rules enforced by the commission.
- d. If known, citations to the laws or rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.
- g. The address of the property involved.

18.6(2) Immunity. A person is not civilly liable for filing a complaint unless such act is done with malice as provided by Iowa Code section 272C.8(1) "a." Employees cannot be discriminated against as a result for filing a complaint as provided by Iowa Code section 272C.8(1) "c."

18.6(3) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the commission with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the commission based in whole or in part on information provided by the complainant.

18.6(4) Role of the commission. The commission does not act as an arbiter of disputes between private parties, nor does the commission initiate disciplinary proceedings to advance the private interests of any person or party. The role of the commission in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The commission possesses sole decision-making authority throughout the disciplinary process, including the authority to

determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

18.6(5) *Initial complaint screening.* All written complaints received by the commission are initially screened by the commission's administrator or designated staff to determine whether the allegations of the complaint fall within the commission's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the commission's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous may be closed by the commission administrator or may be referred by the commission administrator to the commission for closure at the next scheduled commission meeting. All other complaints are referred by the commission administrator to the commission's disciplinary committee for committee review as described in rule 193E—18.9(17A,272C,543B). If a complainant objects in writing to the closure of the complaint by the commission administrator, the administrator will refer the objection to the disciplinary committee or commission for reconsideration.

18.6(6) *Withdrawal or amendment.* A complaint may be amended or withdrawn at any time prior to official notification of the respondent and thereafter at the sole discretion of the commission. The commission may choose to pursue a matter even after a complaint has been withdrawn.

193E—18.7(272C,543B) Case numbers. Whether based on a written complaint received by the commission or a complaint initiated by the commission, all complaint files are tracked by a case numbering system. Complaints are assigned case numbers in chronological order with the first two digits representing the year in which the complaint was received or initiated, and the second three digits representing the order in which the case file was opened (e.g., 01-001, 01-002, 01-003). The commission's administrator maintains a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the commission regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.

193E—18.8(272C,543B) Confidentiality of complaint and investigative information. All complaint and investigative information received or created by the commission is privileged and confidential pursuant to Iowa Code section 272C.6(4) and as such is not subject to discovery, subpoena, or other means of legal compulsion for release to any person except as provided in Iowa Code section 272C.6.

193E—18.9(17A,272C,543B) Investigation procedures.

18.9(1) *Disciplinary committee.* The commission chair may appoint two members of the commission to serve on a commission disciplinary committee. The chair may appoint a standing committee or may appoint different members to serve on the committee on an as-needed basis. The disciplinary committee is a purely advisory body which reviews complaint files referred by the commission's administrator, generally supervises the investigation of complaints, and makes recommendations to the full commission on the disposition of complaints. Except as provided by rule 193E—18.10(17A,272C,543B), members of the committee do not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the commission.

18.9(2) *Committee screening of complaints.* Upon the referral of a complaint from the commission's administrator or from the full commission, the committee determines whether the complaint presents facts which, if true, suggest that a licensee may have violated a law or rule enforced by the commission. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee refers the complaint to the full commission with the recommendation that it be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary

action, the committee may either immediately refer the complaint to the full commission recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

18.9(3) Committee procedures. If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193E—18.10(17A,272C,543B) or request commission staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or commission staff presents a report to the committee. The committee reviews the report and determines what further action is necessary. The committee may:

- a. Request further investigation.
- b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full commission with the recommendation of closure.
- c. Determine there is probable cause to believe that a law or rule enforced by the commission has been violated, but that disciplinary action is unwarranted on other grounds, and refer the case to the full commission with the recommendation of closure. The committee may also recommend that the licensee be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.
- d. Determine there is probable cause to believe a disciplinary violation has occurred and either attempt informal settlement, subject to approval by the full commission, or refer the case to the full commission with the recommendation that the commission initiate a disciplinary proceeding (contested case).
- e. Stay further action on the complaint if, for instance, there is a pending criminal case or civil litigation and the committee feels it would be in the best interest of the public and respondent to await the final outcome of the litigation. Additionally, the committee may stay further action on a complaint when the respondent's license is expired or revoked.

18.9(4) Subpoena authority. The commission is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the commission deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding, pursuant to Iowa Code sections 17A.13(1), 272C.6(3) and 543B.36. Commission procedures concerning investigative subpoenas are set forth in 193—Chapter 6.

193E—18.10(17A,272C,543B) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee an opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

18.10(1) An informal discussion is intended to provide a licensee an opportunity to share the licensee's side of a complaint in an informal setting before the commission determines whether probable cause exists to initiate a disciplinary proceeding. Licensees are not obligated to attend an informal discussion. Because disciplinary investigations are confidential, the licensee cannot bring other persons to an informal discussion, but licensees may be represented by legal counsel. When an allegation is made against a firm, the firm may be represented by the designated broker, a managing partner, member or other firm representative.

18.10(2) Unless disqualification is waived by the licensee, commission members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because commission members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all commission members to participate in commission decision making and to receive the advice of staff, licensees who desire to attend an

informal discussion therefore waive their right to seek disqualification of a commission member or staff based solely on the commission member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that a participating commission member or staff person is not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

18.10(3) Because an informal discussion constitutes a part of the commission's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the commission in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

18.10(4) The disciplinary committee, subject to commission approval, may propose a consent order at the time of the informal discussion. If the licensee agrees to a consent order, a statement of charges is filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193E—18.11(17A,272C,543B) Closing complaint files.

18.11(1) *Grounds for closing.* Upon the recommendation of the administrator pursuant to subrule 18.6(5), the recommendation of the disciplinary committee pursuant to rule 193E—18.9(17A,272C,543B), or on its own motion, the commission may close a complaint file, with or without prior investigation. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the commission may close a complaint file. The commission will take into consideration the severity of the alleged violation, the sufficiency of the evidence, the possibility that the problem can be better resolved by other means available to the parties, whether the matter has been the subject of a local board proceeding, the clarity of the laws and rules which support the alleged violation, whether the alleged violation is likely to recur, the past record of the licensee, whether the licensee has previously received a cautionary letter concerning the act or omission at issue, and other factors relevant to the specific facts of the complaint. The following nonexclusive list illustrates the grounds upon which the commission may close a complaint file:

- a. The complaint alleges matters outside the commission's jurisdiction.
- b. The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the commission.
- c. The complaint is frivolous or trivial.
- d. The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rulemaking.
- e. The matters raised in the complaint are situational, isolated, or unrepresentative of a licensee's typical practice, and the licensee has taken appropriate steps to ensure future compliance and prevent public injury.
- f. Resources are unavailable or better directed to other complaints or commission initiatives in light of the commission's overall budget and mission.
- g. Extenuating factors exist which weigh against the imposition of public discipline.

18.11(2) *Closing orders.* The commission's administrator may enter an order stating the basis for the commission's decision to close a complaint file. If entered, the order cannot contain the identity of the complainant or the respondent, and cannot disclose confidential complaint or investigative information. If entered, closing orders will be indexed by case number and are a public record pursuant to Iowa Code section 17A.3(1) "d." A copy of the order may be mailed to the complainant, if any, and to the respondent. The commission's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

18.11(3) *Cautionary letters.* When a complaint file is closed, the commission may issue a confidential letter of caution to a licensee which informally cautions or educates the licensee about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the commission

may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

18.11(4) *Reopening closed complaint files.* The commission may reopen a closed complaint file if, after closure, additional information arises which provides a basis to reassess the merits of the initial complaint.

193E—18.12(17A,272C,543B) Initiation of disciplinary proceedings. Disciplinary proceedings may only be initiated by the affirmative vote of a majority of a quorum of the commission at a public meeting. Commission members who are disqualified are not included in determining whether a quorum exists. When two or more members of the commission are disqualified or otherwise unavailable for any reason, the administrator may request the special appointment of one or more substitute commission members pursuant to Iowa Code section 17A.11(5).

193E—18.13(17A,272C,543B) Disciplinary contested case procedures. Unless in conflict with a provision of Iowa Code chapter 543B or commission rules in this chapter, all of the procedures set forth in 193—Chapter 7 applies to disciplinary contested cases initiated by the commission.

193E—18.14(272C,543B) Disciplinary sanctions.

18.14(1) *Type of sanctions.* The commission has authority to impose, alone or in combination, the following disciplinary sanctions:

- a. Revocation of a license.
- b. Suspension of a license for a period of time or indefinitely.
- c. Nonrenewal of a license.
- d. Ban permanently, until further order of the commission, or for a specified period of time, the engagement in specified procedures, methods or acts.
- e. Probation. As a condition to a period of probation, the commission may impose terms and conditions deemed appropriate by the commission including, but not limited to, substance abuse evaluation and such care and treatment as recommended in the evaluation or otherwise appropriate under the circumstances.
- f. Mandate additional continuing education. The commission may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The commission may also specify whether this continuing education be in addition to the continuing education routinely needed for license renewal. The commission may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a license.
- g. Require reexamination.
- h. Impose a monitoring or supervision arrangement.
- i. Downgrade a license from a broker license to a salesperson license.
- j. Issue a reprimand.
- k. Order a physical or mental examination with periodic reports to the commission, if deemed necessary.
- l. Impose civil penalties, the amount of which is at the discretion of the commission, but does not exceed \$2,500 per violation as authorized by Iowa Code section 543B.48. Civil penalties may be imposed for any of the disciplinary violations specified in rule 193E—18.2(17A,272C,543B) and as listed in subrule 18.14(5).

18.14(2) *Imposing discipline.* Discipline may only be imposed against a licensee by the authorization of Iowa Code section 272C.6(5). When determining the nature and severity of the sanction to be imposed against a particular licensee or groups of licensees, the commission may consider the following factors:

- a. The relative seriousness of the violation as it relates to assuring the citizens of this state professional competency.
- b. The facts of the particular violation.

- c. Number of prior violations.
- d. Seriousness of prior violations.
- e. Whether remedial action has been taken.
- f. The impact of the particular activity upon the public.
- g. Such other factors as may reflect upon the competency, ethical standards and professional conduct of the licensee, including those listed in subrule 18.14(6).

18.14(3) *Voluntary surrender.* The commission may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The commission cannot accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and is published in the same manner as is applicable to any other form of disciplinary order.

18.14(4) *Notification criteria.* Whenever a broker's license is revoked, suspended, limited, or voluntarily surrendered under this chapter, the licensee follows the procedures set forth in rule 193E—7.3(543B). Strict compliance with these procedures is a condition for an application for reinstatement. Whenever a salesperson's or broker associate's license is revoked, suspended, limited, or voluntarily surrendered under this chapter, the licensee immediately notifies the licensee's broker, and:

a. Within seven days of receipt of the commission's final order, notifies in writing all clients of the fact that the license has been revoked, suspended, limited, or voluntarily surrendered. Such notice advises the client to immediately contact the broker, unless the limitation at issue would not impact the real estate services provided for that client.

b. Within 30 days of receipt of the commission's final order, the licensee files with the commission copies of the notices sent pursuant to paragraph 18.14(4) "a." Compliance with this criteria is a condition for an application for reinstatement.

18.14(5) *Violations for which civil penalties may be imposed.* The following is a nonexclusive list of violations upon which civil penalties may be imposed:

- a. Engaging in activities requiring a license when license is inactive.
- b. Failing to maintain a place of business.
- c. Improper care and custody of license:
 - (1) Failing to properly display license(s).
 - (2) Failing to return license in a timely manner (received within 72 hours as provided by 193E—subrules 6.1(1) and 6.1(2)).
 - (3) Failing to notify associate when license is returned.
 - (4) Failing to provide mailing address of associate when license is returned.
- d. Failing to inform commission and remit necessary fees if appropriate:
 - (1) When changing business address (five working days).
 - (2) When changing status (five working days).
 - (3) When changing form of firm (five working days).
 - (4) When opening a trust account by not filing a consent to examine for the account.
 - (5) When changing residence address or mailing address (five working days).
 - (6) When independently obtained errors and omissions insurance status, coverage or provider changes (five working days).
- e. Maintaining inadequate transaction records such as:
 - (1) Failing to maintain a general ledger.
 - (2) Failing to maintain individual account ledgers.
 - (3) Failing to retain records on file.
- f. Improper trust account and closing procedures:
 - (1) Failing to deposit funds as necessary.
 - (2) Disbursing trust funds prior to closing without written authorization.
 - (3) Withholding earnest money unlawfully when the transaction fails to consummate.
 - (4) Failing to obtain escrow agreement for undisbursed funds.
 - (5) Failing to remit and account for interest on closing statements.

- (6) Computing closing statements improperly.
- (7) Failing to provide closing statements.
- (8) Retaining excess personal funds in the trust account.
- (9) Failing as a salesperson or broker associate to immediately turn funds over to the broker.
- (10) Failing to deposit trust funds in interest-bearing account in accordance with Iowa Code section 543B.46.
- (11) Failing to account for and remit to the state accrued interest due in accordance with Iowa Code section 543B.46.
 - g.* Failing to immediately present offer.
 - h.* Advertising without identifying broker or clearly indicating advertisement is by a licensee.
 - i.* Failing to provide information to the commission when requested relative to a complaint (14 calendar days).
 - j.* Failing to obtain all signatures needed on contracts or to obtain signatures or initials of all parties to changes in a contract.
 - k.* Placing a sign on property without consent, or failure to remove a sign when requested.
 - l.* Failing to furnish a progress report when requested.
 - m.* Failing by a broker to supervise salespersons or broker associates.
 - n.* Failing by a broker associate or salesperson to keep the employing broker informed.
 - o.* Issuing an insufficient funds check to the commission for any reason or to anyone else in the individual's capacity as a real estate licensee.
 - p.* Issuing an insufficient funds check on the broker's trust account.
 - q.* Engaging in conduct which constitutes a barred practice or tying arrangement as banned by these rules.
 - r.* Failing to inform clients of real estate brokerage firm of the date the firm will cease to be in business and the effect upon sellers' listing agreements.
 - s.* Violating any of the remaining provisions in 193E—Chapters 1 through 20 inclusive that have not heretofore been specified in this rule.

18.14(6) Amount of civil penalties. Factors the commission may consider when determining whether to assess and the amount of civil penalties include:

- a.* Whether other forms of discipline are being imposed for the same violation.
- b.* Whether the amount imposed will be a substantial deterrent to the violation.
- c.* The circumstances leading to the violation.
- d.* The severity of the violation and the risk of harm to the public.
- e.* The economic benefits gained by the licensee as a result of the violation.
- f.* The interest of the public.
- g.* Evidence of reform or remedial action.
- h.* Time elapsed since the violation occurred.
- i.* Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
- j.* The clarity of the issues involved.
- k.* Whether the violation was willful and intentional.
- l.* Whether the licensee acted in bad faith.
- m.* The extent to which the licensee cooperated with the commission.
- n.* Whether the licensee with a lapsed, inactive, suspended, limited or revoked license improperly engaged in practices which need licensure.

193E—18.15(17A,272C,543B) Reinstatement. The term “reinstatement” as used in this rule includes both the reinstatement of a suspended license and the issuance of a new license following the revocation, voluntary revocation, or voluntary surrender of a license.

18.15(1) Any person whose license has been revoked or suspended by the commission, or who has voluntarily surrendered a license to the commission or has agreed to a voluntary revocation of a license,

may apply to the commission for reinstatement in accordance with the terms of the order of revocation, voluntary surrender, voluntary revocation, or suspension.

18.15(2) Unless otherwise provided by law, if the order of revocation, voluntary revocation, voluntary surrender, or suspension did not establish terms upon which reinstatement might occur, initial application for reinstatement cannot be made until at least two years have elapsed from the date of the order or the date the commission accepted the order.

18.15(3) Following the revocation or surrender of a broker or salesperson license, an applicant for reinstatement, as a condition of reinstatement, start over as an original applicant for a salesperson license, regardless of the type of license the applicant previously held. The applicant is obligated to satisfy all preconditions for licensure as a salesperson.

18.15(4) In addition to the provisions of rule 193—7.38(17A,272C), the following provisions apply to license reinstatement proceedings:

a. The commission may grant an applicant's request to appear informally before the commission prior to the issuance of a notice of hearing on an application to reinstate if the applicant requests an informal appearance in the application and agrees not to seek to disqualify, on the ground of personal investigation, commission members or staff before whom the applicant appears.

b. An order granting an application for reinstatement may impose such terms and conditions as the commission deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193E—18.14(272C,543B).

c. The commission cannot grant an application for reinstatement when the initial order which revoked, suspended or limited the license; denied license renewal; or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the commission's satisfaction that:

- (1) All terms of the sentencing or other criminal order have been fully satisfied;
- (2) The applicant has been released from confinement and any applicable probation or parole; and
- (3) Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.