

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

**Proposing rulemaking related to practice of social workers
and providing an opportunity for public comment**

The Board of Social Work hereby proposes to rescind Chapter 282, “Practice of Social Workers,” 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 154C, 272C, 147, and 17A.

State or Federal Law Implemented

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

Purpose and Summary

This proposed rulemaking provides Iowans, licensees, and licensees’ employers with practice guidance and requirements for social workers. The proposed rules provide guidance on what is and is not considered appropriate practice. Categories include informed consent, competency, supervision, privacy and confidentiality, recordkeeping, access to records, billing and fees, dual relationships and conflicts of interest, sexual relationships, physical contact, termination of services, misrepresentations, impairments, research, organization relationships and business practices, discrimination and sexual harassment, electronic social work services, the National Association of Social Workers Code of Ethics, and general guidance.

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 March 13, 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

Public Hearing

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

March 12, 2024
9 to 9:30 a.m.

6200 Park Avenue
Des Moines, Iowa
Via video/conference call:
meet.google.com/upm-vmcy-kyc
Or dial: 424.269.9398
PIN: 166 396 680#

March 13, 2024
9 to 9:30 a.m.

6200 Park Avenue
Des Moines, Iowa
Via video/conference call:
meet.google.com/upm-vmcy-kyc
Or dial: 424.269.9398
PIN: 166 396 680#

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 282 and adopt the following **new** chapter in lieu thereof:

CHAPTER 282
PRACTICE OF SOCIAL WORKERS

645—282.1(154C) Definitions.

“*Client*” means the individual, couple, family, or group to whom a licensee provides direct social work services.

“*Clinical services*” means services provided by an LMSW or LISW that involve the professional application of social work theory and methods in diagnosing, assessing, treating, and preventing psychosocial disabilities or impairments, including emotional and mental disorders.

“*Counseling*” means a method used by licensees to assist clients in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

“*Psychosocial therapy*” means a specialized, formal interaction between an LMSW or LISW and a client in which a therapeutic relationship is established and maintained to assist the client in overcoming or abating specific emotional, mental, or social problems and achieving specified goals for well-being. Psychosocial therapy is a form of psychotherapy that emphasizes the interface between the client and the client’s environment. Therapy is a planned, structured program based on a diagnosis and is directed to accomplish measurable goals and objectives specified in the client’s individual treatment plan.

645—282.2(154C) Rules of conduct.

282.2(1) Informed consent.

a. A licensee will provide services to clients only in the context of a professional relationship based, when appropriate, on valid written informed consent. A licensee will use clear and understandable language to inform clients about the nature of available services, potential benefits and risks, limits and risks of confidentiality, alternative ways of receiving assistance, applicable fees, and involvement of and sharing information with third parties.

b. If a client has difficulty communicating, a licensee will attempt to ensure the client's comprehension. This may include providing the client with a detailed verbal explanation or arranging for a qualified interpreter or translator whenever possible. A licensee will provide information in a manner that is understandable and culturally appropriate for the client. Clients will be given sufficient opportunity to ask questions and receive answers about social work services, including electronic delivery of services, if appropriate.

c. If a client lacks the capacity to provide informed consent, a licensee will protect the client's interests by seeking permission from an appropriate third party and will inform the client consistent with the client's level of understanding. In such instances, a licensee will seek to ensure that the third party acts in a manner consistent with the client's wishes and interests. A licensee will take reasonable steps to enhance the client's ability to give informed consent.

d. If a client is receiving services involuntarily, a licensee will provide information about the nature and extent of services and about the extent of the client's right to refuse services.

e. The provision of social work services to an individual in this state through any electronic means, including the Internet, telephone, or the Iowa communications network or any fiberoptic media, regardless of the location of the licensee, constitutes the practice of social work in the state of Iowa and will be subject to regulation in accordance with Iowa Code chapters 147 and 154C and the administrative rules of the board. A licensee who provides services via electronic media will inform recipients of the limitations and risks associated with such services.

f. A licensee will obtain a client's informed consent before audiotaping or videotaping the client or permitting a third party to observe services provided to the client.

g. A licensee will develop policies regarding the sharing, retention, and storage of digital and other electronic communications and records and will inform clients of applicable policies.

282.2(2) Competence.

a. A licensee will provide services and represent oneself as competent only within the boundaries of the licensee's education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.

b. A licensee will provide services in substantive areas or use intervention techniques or approaches that are new only after engaging in appropriate study, training, consultation, and supervision from people who are competent in those areas, interventions, or techniques.

c. When generally recognized standards do not exist with respect to an emerging area of practice, a licensee will exercise careful judgment and take responsible steps, including appropriate education, research, training, consultation and supervision, to ensure competence and to protect clients from harm.

282.2(3) Supervision.

a. A licensee will exercise appropriate supervision over persons who practice under the supervision of the licensee.

b. A licensee who provides supervision or consultation will have the necessary knowledge and skill to supervise or consult appropriately and will do so only within the licensee's areas of knowledge and competence.

c. A licensee who provides supervision or consultation is responsible for setting clear, appropriate, and culturally sensitive boundaries.

d. A licensee will not engage in any dual or multiple relationships with supervisees if there is a risk of exploitation of or potential harm to the supervisee.

e. A licensee will not engage in sexual activities or sexual contact with a supervisee, student, trainee, or other colleague over whom the licensee exercises professional or supervisory authority.

f. A licensee will not employ, assign, or supervise an individual in the performance of services that require a license if the individual has not received a license to perform the services or if the individual has a suspended, revoked, lapsed, or inactive license.

g. A licensee will not practice without receiving supervision, as needed, given the licensee's level of practice, experience, and need.

282.2(4) *Privacy and confidentiality.*

a. A licensee will not disclose or be compelled to disclose client information unless required by law, except under the following limited circumstances:

(1) Situations in which the licensee determines that disclosure is necessary to prevent serious, foreseeable, and imminent harm to the client or another specific identifiable person.

(2) Situations in which the client waives the privilege by bringing criminal, civil, or administrative charges or action against a licensee.

(3) With the written informed consent of the client that explains to whom the client information will be disclosed or released and the purpose and time frame for the release of information. If the client is deceased or unable to provide informed consent, a licensee will obtain written consent from the client's personal representative, another person authorized to sue, or the beneficiary of an insurance policy on the client's life, health, or physical condition.

(4) To testify in a court or administrative hearing concerning matters pertaining to the welfare of children.

(5) To seek collaboration or consultation with professional colleagues or administrative superiors on behalf of the client.

(6) Pursuant to a validly issued subpoena or court order.

In the event of a disclosure of information under any of the circumstances stated above, the licensee will disclose the least amount of confidential information necessary and will reveal only that information that is directly relevant to the purpose for which the disclosure is made.

b. Before the disclosure is made, on the basis of client consent or other legal basis, a licensee will inform the client, to the extent possible, about the disclosure of confidential information and the potential consequences of the disclosure.

c. A licensee will discuss with clients and other interested parties the nature of confidentiality and limitations of a client's right to confidentiality. A licensee will review with clients the circumstances under which confidential information may be requested and when disclosure of confidential information may be legally required. This discussion should occur as soon as possible in the professional relationship and as needed throughout the course of the relationship.

d. When a licensee provides counseling or psychosocial therapy services to families, couples, or groups, the licensee will seek agreement among the parties involved concerning each individual's right to confidentiality and obligation to preserve the confidentiality of information shared by others. A licensee will inform participants in family, couples, or group counseling or psychosocial therapy that the licensee cannot guarantee that all participants will honor such agreements.

e. A licensee will inform clients involved in family, couples, marital, or group counseling or psychosocial therapy of the licensee's, the licensee's employer's, and the agency's policy concerning the licensee's disclosure of confidential information among the parties involved in the counseling or psychosocial therapy.

f. A licensee will not disclose confidential information to third-party payers unless a client has authorized such disclosure. A licensee will inform the client of the nature of the client information to be disclosed or released to the third-party payer.

g. A licensee will not discuss confidential information in any setting unless privacy can be ensured.

h. A licensee will protect the confidentiality of clients during legal proceedings to the extent permitted by law.

i. A licensee will protect the confidentiality of clients when the licensee is responding to requests from members of the media.

j. A licensee will protect the confidentiality of clients' written and electronic records and other sensitive information. A licensee will take reasonable steps to ensure that client records are stored in a secure location and that client records are not available to others who are not authorized to have access.

k. A licensee will take precautions to ensure and maintain the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones, telephone answering machines, and other electronic or computer technology.

l. A licensee will transfer or dispose of client records in a manner that protects client confidentiality and is consistent with federal and state statutes, rules and regulations and the guidelines of the licensee's employer or agency, if applicable.

m. A licensee will take reasonable precautions to protect client confidentiality in the event of the licensee's termination of practice, incapacitation, or death.

n. A licensee will not disclose identifying information when discussing a client for teaching or training purposes or in public presentations unless the client has consented to disclosure of confidential information.

o. A licensee will not disclose identifying information when discussing a client with consultants unless the client has consented to disclosure of confidential information or there is a compelling need for such disclosure.

p. Consistent with the preceding standards, a licensee will protect the confidentiality of deceased clients.

282.2(5) Recordkeeping.

a. A licensee will maintain sufficient, timely, and accurate documentation in client records. A licensee's records will reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

b. A licensee who provides clinical services in any employment setting, including private practice, will maintain timely records that include subjective and objective data, assessment or diagnosis, a treatment plan, and any revisions to the assessment, diagnosis, or plan made during the course of treatment.

c. A licensee who provides clinical services will store records in accordance with state and federal statutes, rules, and regulations governing record retention and with the guidelines of the licensee's employer or agency, if applicable. If no other legal provisions govern record retention, a licensee will store all client records for a minimum of seven years following the termination of services to ensure reasonable future access.

282.2(6) Access to records. A licensee who provides clinical services will:

a. Provide the client with reasonable access to records concerning the client. A licensee who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client will provide assistance in interpreting the records and consultation with the client regarding the records. A licensee may limit a client's access to the client's records, or portions of the records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both the client's request and the rationale for withholding some or all of a record should be documented in the client's records.

b. Take steps to protect the confidentiality of other individuals identified or discussed in any records to which a client is provided access.

282.2(7) Billing and fees.

a. A licensee will bill only for services that have been provided.

b. A licensee will not accept goods or services from the client or a third party in exchange for the licensee's services.

c. A licensee will not solicit a private fee or other remuneration for providing services to clients who are entitled to such available services through the licensee's employer or agency.

d. A licensee will not accept, give, offer or solicit a fee, commission, rebate, fee split, or other form of consideration for the referral of a client.

e. A licensee will not permit any person to share in the fees for professional services, other than a partner, employee, an associate in a professional firm, or a consultant to the licensee.

- f.* A licensee who provides clinical services will, when appropriate:
- (1) Establish and maintain billing practices that accurately reflect the nature and extent of services provided.
 - (2) Inform the client of the fee for services at the initial session or meeting with the client. A licensee will provide a written payment arrangement to a client at the commencement of the professional relationship.

282.2(8) *Dual relationships and conflicts of interest.*

a. “Dual relationship” means that a licensee develops or assumes a secondary role with a client, including but not limited to a social relationship, an emotional relationship, an employment relationship, or a business association. For purposes of these rules, “dual relationship” does not include a sexual relationship. Standards governing sexual relationships are found in subrule 282.2(9).

- (1) Current clients. A licensee will not engage in a dual relationship with a client.
- (2) Former clients. A licensee will not engage in a dual relationship with a client within five years of the termination of the client relationship. A licensee will not engage in a dual relationship with a former client, regardless of the length of time elapsed since termination of the client relationship, when there is a risk of exploitation or potential harm to a client or former client.
- (3) Unavoidable dual relationships with current and former clients. If a dual relationship with a current or former client is unavoidable, the licensee will take steps to protect the client and will be responsible for setting clear, appropriate, and culturally sensitive boundaries. The burden will be on the licensee to show that the dual relationship was unavoidable. In determining whether a dual relationship was unavoidable, the board will consider the size of the community, the nature of the relationship, and the risk of exploitation or harm to a client or former client.

b. Conflicts of interest.

- (1) A licensee will avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment.
- (2) A licensee will not continue in a professional relationship with a client when the licensee has become emotionally involved with the client to the extent that objectivity is no longer possible in providing the required professional services.
- (3) A licensee will inform the client when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the client’s interests primary and protects the client’s interests to the greatest extent possible. In some cases, protecting the client’s interests may require termination of the professional relationship with proper referral of the client.
- (4) A licensee will not take unfair advantage of any professional relationship or exploit others to further the licensee’s personal, religious, political, or business interests.
- (5) A licensee who provides services to two or more people who have a relationship with each other will clarify with all parties, when appropriate and in a manner consistent with the confidentiality standards of subrule 282.2(4), which individuals will be considered clients and the nature of the licensee’s professional obligations to the various individuals who are receiving services. A licensee who anticipates a conflict of interest among the individuals receiving services or who anticipates having to perform in potentially conflicting roles will clarify, when appropriate and in a manner consistent with the confidentiality standards at subrule 282.2(4), the licensee’s role with the parties involved and take appropriate action to minimize any conflict of interest.

282.2(9) *Sexual relationships.*

a. Current clients. A licensee will 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 will not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A licensee will 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 will not engage in sexual activities or sexual contact with a client's or former client's spouse or significant other.

d. A licensee will 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 will not provide clinical services to an individual with whom the licensee has had prior sexual contact.

282.2(10) Physical contact. A licensee will 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 that govern such contact.

282.2(11) Termination of services.

a. A licensee will terminate services to a client when such service is no longer required or no longer serves the client's needs or interests.

b. A licensee will take reasonable steps to avoid abandoning clients who are still in need of services. A licensee will assist in making appropriate arrangements for continuation of services when necessary.

c. A licensee will not terminate services to pursue a social, financial, business, romantic, or sexual relationship with a client.

d. A licensee who anticipates the termination or interruption of services to a client will notify the client promptly and seek the transfer, referral, or continuation of services in relation to the client's needs and preferences.

e. A licensee who is leaving an employment setting will inform clients, to the extent possible given the nature of the termination of the employment relationship, of appropriate options for the continuation of services and of the benefits and risks of the options.

f. If the employer who terminates a licensee is also a licensee, the employer will provide notice to clients or allow the licensee the opportunity to provide notice to clients to ensure appropriate case closure or continuation or transfer of services if continued treatment is necessary.

g. A licensee who provides clinical services will comply with the following additional standards regarding termination of the client relationship:

(1) Termination of a client relationship will be documented in the client record. Absent written documentation of termination, the professional relationship will be considered ongoing.

(2) A licensee who practices in a fee-for-service setting may terminate services to a client who is not paying an overdue balance only if the financial contractual arrangements have been made clear to the client, if the client does not pose an imminent danger to self or others, and if the clinical and other consequences of the current nonpayment have been addressed and discussed with the client. Prior to terminating services under this subrule, a licensee will make reasonable efforts to collect the unpaid fees and will make appropriate referrals for the client.

282.2(12) Misrepresentations, disclosure. A licensee will not:

a. Knowingly make a materially false statement, or fail to disclose a relevant material fact, in a letter of reference, application, referral, report or other document.

b. Knowingly allow another person to use the licensee's license or credentials.

c. Knowingly aid or abet a person who is misrepresenting the person's professional credentials or competencies.

d. Impersonate another person or misrepresent an organizational affiliation in one's professional practice.

e. Further the application or make a recommendation for professional licensure of another person who is known by the licensee to be unqualified in respect to character, education, experience, or other relevant attribute.

f. Fail to notify the appropriate licensing authority of any human services professional who is practicing or teaching in violation of the laws or rules governing that person's professional discipline.

g. Engage in professional activities, including advertising, that involve dishonesty, fraud, deceit, or misrepresentation.

h. Advertise services in a false or misleading manner or fail to indicate in the advertisement the name, the highest relevant degree and licensure status of the provider of services.

i. Fail to distinguish, or purposely mislead the reader or listener in public announcements, addresses, letters and reports as to whether the statements are made as a private individual or whether they are made on behalf of an employer or organization.

j. Engage in direct solicitation of potential clients for pecuniary gain in a manner or in circumstances that constitute overreacting, undue influence, misrepresentation or invasion of privacy.

k. Fail to inform each client of any financial interests that might accrue to the licensee for referral to any other person or organization or for the use of tests, books, or apparatus.

l. Fail to inform each client that the client may be entitled to the same services from a public agency, if the licensee is employed by that public agency and also offers services privately.

m. Make claims of professional superiority that cannot be substantiated by the licensee.

n. Guarantee that satisfaction or a cure will result from the performance of professional services.

o. Claim or use any secret or special method of treatment or techniques that the licensee refuses to divulge to professional colleagues.

p. Take credit for work not personally performed whether by giving inaccurate information or failing to give accurate information.

q. Offer social work services or use the designation of licensed bachelor social worker, licensed master social worker, or licensed independent social worker; use the designations LBSW, LMSW, or LISW or any other designation indicating licensure status; or hold oneself out as practicing at a certain level of licensure unless the licensee is duly licensed as such.

r. Permit another person to use the licensee's license for any purpose.

s. Practice outside the scope of a license.

282.2(13) Impairments.

a. A licensee will not:

(1) Practice in a professional relationship while intoxicated or under the influence of alcohol or drugs not prescribed by a licensed physician.

(2) Practice in a professional relationship while experiencing a mental or physical impairment that adversely affects the ability of the licensee to perform professional duties in a competent and safe manner.

(3) Practice in a professional relationship if involuntarily committed for treatment of mental illness, drug addiction, or alcoholism.

b. A licensee who self-reports an impairment or suspected impairment to the board may be eligible for confidential monitoring by the impaired practitioner review committee. The licensee will be provided the Impaired Practitioner Report form to initiate the process. Standards governing the impaired practitioner review committee may be found in 645—Chapter 16.

282.2(14) Research. If engaged in research, a licensee will:

a. Consider carefully the possible consequences for human beings participating in the research.

b. Protect each participant from unwarranted physical and mental harm.

c. Ensure that the consent of the participant is voluntary and informed and that each participant executes a signed informed consent form that details the nature of the research and any known possible consequences.

d. Treat information obtained as confidential.

e. Not knowingly report distorted, erroneous, or misleading information.

282.2(15) Organization relationships and business practices. A licensee will not:

a. Solicit the clients of colleagues or assume professional responsibility for clients of another agency or colleague without appropriate communication with that agency or colleague.

b. Abandon an agency, organization, institution, or group practice without reasonable notice or under circumstances that seriously impair the delivery of professional care to clients.

c. Deliberately falsify client records.

d. Fail to submit required reports and documents in a timely fashion to the extent that the well-being of the client is adversely affected.

e. Delegate professional responsibilities to a person when the licensee knows, or has reason to know, that the person is not qualified by training, education, experience, or classification to perform the requested duties.

282.2(16) *Discrimination and sexual harassment.*

a. A licensee will not practice, condone, or facilitate discrimination against a client, student, or supervisee on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, mental or physical disability, diagnosis, or social or economic status.

b. A licensee will not sexually harass a client, student, or supervisee. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

282.2(17) *General.* A licensee will not:

a. Practice without receiving supervision as needed, given the licensee's level of practice, experience, and need.

b. Practice a professional discipline without an appropriate license or after expiration of the required license.

c. Physically or verbally abuse a client or colleague.

d. Obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority; or sell, prescribe, give away, or administer controlled substances.

282.2(18) *Relationship between the board's rules of conduct and the National Association of Social Workers (NASW) Code of Ethics.* The NASW Code of Ethics is one resource for practitioners with respect to practice and ethical issues, and selected sections from the NASW Code of Ethics have been incorporated into the rules of conduct. A licensee's professional conduct is governed by the board's rules of conduct, and a licensee may be disciplined for violation of these rules.

282.2(19) *Electronic social work services.* A licensee will:

a. Assess the client's suitability and capacity for online and remote services at the point of the client's first contact and use professional judgment to determine whether an initial in-person, videoconference, or telephone consultation is warranted before undertaking electronic social work services.

b. Take reasonable steps to verify the client's identity, ability to consent to services, and location. When verification of a client's identity is not feasible, social workers will inform the client of the limitations of services that can be provided.

c. Continually assess a client's suitability for electronic social work services during the course of the professional relationship.

These rules are intended to implement Iowa Code chapters 21, 147, 154C, and 272C.