Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 481—Chapters 881, 886, 892, and 896
"Continuing Education for Marital and Family Therapists, Mental Health Counselors, Social Workers, and Psychologists"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 147, 154B, 154C, 154D and 272C

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A, 147, 154B, 154C, 154D and 272C

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 22, 2024 9 to 9:30 a.m.	6200 Park Avenue Des Moines, Iowa Via videoconference call: meet.google.com/mku-itia-ciq Or dial: 1.573.342.3106 PIN: 861 856 486#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed chapter sets forth continuing education requirements for mental health counselors, marriage and family therapists, social workers, and psychologists. It includes definitions related to continuing education, the required number of hours of continuing education that licensees are required to obtain, the standards that licensees need to meet in order to comply with the chapter, and the types of continuing education courses that are permissible. The intended benefit of continuing education is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Licensees are responsible for the cost of continuing education. Private industry offers these courses, so the Board of Behavioral Science Professionals is not privy to exact costs. Licensees have

multiple options. Courses can range anywhere from $0 to $100 per hour. The Board allows for online coursework, which increases the availability of free or low-cost options.

- Classes of persons that will benefit from the proposed rulemaking:

The intended benefit of continuing education is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans, protecting public health and safety.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Private industry, including educational institutions, professional associations, and businesses, offers these courses, so the Board is not privy to exact costs. Courses can range anywhere from $0 to $100 per hour. The Board allows for online coursework, which increases the availability of free or low-cost options. The Board does not have data to correlate increased public safety to continuing education hour requirements.

Currently, Iowa requires 40 hours of continuing education for mental health counselors, marriage and family therapists, and psychologists every two years. Social workers require 27 hours every two years.

- Qualitative description of impact:

There has been a historical belief that continuing education has a public safety benefit because it ensures that licensed professionals are receiving education on up-to-date standards of care and potentially reduces the number of complaints. While there is no evidence to prove this correlation, this has been a long-standing belief that boards around the country have held, as is evidenced by the fact that most other boards around the country require some form of continuing education.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Costs to the agency are for the staff time needed to manage Board activities, which include continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements. An executive officer supports the full scope of work of this Board at approximately 0.35 full-time equivalent (FTE) position, which includes answering questions from the public and licensees relating to topics such as practice standards, continuing education, Board meeting administration, etc.

Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

- Anticipated effect on state revenues:

Costs associated with completing continuing education hours are paid to entities that provide continuing education opportunities, not the State. This rulemaking has no anticipated impact on state revenues.

Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Reducing or eliminating continuing education hours would reduce/eliminate the cost to the licensee to meet this requirement. The Board has not recommended a reduction in hours. The Board believes there could be an impact to public safety if continuing education requirements were eliminated. This could lead to more complaints, investigations, and ultimately public discipline. There would be a loss of revenue for the private industry organizations that offer these continuing education programs.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Less restrictive alternatives would be to reduce the amount of continuing education required. A review of surrounding states has shown that Iowa is in line with neighboring jurisdictions. Mental health counselors in Iowa require 40 hours of continuing education every two years. Illinois and Kansas require 30 hours; Nebraska requires 32; and Minnesota, Missouri, and South Dakota require 40. Psychologists in Iowa require 40 hours of continuing education every two years. A review of surrounding states indicates that Illinois and Nebraska require 24 hours; Minnesota, Missouri, and South Dakota require 40 hours; and Kansas requires 50 hours. Social workers in Iowa require 27 hours of continuing education every two years. A review of surrounding states indicates that Illinois, Missouri, and South Dakota each require 30 hours; Nebraska requires 32 hours; and Minnesota and Kansas require 40 hours. Staff held conversations with Board members inquiring whether the Board would recommend lowering the continuing education requirements. The Board did not recommend a change in continuing education hours.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Staff held conversations with members of the Board inquiring whether the Board would recommend lowering the continuing education requirements. The Board has considered a change of the total continuing education hours, the frequency of hours, and the safety of the public. While the Board is not inclined at this time to make changes, it will consider evidence-based practice and data for future review.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The Board did consider less restrictive alternatives, such as reducing the number of continuing education hours. The Board believes that eliminating continuing education requirements would increase the number of complaints and investigations that the Board would need to conduct, but the Board has not been able to analyze this correlation and is unable to submit evidence of this belief.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Mental health counselors, marriage and family therapists, social workers, and psychologists practice in a number of settings, including private practice clinics, major hospital systems, residential health care facilities, and educational institutions. While some licensees likely are running a small business of their own, some also work for large corporations and hospitals. To exempt small businesses from adhering to this chapter would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business.

Conversely, there may be a negative impact on revenue for the entities that provide continuing education due to decreased demand for the entities' continuing education services.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 481—Chapter 881:

CHAPTER 881
CONTINUING EDUCATION FOR MARITAL AND FAMILY THERAPISTS, MENTAL HEALTH COUNSELORS, SOCIAL WORKERS, AND PSYCHOLOGISTS

481—881.1(272C) Definitions. For the purpose of these rules, the following definitions will apply:

"Active license" means the license is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of behavioral health professionals.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Independent study" means a continuing education program or activity that a licensee pursues autonomously that includes a posttest and meets the general criteria in subrule 881.2(9).

"License" means license to practice.

"Licensee" means any person licensed to practice marital and family therapy, mental health counseling, social work, or psychology in the state of Iowa.

"Practice of psychology" means the application of established principles of learning, motivation, perception, thinking, psychophysiology and emotional relations to problems, behavior, group relations, and biobehavior by persons trained in psychology for compensation or other personal gain. The application of principles includes but is not limited to counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school and personal relationships. The practice of psychology also means measuring and testing personality, mood-motivation, intelligence/aptitudes, attitudes/public opinion, and skills; the teaching of such subject matter; and the conducting of research on the problems relating to human behavior.

481—881.2(272C) Continuing education requirements.

881.2(1) The biennial continuing education compliance period for mental health counselors and marriage and family therapists shall extend for a 25-month period beginning on September 1 of the even-numbered year and ending on September 30 of the next even-numbered year. Each biennium, each person who is licensed to practice as a mental health counselor or marriage and family therapist in this state is required to complete a minimum of 40 hours of continuing education that meets the requirements of this chapter.

881.2(2) The biennial continuing education compliance period for psychologists shall extend for a two-year period beginning on July 1 of even-numbered years and ending on June 30 of even-

numbered years. Each biennium, each person who is licensed to practice as a psychologist in this state shall be required to complete a minimum of 40 hours of continuing education approved by the board.

881.2(3) The biennial continuing education compliance period for social workers extends for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a social worker in this state will be required to complete a minimum of 27 hours of continuing education approved by the board.

881.2(4) Requirements for new mental health counselor, marriage and family therapist, and psychology licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired any time from the initial licensing until the second license renewal may be used. A new mental health counselor, marriage and family therapist, or psychology licensee will be required to complete a minimum of 40 hours of continuing education per biennium for each subsequent license renewal. A new social work licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

881.2(5) No hours of continuing education are required to renew a provisional license.

881.2(6) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

881.2(7) Up to 50 percent of continuing education can be carried over into the next biennium if there was an amount of continuing education completed during the prior period that exceeded the minimum requirement. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

881.2(8) It is the responsibility of each licensee to finance the cost of continuing education.

881.2(9) General criteria. A continuing education activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;

b. Pertains to subject matters that integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

881.2(10) Specific marriage and family therapy and mental health counseling criteria. Continuing education hours of credit may be obtained by completing the following:

a. Attendance at workshops, conferences, symposiums and webinars.

b. Academic courses. Official transcripts indicating successful completion of academic courses that apply to the field of mental health counseling or marital and family therapy, as appropriate, will be necessary in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

c. Completion of independent study courses that meet the general criteria in subrule 881.2(9).

d. A maximum of 20 hours of continuing education credit may be granted for any of the following activities not to exceed a combined total of 20 hours:

(1) Presenting professional programs that meet the criteria in subrule 881.2(9). Two hours of credit will be awarded for each hour of presentation. A course schedule or brochure must be

maintained for audit. Presenting at a professional program does not include teaching a class at an institution of higher learning at which the applicant is regularly and primarily employed. Presentations to lay public are excluded.

(2) Scholarly research or other activities, the results of which are published in a recognized professional publication such as a refereed journal, monograph or conference proceedings. The scholarly research must be integrally related to the practice of the professions.

(3) Publication in a refereed journal. The article in a refereed journal for which the licensee is seeking continuing education credit must be integrally related to the practice of the professions.

(4) Teaching in an approved college, university, or graduate school. The licensee may receive credit on a one-time basis for the first offering of the course.

(5) Authoring papers, publications, and books. The licensee will receive 5 hours of credit per page with a maximum of 20 hours of credit.

(6) Serving on a state or national professional board. The licensee will receive a maximum of three hours of credit.

881.2(11) Additional required specific criteria:

a. Three hours of the 40 continuing education hours will be in ethics.

b. Effective with the biennial continuing education compliance period that begins October 1, 2022, persons serving in a supervisory role must complete three hours of continuing education in supervision.

c. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats adults in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in dependent adult abuse training for mandatory reporters offered by the department of health and human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

d. Effective July 1, 2019, a licensee who regularly examines, attends, counsels or treats children in Iowa shall complete, within six months of employment or prior to the expiration of a current certification, an initial two-hour course in child abuse training for mandatory reporters offered by the department of health and human services. Thereafter, all mandatory reporters shall take a one-hour recertification training every three years, prior to the expiration of a current certification.

881.2(12) Specific psychology criteria.

a. For the second license renewal, licensees shall obtain six hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain six hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management. For all board members, a maximum of two of these hours may be obtained by providing service as a member of the board as follows:

(1) One hour of credit for attendance and participation at a minimum of three regular quarterly board meetings during the license biennium, or

(2) Two hours of credit for attendance and participation at a minimum of six regular quarterly board meetings during the license biennium.

c. A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 481—subrule 880.10(3). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Attending workshops, conferences, or symposiums that meet the criteria in subrule 881.2(9).

(4) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(5) Completing home study courses for which a certificate of completion is issued.

(6) Completing electronically transmitted courses for which a certificate of completion is issued.

(7) Conducting scholarly research, the results of which are published in a recognized professional publication. In order to claim such credit, the licensee must attest to the hours actually spent conducting research, demonstrate that the research is integrally related to the practice of psychology, explain how the research advances the licensee's knowledge in the field, and provide the published work.

(8) Preparing new courses on material that is integrally related to the practice of psychology and is beyond entry level. In order to claim such credit, the licensee must: attest that the licensee has not taught the course in the past or that the licensee has not substantially altered the course content; request a specific amount of continuing education credit; describe how the course is integrally related to the practice of the profession and advances the licensee's knowledge in the field; and supply a course syllabus that supports the licensee's request for credit.

(9) Presenting to other professionals. A licensee may receive credit on a one-time basis for presenting continuing education programs that meet the criteria of subrule 881.2(9). Two hours of credit will be awarded for each hour of presentation.

d. A combined maximum of 30 hours of credit per biennium may be used for scholarly research, preparation of new courses, and presentations to other professionals.

881.2(13) Specific social work criteria. Continuing education hours of credit can be obtained by completing:

a. Coursework pertaining to one of the following content areas:

(1) Human behavior.

1. Theories and concepts of the development of human behavior in the life cycle of individuals, families and the social environment;

2. Community and organizational theories;

3. Normal, abnormal and addictive behaviors;

4. Abuse and neglect; and

5. Effects of culture, race, ethnicity, sexual orientation and gender.

(2) Assessment and treatment.

1. Psychosocial assessment/interview;

2. Utilization of the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR) of the American Psychiatric Association, published March 2022;

3. Theoretical approaches and models of practice—individual, couple, and family therapy and group psychotherapy;

4. Establishing treatment goals and monitoring progress;

5. Techniques of social work practice; and

6. Interdisciplinary consultation and collaboration.

(3) Social work research, program evaluation, or practice evaluation.

(4) Management, administration, and social policy.

1. Organizational policies and procedures;

2. Advocacy and prevention in social work practice;

3. Management of social work staff and other personnel; and

4. Management of social work programs.

(5) Theories and concepts of social work education.

(6) Social work ethics as they pertain to the rules of conduct.

(7) An area, as demonstrated by the licensee, that directly relates to the licensee's individual practice as a social worker. The licensee will submit for consideration by the board a specific explanation of how the program relates to the licensee's individual practice setting as a social worker.

b. A minimum of three hours per biennium in social work ethics.

c. Academic coursework that meets the criteria set forth in the rules. Continuing education equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

d. Programs designed for the purpose of enhancing the licensee's administrative, management or other clinical skills.

e. Activities/programs that are sponsored or approved by:

(1) ASWB Approved Continuing Education (ACE) program; or

(2) National Association of Social Workers (NASW) Continuing Education Unit (CEU) Approval Program.

f. Pro bono or volunteer work that meets the following criteria:

(1) A licensee may earn a maximum of 3 of the required 27 hours of continuing education for credit during one biennium by performing pro bono or volunteer services for indigent, underserved populations or in areas of critical need within the state of Iowa. Such services must be approved in advance by the board.

(2) A licensee will apply for prior approval of pro bono or volunteer services by sending a letter to the board indicating that the following requirements will be met:

1. The site for these services is identified including information about the clients, the services that will be offered, how they will be performed and the learning objectives.

2. A contract will be established between licensee and client(s), and each party will be aware that the services are being provided without charge.

3. The services will be subject to all the legal responsibilities and obligations related to the licensee's profession.

4. The licensee will keep records and files of these client services pursuant to this rule.

5. A representative from the site for pro bono or volunteer services must provide a letter stating that these services are to be performed by the licensee.

6. Upon review, the licensee will receive a letter from the board indicating prior approval for these pro bono or volunteer services that will be done for continuing education credit.

7. Following completion of such services:

- The licensee must provide the board a letter stating that the services were performed as planned.
- The representative from the site must provide a letter indicating such completion.

g. Instruction of a course at an approved college, university or graduate school of social work. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium.

h. Instruction, presentation, or moderation of continuing education programs. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium, for programs at which the licensee is actually in attendance for the complete program, provided the licensee receives a certificate of attendance in compliance with this rule.

i. Authorship of professional papers, publications or books and preparation of presentations and exhibits. A presentation must be made before a professional audience. Presentations may receive credit on a one-time basis for the article, publication, book or preparation of a presentation or exhibit, not to exceed three hours of continuing education credit per biennium.

j. Supervision of a social work practicum student(s) from an accredited social work education program. A licensee may receive one credit for every 100 hours supervised, not to exceed 6 hours of continuing education credit per biennium.

These rules are intended to implement Iowa Code chapters 154B, 154C, 154D and 272C.

ITEM 2. Rescind and reserve **481—Chapter 886**.

ITEM 3. Rescind and reserve **481—Chapter 892**.

ITEM 4. Rescind and reserve **481—Chapter 896**.