Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 481—Chapters 884, 888, 891 and 897
"Practice of Social Workers, Psychologists, Marriage and Family Therapists, and Mental Health Counselors"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 272C, 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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Des Moines, Iowa 50321
Phone: 515.281.4401
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Purpose and Summary

This proposed rulemaking provides Iowans, licensees, and employers with practice guidance and requirements for social workers, psychologists, marriage and family therapists, and mental health counselors. The rules provide guidance on what is considered appropriate and what is not 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, National Code of Ethics, and general guidance.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

There are often costs associated with practice standards in the form of effort and money associated with compliance, as is true for any service-oriented industry. Members of the public would have costs associated with the services they are seeking to receive. Each licensee's practice has different variables, such as number of clients seen, nature of services provided, how services are delivered (i.e., telehealth or in person) and administrative support. The Board of Behavioral Health Professionals does not have a mechanism for estimating what these total costs might be to the public and to the licensee.

Costs to the agency are for the staff time needed to manage the full scope of Board activities, which include oversight of practice standards, answering questions from licensees and the public, administration of Board meetings, etc. An executive officer supports the work of this Board at 1.0 full-time equivalent (FTE) position. 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.

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

The general public and licensees benefit from this rulemaking. The chapter provides standards of practice for licensees to ensure a licensee is following standards of care and providing adequate services to the consumer. The public benefits by knowing they are receiving quality services in this industry.

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:

There are a large number of licensees. Master's and independent level licensees routinely provide mental health services to Iowans. There are approximately 573 licensed bachelor social workers (LBSW), 1,854 licensed master's social workers (LMSW), and 2,683 licensed independent social workers (LISW) who provide these services to Iowans. The Board received 55 complaints in 2021 and 51 in 2022. The Board initiated 15 public disciplinary actions over those two years. There are approximately 976 active psychologists who provide mental health services to Iowans. The Board received 10 complaints against psychologists in 2021 and 12 in 2022. The Board initiated one public discipline action over this two-year period. There are approximately 3,200 total active licenses between marriage and family therapists and mental health counselors. The Board received 55 complaints against marriage and family therapists and mental health counselors in 2021 and 50 in 2022. The Board initiated 11 public discipline actions during that two-year period. The Board believes that the benefits achieved justify the costs because the rules provide required guardrails for providing this important service to Iowans. If this profession were not regulated, it could mean that vulnerable Iowans who are receiving mental health services could be placed at risk. Social workers, psychologists, marriage and family therapists, and mental health counselors are regulated in all 50 states.

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.

- Qualitative description of impact:

Establishing practice standards ensures safety for the licensee and the consumer. If this profession was not regulated, it could mean that lower-skilled individuals would be providing services.

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 the full scope of Board activities, which include oversight of practice standards, answering questions from licensees and the public, administration of Board meetings, etc. An executive officer supports the work of this Board at approximately 1.0 FTE position. 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.

- Anticipated effect on state revenues:

There is no anticipated impact on state revenues as a result of this rulemaking. 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:

The Board believes that the benefits achieved justify the costs because the rules provide required guardrails for providing important mental health services to Iowans. If these professions were not regulated, it could mean that vulnerable Iowans who are receiving mental health services could be placed at risk.

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

Licensing is the highest form of regulation. Lower forms of regulation could be viable, such as registration. That said, social workers, psychologists, marriage and family therapists, and mental health counselors are regulated in all 50 states. These professions practice a form of mental health therapy that is technical in nature and requires a high level of skill, so the Board believes that regulation is necessary.

6. Alternative methods considered by the agency:

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

Currently, social workers, psychologists, marriage and family therapists, and mental health counselors are regulated in all 50 states. These professions practice a form of mental health therapy that is technical in nature and requires a high level of skill, so the Board believes that regulation is necessary.

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

The Board did consider less restrictive alternatives, such as registration as opposed to licensure. The Board ultimately decided that to ensure public safety and the integrity of the profession, licensure requirements should stay in effect. Currently, all 50 states regulate social workers, psychologists, marriage and family therapists, and mental health counselors. Not regulating these professions could jeopardize public safety and lead to serious injury for consumers. The Board believes regulations are necessary and critical to ensuring public safety, which is the paramount concern.

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?

The proposed chapter relates to high-stakes public safety concerns that are present whether the business is a small business or a large organization. The chapter is meant to ensure public safety in terms of practice standards for practitioners. While some licensees could be running a small business,

some also work for large hospitals, clinics and agencies. To exempt a small business 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.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 481—Chapter 884:

CHAPTER 884
PRACTICE OF SOCIAL WORKERS, PSYCHOLOGISTS, MARRIAGE AND FAMILY THERAPISTS, AND MENTAL HEALTH COUNSELORS

481—884.1(154B,154C) Definitions.

"APA" means the American Psychological Association.

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

"Clinical records" means records created by a licensee regarding the observation and treatment of patients, such as progress notes, but does not include psychotherapy notes.

"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.

"Examinee" means a person who is the subject of a forensic examination for the purpose of informing a decision maker or attorney about the psychological functioning of that examinee.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and related regulations promulgated thereunder.

"Patient" means an individual under the care of a licensee in a clinical role and is synonymous with the term "client."

"Personal representative" means a person authorized to act on behalf of the patient in making health care-related decisions such as a parent or legal guardian, an individual with a health care power of attorney, an individual with a general power of attorney or durable power of attorney that includes the power to make health care decisions, or a court-appointed legal guardian.

"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.

"Psychotherapy notes" means notes recorded by a licensee documenting or analyzing the contents of a conversation during a private therapy session with a patient, or a group, joint, or family therapy session, that are maintained separately from the patient's clinical records. "Psychotherapy notes" excludes medication prescription monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of any clinical tests, and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

"Telepsychology" means the provision of psychological services using telecommunication technologies.

"Test data" means raw and scaled scores, patient responses to test questions or stimuli, and notes and recordings concerning patient statements and behavior during an examination.

"Test materials" means the test questions, scoring keys, protocols, and manuals that do not include personally identifying information about the subject of the test.

481—884.2(147,154B,272C) Purpose and scope. The purpose of this rule is to set the minimum standards of practice for psychologists practicing in Iowa. The practice of psychology is occurring in Iowa if the patient or examinee is located in Iowa. Psychologists will ensure any interns or residents under supervision adhere to the minimum standards of practice and must comply with the requirements set forth in 481—subrule 880.2(6). The APA Code of Ethics, published January 1, 2017, is applicable and enforceable to the extent it does not conflict with any standards of practice set forth in this chapter. A psychologist may be disciplined for any violation of this chapter or the APA Code of Ethics.

884.2(1) *Access to records.*

a. Clinical records generally. When records are requested along with a signed release from the patient or the patient's personal representative, a psychologist will provide requested clinical records in a timely manner unless there is a ground for denial under HIPAA (Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, August 21, 1996, 110 Stat. 1936).

b. Psychotherapy notes. A psychologist is not required to release psychotherapy notes in response to a signed release; if a psychologist chooses to release psychotherapy notes, a signed release specifically authorizing the release of those notes will be provided.

c. Substance use disorder treatment programs. Psychologists who practice in a federally assisted substance use disorder treatment program, also known as a Part 2 program, are prohibited from disclosing any information that would identify a patient as having a substance use disorder unless the patient provides written consent in compliance with Part 2 requirements.

d. Clinical records of minor patients. A minor patient is a patient who is under the age of 18 and is not emancipated. A psychologist is not required to release the clinical records of a minor patient to the minor's personal representative if releasing such records is not in the minor's best interest. When a minor patient reaches the age of 18, the clinical records belong to the patient.

e. Clinical records of deceased patients. A psychologist will provide the clinical records of a deceased patient to the deceased patient's executor upon a written request accompanied by a copy of the patient's death certificate and a copy of the legal document identifying the requestor as the patient's executor.

f. Forensic records. A psychologist will provide forensic records consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

g. Board. A psychologist shall provide clinical records, test data, or forensic records to the board as requested during the investigation of a complaint. A psychologist is not required to obtain a patient release to send such information to the board because the board is a health oversight agency.

h. Exceptions. These rules do not apply when there is a legal basis for not disclosing requested information.

884.2(2) *Psychological testing.* A psychologist may administer psychological tests and assessments to a patient or examinee if the psychologist has appropriate training for any psychological test or assessment utilized and the test or assessment is scientifically founded.

a. Use of proctors. A psychologist may delegate the administration of a standardized test, intelligence test, or objective personality assessment to an appropriately trained individual. The psychologist is responsible for supervising any proctors.

b. Release of test data. A psychologist will not provide test data to any person, with the exception that the test data with proper written release may be disclosed to a licensed psychologist designated by the patient or examinee. A psychologist who receives test data in this manner shall not further disseminate the test data.

c. Release of test materials. A psychologist shall not disclose test materials to any person, except for another licensed psychologist who has been designated in writing by the subject of a

psychological test to receive the records associated with the psychological testing of the subject. A psychologist shall not disclose test materials in any administrative, judicial, or legislative proceeding.

884.2(3) *Judicial proceedings.* Prior to participating in a judicial proceeding, a psychologist will become familiar with the rules governing the proceeding. A psychologist will understand and clearly identify the psychologist's role in the proceeding.

a. Licensure. A license to practice psychology in Iowa or an exemption from licensure is not required solely to testify as an expert witness in court, if the psychologist did not personally examine the examinee. A psychologist who personally examines an examinee located in Iowa for the purpose of providing an expert opinion is required to be licensed or exempt from licensure at the time of the evaluation.

b. Custody evaluations. A psychologist who performs a child custody evaluation will comply with the APA Guidelines for Child Custody Evaluations in Family Law Proceedings published December 2010.

884.2(4) *Telepsychology.* A psychologist may practice telepsychology provided the following are met:

a. The psychologist must be licensed or be exempt from licensure in the jurisdiction where the patient or examinee is located.

b. Prior to initiating telepsychology with a new patient or examinee, a psychologist will take reasonable steps to verify the identity and location of the patient or examinee.

c. A psychologist will ensure informed consent for telepsychology includes a description of any limitations of services as a result of the technology utilized.

d. A psychologist will gain competency in the use of a particular technology prior to utilizing it in practice. A psychologist shall only use technologies that are secure and functioning properly.

e. A psychologist will apply the same ethical and professional standards of care and professional practice that are required when providing in-person psychological services. If the same standard of care cannot be met with telepsychology, a psychologist will not utilize telepsychology.

884.2(5) *Records.* A psychologist will complete clinical records as soon as practicable to ensure continuity of services. All clinical records shall be completed within 30 days after the service or evaluation is complete unless there are significant extenuating circumstances. Clinical records and psychotherapy notes will be retained for at least seven years after the last date of service, or until at least three years after a minor reaches the age of 18, whichever is later. Forensic records will be completed and retained consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

481—884.3(147) Mental health counselor and marriage and family therapist recordkeeping.

884.3(1) A mental health counselor or marriage and family therapist shall maintain sufficient, timely, and accurate documentation in client records.

884.3(2) For purposes of this rule, "client" means the individual, couple, family, or group to whom a mental health counselor or marriage and family therapist provides direct clinical services.

884.3(3) A mental health counselor's or marriage and family therapist's records shall reflect the services provided, facilitate the delivery of services, and ensure continuity of services in the future.

884.3(4) Clinical services. A mental health counselor or marriage and family therapist who provides clinical services in any employment setting, including private practice, shall:

a. Store records in accordance with state and federal statutes and regulations governing record retention and with the guidelines of the mental health counselor's or marriage and family therapist's employer or agency, if applicable. If no other legal provisions govern record retention, a mental health counselor or marriage and family therapist shall store all client records for a minimum of seven years after the date of the client's discharge or death or, in the case of a minor, for three years after the client reaches the age of majority under state law or seven years after the date of the client's discharge or death, whichever is longer.

b. Maintain timely records that include subjective and objective data, an assessment, a treatment plan, and any revisions to the assessment or plan made during the course of treatment.

c. Provide the client with reasonable access to records concerning the client. A mental health counselor or marriage and family therapist who is concerned that a client's access to the client's records could cause serious misunderstanding or harm to the client shall provide assistance in interpreting the records and consultation with the client regarding the records. A mental health counselor or marriage and family therapist 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 for access and the licensee's rationale for withholding some or all of a record shall be documented in the client's records.

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

884.3(5) Electronic recordkeeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, the mental health counselor or marriage and family therapist shall ensure that a duplicate hard-copy record or a backup, unalterable electronic record is maintained.

884.3(6) Correction of records.

a. Hard-copy records. Original notations shall be legible, be written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the original record, it must be crossed out with a single, nondeleting line and be initialed and dated by the mental health counselor or marriage and family therapist.

b. Electronic records. If a record is stored in an electronic format, the record may be amended with a signed addendum attached to the record.

884.3(7) Confidentiality and transfer of records. Marital and family therapists or mental health counselors shall preserve the confidentiality of client records in accordance with their respective rules of conduct and with federal and state law. Upon receipt of a written release or authorization signed by the client, the licensee shall furnish such therapy records, or copies of the records, as will be beneficial for the future treatment of that client. A fee may be charged for duplication of records, but a mental health counselor or marriage and family therapist shall not refuse to transfer records for nonpayment of any fees. A written request may be required before transferring the record(s).

884.3(8) Retirement, death or discontinuance of practice.

a. If a mental health counselor or marriage and family therapist is retiring or discontinuing practice and is the owner of a practice, the mental health counselor or marriage and family therapist shall notify in writing all active clients and, upon knowledge and agreement of the clients, shall make reasonable arrangements with those clients to transfer client records, or copies of those records, to the succeeding licensee.

b. Upon a mental health counselor's or marriage and family therapist's death:

(1) The mental health counselor's or marriage and family therapist's employer or representative must ensure that all client records are transferred to another licensee or entity that is held to the same standards of confidentiality and agrees to act as custodian of the records.

(2) The mental health counselor's or marriage and family therapist's employer or representative shall notify each active client that the client's records will be transferred to another licensee or entity that will retain custody of the records and that, at the client's written request, the records will be sent to the licensee or entity of the client's choice.

884.3(9) Nothing stated in this rule shall prohibit a mental health counselor or marriage and family therapist from conveying or transferring the client records to another licensed individual who is assuming a practice, provided that written notice is furnished to all clients.

481—884.4(154C) Social work rules of conduct.

884.4(1) *Informed consent.*

a. A social worker will provide services to clients only in the context of a professional relationship based, when appropriate, on valid written informed consent. A social worker 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 social worker 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 social worker 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 social worker 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 social worker will seek to ensure that the third party acts in a manner consistent with the client's wishes and interests. A social worker will take reasonable steps to enhance the client's ability to give informed consent.

d. If a client is receiving services involuntarily, a social worker 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 social worker, 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 social worker who provides services via electronic media will inform recipients of the limitations and risks associated with such services.

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

884.4(2) *Competence.*

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

b. A social worker 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 social worker 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.

884.4(3) *Supervision.*

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

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

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

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

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

884.4(4) *Privacy and confidentiality.*

a. A social worker 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 social worker 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 social worker.

(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 social worker 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 social worker 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 social worker will inform the client, to the extent possible, about the disclosure of confidential information and the potential consequences of the disclosure.

c. A social worker will discuss with clients and other interested parties the nature of confidentiality and limitations of a client's right to confidentiality. A social worker 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 social worker provides counseling or psychosocial therapy services to families, couples, or groups, the social worker 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 social worker will inform participants in family, couples, or group counseling or psychosocial therapy that the social worker cannot guarantee that all participants will honor such agreements.

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

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

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

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

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

j. A social worker will protect the confidentiality of clients' written and electronic records and other sensitive information. A social worker 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 social worker 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 social worker 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 social worker's employer or agency, if applicable.

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

n. A social worker 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 social worker 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 social worker will protect the confidentiality of deceased clients.

884.4(5) *Recordkeeping.*

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

b. A social worker 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 social worker 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 social worker's employer or agency, if applicable. If no other legal provisions govern record retention, a social worker will store all client records for a minimum of seven years following the termination of services to ensure reasonable future access.

884.4(6) *Access to records.* A social worker who provides clinical services will:

a. Provide the client with reasonable access to records concerning the client. A social worker 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 social worker 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.

884.4(7) *Billing and fees.*

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

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

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

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

f. A social worker 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 social worker will provide a written payment arrangement to a client at the commencement of the professional relationship.

884.4(8) *Dual relationships and conflicts of interest.*

a. "Dual relationship" means that a social worker 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 884.4(9).

(1) Current clients. A social worker will not engage in a dual relationship with a client.

(2) Former clients. A social worker will not engage in a dual relationship with a client within five years of the termination of the client relationship. A social worker 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 social worker 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 social worker 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 social worker will avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment.

(2) A social worker will not continue in a professional relationship with a client when the social worker has become emotionally involved with the client to the extent that objectivity is no longer possible in providing the required professional services.

(3) A social worker 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 social worker will not take unfair advantage of any professional relationship or exploit others to further the social worker's personal, religious, political, or business interests.

(5) A social worker 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 884.4(4), which individuals will be considered clients and the nature of the social worker's professional obligations to the various individuals who are receiving services. A social worker 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 884.4(4), the social worker's role with the parties involved and take appropriate action to minimize any conflict of interest.

884.4(9) *Sexual relationships.*

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

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

884.4(10) *Physical contact.* A social worker 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 social worker 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.

884.4(11) *Termination of services.*

a. A social worker will terminate services when such services are no longer required or no longer serve the client's needs or interests.

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

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

d. A social worker 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 social worker 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 social worker is also a social worker, the employer will provide notice to clients or allow the social worker 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 social worker 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 social worker 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 social worker will make reasonable efforts to collect the unpaid fees and will make appropriate referrals for the client.

884.4(12) *Misrepresentations, disclosure.* A social worker 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 social worker'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 social worker 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, 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 social worker 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 social worker is employed by that public agency and also offers services privately.

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

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 social worker 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 social worker is duly licensed as such.

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

s. Practice outside the scope of a license.

884.4(13) *Impairments.*

a. A social worker 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 social worker 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 social worker who self-reports an impairment or suspected impairment to the board may be eligible for confidential monitoring by the impaired practitioner review committee. The social worker will be provided the Impaired Practitioner Report form to initiate the process. Standards governing the impaired practitioner review committee may be found in 193—Chapter 12.

884.4(14) *Research.* If engaged in research, a social worker 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.

884.4(15) *Organization relationships and business practices.* A social worker 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 social worker knows, or has reason to know, that the person is not qualified by training, education, experience, or classification to perform the requested duties.

884.4(16) *Discrimination and sexual harassment.*

a. A social worker 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 social worker 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.

884.4(17) *General.* A social worker will not:

a. Practice without receiving supervision as needed, given the social worker'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.

884.4(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 social worker's professional conduct is governed by the board's rules of conduct, and a social worker may be disciplined for violation of these rules.

884.4(19) *Electronic social work services.* A social worker 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 154B, 154C and 154D.

ITEM 2. Rescind and reserve **481—Chapter 888**.

ITEM 3. Rescind and reserve **481—Chapter 891**.

ITEM 4. Rescind and reserve **481—Chapter 897**.