

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Notice of Intended Action

**Proposing rulemaking related to impaired licensee review committees
and providing an opportunity for public comment**

The Professional Licensing and Regulation Bureau hereby proposes to rescind Chapter 12, “Impaired Licensee Review Committees,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 272C.

State or Federal Law Implemented

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

Purpose and Summary

The purpose of this proposed chapter is to form a committee to monitor impaired licensees for the purpose of public safety. The committee may include a licensed practitioner who has expertise in the area of substance abuse and addiction treatment or other applicable impairment; one public member of a professional licensing board; and one licensee. The program is confidential and participation is not a matter of public record. Specific eligibility criteria must be met to ensure that matters that may need to be addressed by the applicable board are routed appropriately. The goal of the program is to ensure that a licensee is safe to practice the licensee’s profession through ongoing committee monitoring. A participant will enter into a contract with a committee and agree to adhere to all terms and agreements set forth in the contract. Failure to comply with the provisions of the contract gives the committee the authority to make a referral to the applicable board for possible disciplinary action. If a contract provision is breached that poses an immediate risk to the public, the committee may place immediate practice restrictions on the licensee.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Lori SchraderBachar
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.9030
Email: lori.schraderbachar@dia.iowa.gov

Public Hearing

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

February 13, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: meet.google.com/zuu-vunu-dcc
February 14, 2024 11:30 a.m.	6200 Park Avenue, Suite 100 Des Moines, Iowa Video call link: meet.google.com/zuu-vunu-dcc

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12 IMPAIRED LICENSEE REVIEW COMMITTEES

193—12.1(272C) Impaired licensee review committee. Pursuant to the authority of Iowa Code section 272C.3(1)“k,” all the professional licensing boards as defined in 191—Chapter 1 may establish an impaired licensee review committee.

12.1(1) Definitions. The following definitions are applicable wherever such terminology is used in the rules regarding the impaired licensee review committee.

“Committee” means the impaired licensee review committee.

“Contract” means the written document establishing the terms for participation in the impaired licensee program prepared by the committee.

“Impairment” means an inability to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any neuropsychological or physical disorder or disability.

“Licensee” means a person licensed under Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C.

“Self-report” means the licensee’s providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging the same from a second party.

12.1(2) Purpose. The impaired licensee review committee evaluates, assists, monitors, and, as necessary, makes reports to the board on the recovery or rehabilitation of licensees who self-report impairments or who are referred to the committee by the board.

12.1(3) Composition of the committee. The chairperson of each board will appoint the members of the committee for that board. The membership of the committee includes, but is not limited to:

- a. One licensee, registered under the applicable Iowa Code chapter regulated by the board;
- b. One public member of the board;
- c. One or more licensed professionals with expertise in substance abuse/addiction treatment programs or other applicable impairment.

The board may, alternatively, contract with an established impaired licensee review committee of another board, inside or outside the department of inspections, appeals, and licensing, if deemed in the best interest of the licensee or the public.

12.1(4) Eligibility. To be eligible for participation in the impaired licensee recovery program, a licensee will need to meet all of the following criteria:

- a. The licensee needs to self-report an impairment or suspected impairment directly to the office of the board or be referred to the committee by the board;
- b. The licensee cannot have engaged in the unlawful diversion or distribution of controlled substances, or illegal substances;
- c. At the time of the self-report, the licensee cannot already be under board order for an impairment or any other violation of the laws and rules governing the practice of the profession, although the existence of such an order cannot prevent the board from making a referral when deemed in the best interest of the licensee and the public;
- d. The licensee has not caused harm or injury to a client;
- e. The licensee has not been subject to a civil or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the profession;
- f. The licensee has provided truthful information and fully cooperated with the board or committee.

12.1(5) Meetings. The committee will meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring.

12.1(6) Terms of participation. A licensee will agree to comply with the terms for participation in the impaired licensee program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period will be established by the committee and communicated to the licensee in writing.

12.1(7) Noncompliance. Failure to comply with the provisions of the agreement obligates the committee to make immediate referral of the matter to the board for the purpose of disciplinary action.

12.1(8) Practice restrictions. The committee may impose restrictions on the licensee's practice as a term of the contract until such time as it receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a licensee is obligated to agree to restricted practice in accordance with the terms specified in the contract. In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee will refer the licensee to the board for appropriate action.

12.1(9) Limitations. The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired licensee program. Participation in the program under the auspices of the committee cannot relieve the board of any duties and cannot divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant will be referred to the board for appropriate action. A violation of a contract is a ground for licensee discipline.

12.1(10) Confidentiality. The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information in the possession of the board or

the committee about licensees in the program cannot be disclosed to the public. Participation in the impaired licensee program under the auspices of the committee is not a matter of public record.

This rule is intended to implement Iowa Code chapter 272C.