

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rulemaking related to practice of psychology

The Board of Psychology hereby rescinds Chapter 243, “Practice of Psychology,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 147.36, 147.76, 154B.13, 154B.14, 272C.3 and 272C.4.

State or Federal Law Implemented

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

Purpose and Summary

This chapter provides Iowans, licensees, and licensees’ employers with practice guidance and requirements relevant to the practice of psychologists. The chapter provides guidance on what is considered appropriate and not appropriate practice. Categories include: access to patient records, psychological testing, judicial proceedings, telepsychology, and recordkeeping.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 24, 2024, as **ARC 7291C**. Public hearings were held virtually and in person on February 13 and 14, 2024, at 9:20 a.m. at 6200 Park Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Board on March 4, 2024.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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).

Effective Date

This rulemaking will become effective on May 22, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 645—Chapter 243 and adopt the following **new** chapter in lieu thereof:

CHAPTER 243
PRACTICE OF PSYCHOLOGY

645—243.1(154B) Definitions.

“*APA*” means the American Psychological Association.

“*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.

“*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.

“*Licensee*” or “*licensed*” means an individual with an active license to practice psychology, including a provisional license, or a certificate of exemption issued by the board.

“*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.

“*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.

645—243.2(147,154B,272C) Purpose and scope. The purpose of this chapter is to set the minimum standards of practice for licensees practicing in Iowa. The practice of psychology is occurring in Iowa if the patient or examinee is located in Iowa. Licensees will ensure any interns or residents under supervision adhere to the minimum standards of practice and must comply with the requirements set forth in rule 645—240.9(154B). 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 licensee may be disciplined for any violation of this chapter or the APA Code of Ethics.

645—243.3(154B) Access to records.

243.3(1) Clinical records generally. When records are requested along with a signed release from the patient or the patient’s personal representative, a licensee 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).

243.3(2) *Psychotherapy notes.* A licensee is not required to release psychotherapy notes in response to a signed release; if a licensee chooses to release psychotherapy notes, a signed release specifically authorizing the release of those notes will be provided.

243.3(3) *Substance use disorder treatment programs.* Licensees 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.

243.3(4) *Clinical records of minor patients.* A minor patient is a patient who is under the age of 18 and is not emancipated. A licensee 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.

243.3(5) *Clinical records of deceased patients.* A licensee 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.

243.3(6) *Forensic records.* A licensee will provide forensic records consistent with the APA Specialty Guidelines for Forensic Psychology published January 2011.

243.3(7) *Board.* A licensee shall provide clinical records, test data, or forensic records to the board as requested during the investigation of a complaint. A licensee is not required to obtain a patient release to send such information to the board because the board is a health oversight agency.

243.3(8) *Exceptions.* These rules do not apply when there is a legal basis for not disclosing requested information.

645—243.4(154B) *Psychological testing.* A licensee may administer psychological tests and assessments to a patient or examinee if the licensee has appropriate training for any psychological test or assessment utilized and the test or assessment is scientifically founded.

243.4(1) *Use of proctors.* A licensee may delegate the administration of a standardized test, intelligence test, or objective personality assessment to an appropriately trained individual. The licensee is responsible for supervising any proctors.

243.4(2) *Release of test data.* A licensee 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 may not further disseminate the test data.

243.4(3) *Release of test materials.* A licensee 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 licensee shall not disclose test materials in any administrative, judicial, or legislative proceeding.

645—243.5(154B) *Judicial proceedings.* Prior to participating in a judicial proceeding, a licensee will become familiar with the rules governing the proceeding. A licensee will understand and clearly identify the licensee's role in the proceeding.

243.5(1) *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.

243.5(2) *Custody evaluations.* A licensee who performs a child custody evaluation will comply with the APA Guidelines for Child Custody Evaluations in Family Law Proceedings published December 2010.

645—243.6(154B) *Telepsychology.* A psychologist may practice telepsychology provided the following are met:

243.6(1) The psychologist must be licensed or be exempt from licensure in the jurisdiction where the patient or examinee is located.

243.6(2) Prior to initiating telepsychology with a new patient or examinee, a licensee will take reasonable steps to verify the identity and location of the patient or examinee.

243.6(3) A licensee will ensure informed consent for telepsychology includes a description of any limitations of services as a result of the technology utilized.

243.6(4) A licensee will gain competency in the use of a particular technology prior to utilizing it in practice. A licensee shall only use technologies that are secure and functioning properly.

243.6(5) A licensee 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 licensee will not utilize telepsychology.

645—243.7(154B) Records. A licensee 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.

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

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/17/24.