

1 **Proposed Changes to Iowa Court Rules on Professional Regulation**

2
3 **Chapter 31 Admission to the Bar**

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5 **Rule 31.1 Board of law examiners**

6 **31.1(1) Composition.**

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8
9 *f.* The director of the office of professional regulation will designate an
10 assistant director for admissions of the office of professional regulation to shall
11 serve as the principal administrator for the board of law examiners. Wherever
12 in this chapter a reference to the “assistant director” appears, it shall refer to
13 the assistant director for admissions of the office of professional regulation.

14 *g.* ~~The board shall have an administrative committee consisting of the chair,~~
15 ~~the director of the office of professional regulation and a nonattorney member~~
16 ~~of the board appointed by the court. The administrative committee shall~~
17 director of the office of professional regulation must, at least 60 days prior to
18 the start of each fiscal year, submit to the court for consideration and approval
19 a budget covering the board’s operations for the upcoming fiscal year. Approval
20 of the budget by the court ~~shall authorize~~ authorizes payment as provided in
21 the budget. A separate bank account designated as the admissions operating
22 account ~~shall must~~ must be maintained for payment of authorized expenditures as
23 provided in the approved budget. Fees or other funds received or collected as
24 directed in this chapter or in accordance with an approved interagency
25 agreement ~~shall must~~ must be deposited in the admissions operating account for
26 payment of the board’s authorized expenditures.

27
28 **Rule 31.15 Permitted practice by law students and recent graduates**

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31 **31.15(8)** A law student practicing under this rule must be identified by the
32 title “Law Student” in any filing made in the courts of this state.

33
34 **Chapter 37 Commission on the Unauthorized Practice of Law**

35 **Rule 37.1 Commission on the Unauthorized Practice of Law**

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38 **37.1(2)** The director of the office of professional regulation will designate an
39 assistant director for boards and commissions of the office of professional
40 regulation ~~shall to~~ to serve as the principal administrator for the commission on
41 unauthorized practice of law. Wherever in this chapter a reference to the
42 “assistant director” appears, it ~~shall refer~~ refers to the assistant director for
43 boards and commissions of the office of professional regulation.

1 **37.1(3)** Commission expenses ~~shall~~ must be paid from the disciplinary fee
2 account of the client security fund. ~~The chair, a nonlawyer member of the~~
3 ~~commission selected by the court, and the director of the office of professional~~
4 ~~regulation shall constitute the administrative committee of the commission.~~
5 director of the office of professional regulation must. ~~The administrative~~
6 ~~committee shall,~~ annually on or before May 1, submit a budget to the supreme
7 court for the next fiscal year.

8
9 **Chapter 38 Rules of Procedure of the Commission on the Unauthorized**
10 **Practice of Law**

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13 **Rule 38.2 Definitions** In this chapter unless the content or subject matter
14 otherwise requires:

15
16 “*Assistant director*” means the assistant director for board and commissions
17 designated by the director of the office of professional regulation.

18

19
20 **Rule 38.6 Investigation procedure**

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23 **38.6(3)** When considering a complaint, the commission ~~shall~~ must act in
24 accordance with the following guidelines:

25

26
27 c. If the commission determines that a complaint should be investigated
28 further, it may direct that the investigation be conducted by a commission
29 member or members or by the ~~Iowa Attorney General’s office~~ assistant director.

30
31 **Chapter 39 Client Security Commission**

32

33
34 **Rule 39.2 Principal executive officer.**

35 **39.2(1) Appointment.** The director of the office of professional regulation
36 ~~shall serve~~ serves as the principal executive officer of the client security
37 commission. Wherever in this chapter a reference to the “director” appears, it
38 ~~shall refer~~ refers to the director of the office of professional regulation. ~~The~~
39 ~~director shall file a bond annually with the commission with such surety as~~
40 ~~may be approved by it and in such amount as it may fix. Premiums on said~~
41 ~~bond shall be paid by the fund.~~ The director may designate an assistant
42 director for boards and commissions to assist with the duties described in this
43 chapter.

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1 **Rule 39.4 Audit—~~treasurer’s duties banking—budget.~~**

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3
4 **39.4(2) ~~Treasurer’s duties~~Banking and disbursements.** The ~~treasurer elected~~
5 ~~by the commission shall~~ director of the office of professional regulation must
6 maintain the assets of the fund in a separate account and ~~shall~~ may disburse
7 moneys from the fund only at the direction of the supreme court or upon the
8 action of the commission pursuant to this chapter. ~~The treasurer shall file a~~
9 ~~bond annually with the commission with such surety as may be approved by it~~
10 ~~and in such amount as it may fix. Premiums on said bond shall be paid by the~~
11 ~~fund.~~ A separate bookkeeping account designated as the disciplinary fund
12 account ~~shall~~ must be maintained within the fund for moneys derived from the
13 annual disciplinary fee set out in rule 39.5. Fees, penalties, or investment
14 income derived from the investment of the income from annual disciplinary
15 fees and penalties ~~shall~~ must be placed in the disciplinary fund account.
16

17 **39.4(3) Budget.** At least 60 days prior to the commencement of each fiscal
18 year, the ~~commission shall~~ director of the office of professional regulation must
19 submit to the supreme court its budget of operations of such year, which may
20 be amended thereafter as necessity dictates.

21

22
23 **Rule 39.8 Enforcement**

24

25
26 **39.8(2)** Attorneys who fail to timely pay the fee and ~~assessment~~
27 ~~assessments~~ required under rules 39.5, and 39.6, and 39.17, or fail to file the
28 statement or supplement thereto provided in rule 39.8(1), may have their right
29 to practice law suspended by the supreme court, provided that at least 15 days
30 prior to such suspension, a notice of delinquency has been served upon them
31 in the manner provided for the service of original notices in Iowa R. Civ. P.
32 1.305, or has been forwarded to them by restricted certified mail, return receipt
33 requested, addressed to them at their last-known address. Such attorneys
34 ~~shall~~ must be given the opportunity during said 15 days to file in duplicate in
35 the office of professional regulation an affidavit disclosing facts demonstrating
36 the noncompliance was not willful and tendering such documents and sums
37 and penalties which, if accepted, would cure the delinquency, or to file in
38 duplicate in the office of the clerk of the supreme court a request for hearing to
39 show cause why their license to practice law should not be suspended. A
40 hearing ~~shall~~ must be granted if requested. If, after hearing, or failure to cure
41 the delinquency by satisfactory affidavit and compliance, an attorney is
42 suspended, the attorney ~~shall~~ must be notified thereof by either of the two
43 methods above provided for notice of delinquency.

44

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1 **Rule 39.10 Investigations and audits**

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4 **39.10(3)** Each member of the bar of Iowa ~~shall~~ must do all of the following:

5

6 c. Retain complete records of all trust fund transactions for a period of not
7 less than six years following completion of the matter to which they relate, in
8 accordance with Iowa Rule of Professional Conduct 32:1.15 and Iowa Ct. R.
9 ~~45.2(2)~~ 45.2(3).

10

11
12 **39.10(7)** The costs of performing a trust account audit must be assessed to
13 the attorney or attorneys who are signatories on the account if the audit
14 reveals the account was not in substantial compliance with Iowa Rule of
15 Professional Conduct 32:1.15 or chapter 45 of the Iowa Court Rules, and one
16 or more of the following circumstances caused performance of the audit:

17
18 a. A claim for reimbursement was filed under the provisions of rule 39.9
19 based on the alleged conduct of the attorney or attorneys who are signatories
20 on the account.

21
22 b. A notice of insufficient funds to honor an instrument drawn on the
23 account was reported to the commission under the provisions of rule 45.4(4)(c).

24
25 c. A complaint alleging an attorney signatory on the account committed a
26 disciplinary infraction was filed with the attorney disciplinary board under the
27 provisions of rule 34.1.

28
29 d. An attorney signatory on the account was suspended from practice
30 under the provisions of chapter 35.

31
32 e. An attorney signatory on the account failed to timely file the statement
33 and questionnaire required by rule 39.8.

34
35 f. An attorney signatory on the account was served a fifteen day notice
36 under rule 39.8(2) based on failure to cooperate with investigation and audit of
37 the account as required by rule 39.10.

38
39 g. A trustee was appointed under the provisions of rules 35.17 or 35.18
40 for an attorney signatory on the account.

41
42 Costs assessed under this rule are due upon assessment by the
43 commission. Costs assessed under this rule must be paid as a condition of
44 reinstatement, and may be collected by the commission as part of the annual
45 statement and assessment required by rule 39.8 if not previously paid.

1

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3 **Rule 39.14 Reinstatement from exemption or suspension**

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6 **39.14(2)** An attorney who seeks or applies for reinstatement from
7 suspension under chapter 35 ~~shall~~ must first file the statement required by
8 rule 39.8(1) and the questionnaire required by rule 39.11, pay all fees,
9 assessments and late filing penalties due and unpaid under rules 39.5, 39.6,
10 and 39.8 at the time of the suspension, pay the current fee and assessment
11 required by rules 39.5 and a reinstatement fee of \$100.

12

13
14 **Rule 39.17 Collection of court costs and other fees**

15
16 a. As a part of the annual statement provided by rule 39.8(1), the office of
17 professional regulation must assess against each active attorney all fees,
18 penalties, or court costs due any district court clerk or the clerk of the supreme
19 court, or the office of professional regulation, and any client security trust fund
20 claim reimbursement due the client security commission, and payable by such
21 attorney, as of the preparation date of the annual statement.

22
23 b. As a condition to continuing membership in the bar of the supreme court,
24 including the right to practice before Iowa courts, every bar member must pay
25 to the supreme court through the office of professional regulation, all fees,
26 penalties, court costs, and client security trust fund claim reimbursements
27 assessed on the annual statement.

28
29 c. Assessments are due on or before March 10 of each year.

30
31 d. The director of the office of professional regulation must pay to the state
32 general fund all fees, penalties, and court costs due the state general fund and
33 collected under this provision.

34
35 **39.18 Requirement for death or disability plan**

36
37 a. Each sole practitioner must prepare a written plan that designates
38 another competent Iowa attorney to review client files, notify each client of the
39 attorney's death or disability, and determine whether there is a need for other
40 immediate action to protect the interests of clients.

41
42 b. The plan must authorize the designated attorney to prepare final trust
43 accountings for clients, make trust account disbursements, properly dispose of
44 inactive files, and arrange for storage of files and trust account records.

1 c. The plan may authorize the designated attorney to collect fees, pay firm
2 expenses and client costs, compensate staff, terminate leases, liquidate or sell
3 the practice, or other law firm administration tasks.

4
5 d. The plan must include language sufficient to make the designated
6 attorney's powers durable in the event of the sole practitioner's disability. See
7 Iowa Code § 633B.1; Iowa R. Prof'l Conduct 32:1.3 cmt. [5].

8
9 e. The plan must be made available for review upon request by the director
10 of the office of professional regulation or by any representative of the client
11 security commission.

12
13 f. For purposes of this rule, a sole practitioner includes an attorney
14 practicing alone, an attorney practicing only with other attorneys who do not
15 own equity in the practice, an attorney practicing in an association of sole
16 practitioners, or any other structure in which no other attorney owns equity in
17 the practice.

18 **Chapter 41 Continuing Legal Education for Lawyers**

19

20 **Rule 41.9 Attendance exemption for out-of-state attendance of equivalent** 21 **hours**

22 a. An active member of the bar who resides in another state or the district of
23 Columbia, did not practice law in Iowa during the reporting period, and who
24 attends at least fifteen clock-hours of continuing legal education accredited by
25 the continuing legal education regulatory body in his or her state of residence,
26 including three clock-hours in the area of legal ethics every two-year biennium
27 ending in the odd-numbered year, is exempt from the attendance requirements
28 of rule 41.3. However, any member exempt from attendance under this rule
29 must file the annual report and pay the annual fee required under rule 41.4,
30 and must certify qualification for the exemption on the annual report.

31
32 b. The commission may require any member who claims exemption under
33 this rule to provide proof of attending the accredited continuing legal education
34 in the other jurisdiction.

35
36 c. The practice of law as that term is employed in this rule includes: the
37 examination of abstracts; consummation of real estate transactions;
38 preparation of legal briefs, deeds, buy and sell agreements, contracts, wills,
39 and tax returns; representation of others in any Iowa courts; regular
40 preparation of legal instruments, securing of legal rights, advising others as to
41 their legal rights or the effect of contemplated actions upon their legal rights,
42 or holding oneself out to so do; instructing others in legal rights; being a judge
43
44
45

1 or one who rules upon the legal rights of others unless neither the state nor
2 federal law requires the person so judging or ruling to hold a license to practice
3 law.

4
5 **Rule 41.10 Reinstatement from suspension**

6

7
8 **41.10(2)** An attorney who seeks or applies for reinstatement from
9 suspension under the provisions of chapter 35 of the Iowa Court Rules ~~shall~~
10 must first file the annual report required by rule 41.4 showing completion of
11 all continuing legal education required by Iowa Ct. Rs. 41.3 and 42.2 through
12 the end of the last complete reporting year, pay all fees and late filing penalties
13 due under rule 41.4 and unpaid at the time of the suspension, and pay a
14 reinstatement fee of \$100.00. The commission may grant an attorney
15 additional time after the effective reinstatement date, on such terms and
16 conditions as it may prescribe, to complete and furnish evidence of compliance
17 with these continuing legal education requirements.

18
19 **Chapter 42 Regulations of the Commission on Continuing Legal**
20 **Education**

21
22 **Rule 42.1 Definitions.** For the purpose of these regulations, the following
23 definitions ~~shall~~ apply:

24

25
26 (6) “*Legal ethics*” means a separate, designated, and dedicated session of
27 instruction:

28 *a.* Referring to and based on the disciplinary rules or ethical
29 considerations of the ethics or professional responsibility code for attorneys
30 in the jurisdiction where the instruction is presented; or

31
32 *b.* Designed to help attorneys detect, prevent, or respond to substance-
33 related disorders or mental illness that impairs professional competence.
34 The instruction must focus on issues in the legal profession and in the
35 practice of law, and not issues of substance-related disorders or mental
36 health in general; or

37
38 *c.* Regarding the impact of race, sex, gender, religion, national origin,
39 ethnicity, disability, age, sexual orientation, marital status, socioeconomic
40 status, or political affiliation on court system interaction or case or controversy
41 outcome, and professional relationships between attorneys, judges, and clients
42 where race, sex, gender, religion, national origin, ethnicity, disability, age,
43 sexual orientation, marital status, socioeconomic status, or political affiliation
44 is a potential factor.

1 **Rule 42.2**

2

3
4 **42.2(3)** Hours of continuing legal education credit may be awarded for
5 preparation of an accredited continuing legal education presentation. A lawyer
6 is entitled to one hour of preparation credit for each hour of accredited
7 continuing legal education for which they prepare written materials and
8 present, up to a maximum of three (3) hours per calendar year. Hours of
9 preparation credit are credited against the regular attendance requirement of
10 fifteen hours per calendar year, but not against the attendance requirement for
11 legal ethics. Hours of preparation credit in excess of three (3) do not carry over
12 to a subsequent year. Preparation credit may not be awarded to:

13
14 a. A lawyer who prepares written materials without making the presentation
15 or serving on a panel of speakers.

16
17 b. A lawyer who makes a presentation or serves on a panel of speakers
18 without preparing written materials.

19
20 c. A lawyer who prepares a course directed primarily to persons preparing
21 for admission to practice law.

22
23 d. A lawyer who receives compensation, other than reasonable expenses,
24 for preparing or presenting the continuing legal education.

25
26 ~~42.2(3)~~ **42.2(4)** An attorney desiring to obtain credit for one or more
27 succeeding calendar years, not exceeding two such years, for completing more
28 than 15 hours of accredited legal education during any one calendar year,
29 under Iowa Ct. R. 41.3(1), ~~shall~~must report such “carry-over” credit at the time
30 of filing the annual report to the commission on or before March 10 of the year
31 following the calendar year during which the claimed additional legal education
32 hours were completed.

33

34
35 **Rule 42.8 Staff** The director of the office of professional regulation may
36 designate an assistant director for boards and commissions of the office of
37 professional regulation shall~~to~~ serve as the principal executive officer of the
38 commission. The commission may, subject to the approval of the court, employ
39 such other employees as the commission deems necessary to carry out its
40 duties under chapter 41 of the Iowa Court Rules, who shallmust perform such
41 duties as the commission may from time to time direct.

42
43 **Chapter 43 Lawyer Trust Account Commission**

44

45
46 **Rule 43.4 Director**

1 **43.1(1)** The director of the office of professional regulation ~~shall~~ serve as the
2 principal executive officer of the commission. All references to the “director” in
3 this chapter ~~shall~~ refer to the director of the office of professional regulation.
4 The director may designate an assistant director for boards and commissions
5 to assist with the duties described in this chapter.
6

7 **Chapter 49 Office of Professional Regulation**

8 **Rule 49.1 Office of Professional Regulation of the Supreme Court of Iowa**

9 There is hereby created the Office of Professional Regulation of the Supreme
10 Court of Iowa. The office of professional regulation ~~shall consist~~ consists of the
11 following persons:
12

13 **49.1(1)** A director, ~~who shall be~~ appointed by the supreme court. The
14 director ~~shall be~~ is responsible to the supreme court for the administration and
15 program functions of the continuing legal education commission, the client
16 security commission, the lawyer trust account commission, the grievance
17 commission, the attorney disciplinary board, the unauthorized practice of law
18 commission, the board of examiners of shorthand reporters, and the board of
19 law examiners. The director also ~~shall be~~ is responsible for administration of
20 the court interpreter examination and licensing program.
21

22 **49.1(2)** An assistant director for attorney discipline, ~~who shall be~~ appointed
23 by the director with the approval of the supreme court. The assistant director
24 for attorney discipline ~~shall be~~ is responsible to the director of the office of
25 professional regulation for the administration of the attorney disciplinary
26 board. ~~An assistant director for admissions, who shall be appointed by the~~
27 ~~director with the approval of the supreme court. The assistant director for~~
28 ~~admissions shall be responsible to the director of the office of professional~~
29 ~~regulation for the administration of bar admissions, the board of law~~
30 ~~examiners, and the court interpreter examination and licensing program.~~
31

32 **49.1(3)** ~~An assistant director for boards and commissions, who shall be~~
33 ~~appointed by the director with the approval of the supreme court. The assistant~~
34 ~~director for boards and commissions shall be responsible to the director of the~~
35 ~~office of professional regulation for the administration of the continuing legal~~
36 ~~education commission, the client security commission, the grievance~~
37 ~~commission, and the unauthorized practice of law commission. The assistant~~
38 ~~director for boards and commissions shall assist with administration of other~~
39 ~~commissions and matters as directed. Such other assistant directors,~~
40 ~~appointed by the director of the office of professional regulation with the~~
41 ~~approval of the supreme court, to be responsible to the director of the office of~~
42 ~~professional regulation for administration of boards and commissions as the~~
43 ~~director may designate.~~
44 director may designate.
45

1 ~~**49.1(4)** An assistant director for attorney discipline, who shall be appointed~~
2 ~~by the director with the approval of the supreme court. The assistant director~~
3 ~~for attorney discipline shall be responsible to the director of the office of~~
4 ~~professional regulation for the administration of the attorney disciplinary~~
5 ~~board. Such other staff members as the supreme court may from time to time~~
6 ~~direct, appointed by the director with the approval of the court.~~

7
8 ~~**49.1(5)** Such other staff members as the supreme court may from time to~~
9 ~~time direct, who shall be appointed by the director with the approval of the~~
10 ~~court.~~

11

12
13 **Rule 49.4 Fees for certificates, score transfers, and copies.** The boards
14 and commissions of the office of professional regulation must collect fees as
15 prescribed by the supreme court for providing:

16
17 a. Certificates of disciplinary history, certificates of continuing education
18 history, certificates of client security history, certificates of license status, or
19 similar certificates.

20
21 b. Certifications or transfers of examination scores.

22
23 c. Copies of official records in electronic form.

24
25 d. Copies of official records in paper form.

26
27 e. Reissued certificates of admission.

28
29 Fees collected under this rule are allocated to the board or commission
30 preparing the certificate or providing the copies for such purposes as the
31 supreme court may direct.