

CHAPTER 37
COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

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CHAPTER 37

COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

Rule 37.1 Commission on the Unauthorized Practice of Law.

37.1(1) There is created a commission for the abatement of the unauthorized practice of law, which shall be known as the Commission on the Unauthorized Practice of Law. This commission shall comprise seven lawyer members and two nonlawyer members who shall be appointed by the supreme court. The supreme court shall accept nominations for appointment to the commission from any association of lawyers which maintains an office within the state of Iowa or any attorney licensed in Iowa. The court shall designate annually one lawyer commission member to be the chair. Members shall serve no more than three three-year terms, and a member who has served three full terms shall not be eligible for reappointment. The commission shall receive complaints and make investigations with respect to the alleged unauthorized practice of law within this state.

37.1(2) The assistant director for boards and commissions of the office of professional regulation shall serve as the principal administrator for the commission on unauthorized practice of law. Wherever in this chapter a reference to the “assistant director” appears, it shall refer to the assistant director for boards and commissions of the office of professional regulation.

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

[Court Order April 17, 1990, effective June 1, 1990; May 2, 1997; November 9, 2001, effective February 15, 2002; June 28, 2004, effective May 1, 2004; April 20, 2005, effective July 1, 2005; December 5, 2007; December 10, 2012, effective July 1, 2013]

Rule 37.2 Injunctions.

37.2(1) If the commission has reasonable cause to believe that any person who has not been admitted to practice law within this state is engaging in the practice of law or holding out to the public that the person is qualified to provide services constituting the practice of law in this state, the commission may file a verified complaint with the clerk of the district court in any county in which the unauthorized practice is alleged to have occurred.

37.2(2) The complaint shall be filed with the clerk of the district court, be given a docket number, and be captioned in the Iowa District Court for _____ County. The commission shall be designated as the complainant. The respondent shall be named and designated as the respondent. The complaint shall be presented to the chief judge of the judicial district for entry of an order to be served on the respondent requiring that person to appear before the court and show cause why that person should not be enjoined from such activity. The show-cause hearing shall be held before the chief judge or another judge designated by the chief judge.

37.2(3) If it appears that the facts are incapable of being adequately developed at a summary hearing, the matter may be set for trial before that judge, who shall hear the evidence and make findings of fact and an appropriate dispositional order.

[Court Order April 17, 1990, effective June 1, 1990; November 9, 2001, effective February 15, 2002]

Rule 37.3 Unauthorized practice of non-admitted attorneys. If the commission makes a determination that any person who is admitted to practice in another jurisdiction but is not admitted to practice in this state has violated an injunction issued in compliance with rule 37.2, the commission shall report its findings to the office of professional regulation and the court may in its discretion use such information for purposes of admissions under Iowa Ct. R. 31.12.

[Court Order May 2, 1997; November 9, 2001, effective February 15, 2002; February 14, 2008, effective April 1, 2008]

Rule 37.4 Domestic violence and sexual assault victim counselors.

37.4(1) In all proceedings under Iowa Code chapters 236 and 664A, a victim counselor, as defined in Iowa Code section 915.20A(1)(d), who is affiliated with a member domestic violence program of the Iowa Coalition Against Domestic Violence or a member of the sexual assault program of the Iowa Coalition Against Sexual Assault, and whose program has registered with the Iowa Coalition Against

Domestic Violence or the Iowa Coalition Against Sexual Assault as providing services under this rule, shall be allowed to do the following:

a. To distribute the pro se forms prescribed by the department of justice pursuant to Iowa Code section 236.3A and to assist victims of domestic violence in the preparation of such forms.

b. To describe to victims the proceedings under chapters 236 and 664A and to assist them in their role as witnesses.

c. To accompany victims throughout all stages of proceedings under Iowa Code chapters 236 and 664A.

d. To attend all court proceedings, including sitting in chambers and at counsel table, to confer with the plaintiffs, and, at the judge's discretion, to address the court; however, domestic violence and sexual assault victim counselors shall not examine witnesses, make arguments to the court, or otherwise act in a representative capacity for victims of domestic violence.

37.4(2) The Iowa Coalition Against Domestic Violence and the Iowa Coalition Against Sexual Assault shall provide to the director of the office of professional regulation, on an annual basis and more frequently as necessary, an updated list of its member programs which perform the services provided under this rule.

37.4(3) When they assist victims of domestic violence as specified in this rule, domestic violence and sexual assault victim counselors are not engaged in the unauthorized practice of law.

[Court Order October 18, 1993, effective January 3, 1994; November 9, 2001, effective February 15, 2002; June 14, 2002, effective July 1, 2002; March 15, 2007; February 14, 2008, effective April 1, 2008]

Rule 37.5 Limited real estate practice.

37.5(1) Purpose. The purpose of this rule is to authorize nonlawyers to select, prepare, and complete certain legal documents incident to residential real estate transactions of four units or less. The preparation of documents beyond that authorized by this rule may constitute the unauthorized practice of law.

37.5(2) Scope of practice authorized. Except to the extent authorized by this rule, the selection, preparation, and completion of legal documents in connection with real estate transactions by nonlawyers constitutes the unauthorized practice of law unless the nonlawyer is acting on his or her own behalf as a buyer or seller.

a. Upon written request of a buyer or seller, a nonlawyer may select, prepare, and complete form documents for use incident to a residential real estate transaction of four units or less. Such documents shall be limited to:

(1) Purchase offers or purchase agreements, provided the parties are given written notice that these are binding legal documents and competent legal advice should be sought before signing;

(2) Groundwater hazard statements; and

(3) Declaration of value forms.

Nonlawyers may not charge for preparation of the legal documents authorized by this rule.

b. Nonlawyers shall not select, prepare or complete:

(1) Deeds;

(2) Real estate installment sales contracts;

(3) Affidavits of identity or nonidentity;

(4) Affidavits of payment of spousal or child support; or

(5) Any other documents necessary to correct title problems or deficiencies.

[Court Order May 23, 2001; November 9, 2001, effective February 15, 2002]