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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement pages to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement pages incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement pages may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(4); an effective date delay imposed by the ARRC pursuant to section 17A.4(5) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(6); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index and for the preliminary sections of the IAC: General Information about the IAC, Chapter 17A of the Code of Iowa, Style and Format of Rules, Table of Rules Implementing Statutes, and Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR

Updating Iowa Administrative Code
with Biweekly Supplement

NOTE: Please review the “Preface” for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions correspond to the tab sections in the IAC Binders.

Obsolete pages of IAC are listed in the column headed “Remove Old Pages.” New and replacement pages in this Supplement are listed in the column headed “Insert New Pages.” It is important to follow instructions in both columns.

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UPDATING INSTRUCTIONS October 20, 1999, Biweekly Supplement

[Previous Supplement dated 10/6/99]

IOWA ADMINISTRATIVE CODE

	Remove Old Pages*	Insert New Pages
Real Estate Commission[193E]	Ch 3, p. 1—Ch 3, p. 10	Ch 3, p. 1—Ch 3, p. 11
College Student Aid Commission[283]	Ch 11, p. 1—Ch 12, p. 3	Ch 11, p. 1—Ch 12, p. 3
HUMAN SERVICES DEPARTMENT[441]	Analysis, p. 15, 16 Do <u>not</u> remove p. 16a Ch 86, p. 3, 4 Ch 86, p. 7, 8 Ch 86, p. 19, 20	Analysis, p. 15, 16 Ch 86, p. 3, 4 Ch 86, p. 7, 8 Ch 86, p. 19, 20
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Nursing Board[655]	Ch 3, p. 1, 2 Ch 3, p. 15, 16 Ch 7, p. 1—Ch 7, p. 4	Ch 3, p. 1, 2 Ch 3, p. 15, 16 Ch 7, p. 1—Ch 7, p. 4
PUBLIC SAFETY DEPARTMENT[661]	Ch 5, p. 77—Ch 5, p. 80 Ch 5, p. 119, 120	Ch 5, p. 77—Ch 5, p. 80 Ch 5, p. 119, 120

*It is recommended that “Old Pages” be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

Remove Old Pages*

Insert New Pages

**REVENUE AND FINANCE
DEPARTMENT[701]
Index Volume**

Ch 77, p. 1—Ch 77, p. 7
“F” Tab, p. 1-31

Ch 77, p. 1—Ch 77, p. 6
“F” Tab, p. 1-31

*It is recommended that “Old Pages” be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

CHAPTER 3
PRELICENCE EDUCATION AND CONTINUING EDUCATION

[Prior to 6/15/88, see Real Estate Commission[700] Ch 3]

193E—3.1(543B) Definitions. For the purpose of these rules, the following definitions shall apply:

“Affirmative marketing” means the entire scope of social laws and ethics which are concerned with civil rights as they especially apply to housing and to the activities of real estate licensees.

“Approved program, course, or activity” means a continuing education program, course, or activity meeting the standards set forth in these rules which has received advance approval by the commission pursuant to these rules.

“Approved provider” means a person or an organization which has been approved by the commission to conduct continuing education activities pursuant to these rules.

“Broker” means any person holding an Iowa real estate broker license as defined in Iowa Code section 543B.3.

“Commission” means the Iowa real estate commission.

“Continuing education” means education required as a condition to license renewal.

“Credit hour” means the value assigned by the commission to a prelicense or continuing education program, course or activity.

“Distance education” shall be defined as a planned teaching/learning experience that utilizes a wide spectrum of technology-based systems to reach learners at a distance, which includes computer-based instruction. Home-study courses that include written materials, exercises and tests mailed to the provider for review are included in this definition.

“Guest speaker” means an individual who teaches a real estate education course on a one-time only or very limited basis, who possesses a unique depth of knowledge and experience in the subject matter proposing to teach.

“Hour” means 50 minutes of instruction.

“Inactive license” means either a broker or salesperson license certificate that is on file in the commission office and during which time the licensee is precluded from engaging in any of the acts of Iowa Code chapter 543B.

“Licensee” means any person holding an Iowa real estate salesperson license or Iowa real estate broker license.

“Live instruction” shall be defined as an educational program delivered in a traditional classroom setting whereby the instructor and student carry out their essential tasks while together.

“Prelicense course” means instruction consisting of one or more courses meeting the requirements of Iowa Code section 543B.15.

“Salesperson” means any person holding an Iowa real estate salesperson license as defined in Iowa Code section 543B.5(3).

193E—3.2(543B) Prelicense and postlicense education requirements.

3.2(1) The required course of study for the salesperson licensing examination shall consist of 60 classroom or computer-based hours of real estate principles and practices to comply with the requirements of Iowa Code section 543B.15. The curriculum shall include, but not be limited to, the following subjects:

- Introduction to Real Estate and Iowa License Law 12 hours
- Ownership, Encumbrances, Legal Descriptions, Transfer of Title and Closing . . . 12 hours
- Contracts, Agency and Antitrust 12 hours
- Valuation, Finance and Real Estate Math 12 hours
- Property Management/Leasing, Fair Housing, Environmental Risks and Health Issues 12 hours

3.2(2) To maintain active status, all first-time salesperson renewals shall complete 36 commission-approved classroom hours by December 31 of the third year of licensure. The following courses satisfy the first license renewal continuing education requirement:

- Developing Professionalism and Ethical Practices 12 hours
- Buying Practices 12 hours
- Listing Practices 12 hours

3.2(3) The required course of study for the broker licensing examination shall consist of at least 72 classroom hours. Approved courses shall be completed within 24 months prior to taking the broker examination and shall include the following subjects:

- Contract law and contract writing 8 hours
- Iowa real estate trust accounts 8 hours
- Principles of appraising & market analysis 8 hours
- Real estate law and agency law 8 hours
- Real estate finance 8 hours
- Federal and state laws affecting Iowa practice 8 hours
- Real estate office organization 8 hours
- Real estate office administration 8 hours
- Human resources management 8 hours

3.2(4) Completion of prelicense education. Successful completion of prelicense education includes passage of an examination(s) designed by the approved provider which is sufficiently comprehensive to measure the student’s knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction.

3.2(5) Substitution of courses. Written requests for substitution of the prelicense and continuing education courses specified in subrule 3.2(1), 3.2(2) or 3.2(3) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in 3.2(1), 3.2(2) or 3.2(3).

193E—3.3(543B) Continuing real estate education requirements.

3.3(1) All individual real estate licenses are issued for three-year terms, counting the remaining portion of the year of issue as a full year. All individual licenses expire on December 31 of the third year of the license term.

3.3(2) As a requirement of license renewal in an active status, each real estate licensee shall complete a minimum of 36 hours of approved programs, courses or activities. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license term.

Beginning with brokers and broker associates renewing December 2001 and thereafter and salespersons renewing December 1998 and thereafter, approved courses in the following subjects shall be completed to renew to active status, except in accordance with 3.2(2):

- Law update 8 hours
- Ethics 4 hours
- Electives 24 hours

All brokers and broker associates licensed prior to January 1, 1998, shall complete courses in the following subjects on a one-time-only basis. Nonresident licensees are exempt if an education agreement is in place between Iowa and the nonresident state. Brokers and broker associates who have completed the brokerage management courses, as part of the 72-hour broker prelicense, are not required to repeat the courses and shall comply with the requirements of 3.3(2) to maintain active status.

- Real estate office administration 8 hours
- Real estate office organization 8 hours
- Human resources management 8 hours
- Electives 12 hours

Substantially similar courses may be substituted in accordance with 3.2(5). To qualify for consideration, the course content must reflect current brokerage practices and should have been completed during the three calendar years of the license term, or within a reasonable period of time prior to expiration of the license.

3.3(3) During each three-year renewal period a course may be taken for credit only once. A course may be repeated for credit only if the course numbers and instructors are different.

3.3(4) A maximum of 18 hours of continuing education can be taken by correspondence/home study each three-year renewal period. A licensee unable to attend educational offerings because of a disability may make a written request to the commission setting forth an explanation and verification of the disability. Licensees making requests must meet the definition of a person with a disability found in the Americans With Disabilities Act.

3.3(5) Continuing education records. Applicants for license renewal pursuant to Iowa Code section 543B.15 shall certify that the number of hours of continuing education required to renew a license was completed as described in 3.2(2) and 3.3(2).

a. The commission will verify by random audit the education claimed by the licensee. The responsibility of maintaining records which support continuing education claimed and the validity of the credits is the responsibility of the licensee. The documentation shall be retained by the licensee for a period of three years after the renewal effective date of the license.

b. It will not be acceptable for a licensee to complete the required education after the fact, pursuant to 3.3(2).

c. Failure to provide required evidence of completion of claimed education within 60 days of the written notice from the commission shall result in the license being placed on inactive status. Prior to activating a license which has been placed on inactive status pursuant to this provision, the licensee must submit evidence satisfactory to the commission that all required continuing education has been completed.

d. Filing a false affirmation is prima facie evidence of a violation of Iowa Code section 543B.29(1), (3).

3.3(6) A license may be renewed without the required continuing education, but it can only be renewed to an inactive status. Prior to reactivating a license which has been issued inactive due to failure to submit evidence of continuing education, the licensee must submit evidence that all deficient continuing education hours have been completed. The maximum continuing education hours shall not exceed the prescribed number of hours of one license renewal period and must be completed during the three calendar years preceding activation of the license.

3.3(7) Successful completion of continuing education requires full-time attendance throughout the program, course or activity. Those students who arrive late, leave during class or leave early may not receive certificates.

3.3(8) Subrules 3.2(2) and 3.3(2) to 3.3(7) shall apply to every Iowa real estate licensee unless exempted by Iowa Code subsection 272C.2(5).

3.3(9) Examination as substitute for continuing education.

a. A salesperson may satisfy all continuing education deficiencies by repassing the real estate salesperson examination. If the examination is taken and passed within the six months immediately preceding the expiration of the license, the salesperson examination score report may be substituted for the required hours of continuing education credit for the current license term and will satisfy all previous deficiencies. A salesperson who is otherwise qualified to be a broker and who passes the broker licensing examination is not required to furnish evidence of credit for continuing education earned as a salesperson.

b. A broker may satisfy all continuing education deficiencies by repassing the real estate broker examination. If the examination is taken and passed within the six months immediately preceding the expiration of the license, the broker examination score report may be substituted for the required hours of continuing education credits for the current license term and will satisfy all previous deficiencies.

3.3(10) Prelicense and postlicense courses as continuing education.

a. Up to 24 hours of the salesperson prelicense and postlicense courses specified in 3.2(1) and 3.2(2) may be taken by salespersons and brokers as continuing education. However, a newly licensed salesperson cannot use credits from the salesperson prelicense course(s) to meet the continuing education requirement of the first renewal term.

b. Broker prelicense courses taken by a salesperson may be applied as continuing education for renewal of the salesperson license and also be used as prelicense credit to qualify for a broker license.

c. Broker prelicense courses may be taken by a broker as continuing education, but a newly licensed broker cannot use credits from the prelicense courses taken to qualify for the broker license as continuing education.

193E—3.4(543B) Standards for approval.

3.4(1) Qualifying activity. The commission may approve live classroom instruction, distance education programs and paper and pencil home-study courses, subject to the following conditions:

a. The course pertains to real estate topics that are integrally related to the real estate industry; and
b. The course allows the participants to achieve a high level of competence in serving the objectives of consumers who engage the services of licensees; and

c. The course qualifies for at least three credit hours.

d. Requirements for live instruction courses. The commission may approve live classroom programs, subject to the following requirements. The course application is accompanied by a comprehensive course outline that includes:

- (1) Course description.
- (2) Course purpose.
- (3) Difficulty level.
- (4) Detailed learning objectives for each major topic that specify the level of knowledge or competency the student should demonstrate upon completing the course.
- (5) Description of the instructional methods utilized to accomplish the learning objectives.
- (6) Copies of all instructor and student course materials.
- (7) Course examination(s) or the diagnostic assessment method(s) utilized to achieve the course learning objectives, when applicable.

(8) A description of the plan in place to periodically review course material with regard to changing national and state statutes.

(9) A statement of any attendance make-up policy that the school has in place.

e. The commission may approve distance education programs, subject to the following requirements:

- (1) The provider's purpose or mission statement is available to the public.
- (2) The course outline must include clearly stated learning objectives and desired student competencies for each module of instruction and a description of how the program promotes interaction between the learner and the program.
- (3) Course content must be accurate and up-to-date. Provider must describe the plan in place to periodically review course material with regard to changing national and state statutes.
- (4) Course must be designed to ensure that student progress is evaluated at appropriate intervals and mastery of the material is achieved before a student can progress through the course material.
- (5) Provider must show that qualified individuals are involved in the design of the course.
- (6) Provider must list individuals who provide technical support to students and state the specific times that support is available.
- (7) A manual shall be provided to each registered student. It shall include, but not be limited to, faculty contact information, student assignments and course requirements, broadcast schedules, testing information, passing scores, resource information, fee schedule and refund policy.
- (8) Provider must retain a signed statement by the student that affirms that the student completed the required work and examinations.
- (9) Providers must state in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.
- (10) Courses submitted for approval must be sufficient in scope and content to justify the hours requested by the provider.

f. Requirements for paper and pencil home-study courses. The commission may approve paper and pencil home-study courses, subject to the following requirements:

- (1) Courses must be arranged in chapter format and include a table of contents.
- (2) Overview statements must be included for each chapter (a preview of the content of the chapter).
- (3) Courses must be designed to ensure that student progress is evaluated at appropriate intervals. This assessment process shall measure what each student has learned and not learned at regular intervals throughout each module of the course. Quizzes must be completed and returned to the provider to receive credit for the course.
- (4) Final examinations must contain a minimum of 30 questions for a three-hour course and 60 questions for a six-hour course.
- (5) A passing score of 90 percent is required to receive credit for a course. There is no limit to the number of times a final examination may be taken to achieve a passing score.
- (6) Licensees have six months from the date of purchase to complete all quizzes and assignments and to pass the final examination.
- (7) Providers must include information that clearly informs the licensee of the course completion deadline, passing score required, chapter quiz completion requirements and any other relevant information regarding the course.
- (8) Providers must state in the course materials that the information presented in the course should not be used as a substitute for competent legal advice.
- (9) Provider must retain a signed statement by the student that affirms that the student completed the required work and examinations.
- (10) Providers must be available to answer student questions or provide assistance as necessary during normal business hours.
- (11) Courses submitted for approval must be sufficient in scope and content to justify the hours requested by the provider.

g. It is conducted by individuals who have shown proof of attendance at an instructor development workshop within 12 months preceding approval by the commission and met the instructor qualification criteria. Guest speakers and individuals currently certified by a nationally recognized organization that requires similar instructor standards are exempt, with prior approval of the commission, from the following standards and the instructor development workshop requirement. An applicant may be approved as an instructor when it is determined that the applicant evidences (1) the ability to teach and communicate and (2) in-depth knowledge of the subject matter to be taught.

(1) Ability to teach shall be shown by meeting at least one of the following requirements:

1. A bachelor's degree or higher in education from an accredited college (attach a copy of transcripts) or

2. A current teaching credential or certificate in any field (attach copy) or

3. A certificate of completion from a real estate instructor institute, workshop or school approved by the real estate commission and experience in the area of instruction (detail specific teaching experiences) or

4. A full-time current appointment to the faculty of an accredited college or

5. A current teaching designation from an organization approved by the Iowa real estate commission (attach evidence).

(2) In-depth knowledge of the subject matter shall be shown by meeting at least one of the following requirements:

1. A bachelor's degree or higher from an accredited college with a major in a field of study directly related to the subject matter of the course proposing to teach; such as business, economics, accounting, real estate or finance (attach copy of transcript) or

2. A bachelor's degree or higher from an accredited college and five years of real estate experience directly related to the subject matter of the course proposing to teach (attach copy of transcript and document how your experience is directly related to the subject matter proposing to teach) or

3. A licensed attorney in practice for at least three years in an area directly related to the subject matter of the course proposing to teach or

4. A highly qualified professional with a generally recognized professional designation such as, but not limited to, FLI, MAI, SIOR, SREA, CRB, CRS, CPM, but not including GRI, and two years of education from a postsecondary institution (attach evidence of both) or

5. Extensive instructional background in real estate education and experience in real estate as evidenced by a valid broker's license or five years of active real estate experience as a salesperson (provide evidence). In addition, three recently written letters of recommendation that attest to the applicant's in-depth knowledge combined with the ability to teach and communicate the subject proposing to teach or

6. Other, as the commission may determine.

3.4(2) Responsibilities of instructors or course developers.

a. Instructors shall be competent in the subject matter and skilled in the use of appropriate teaching methods that have been proven effective through educational research and development.

b. Course content and materials must be accurate and consistent with currently accepted standards relating to the program's subject matter.

c. Instructor and student materials must be updated no later than 30 days after the effective date of a change in standards, laws or rules. Course content will not be considered current and up to date unless the ramifications of the new standards have been incorporated into the course or the instructor informs the participants of the new standards.

d. Instructors shall attend workshops or instructional programs, as reasonably requested by the commission, so as to ensure that effective teaching techniques and current, relevant and accurate information is being taught.

e. All courses shall have an appropriate means of written evaluation by the participants. Evaluations shall include but not be limited to relevance of material, effectiveness of presentation, content and facilities.

3.4(3) Qualifying courses. The commission considers courses in the following areas to be acceptable when considering approval:

- a.* Real estate ethics;
- b.* Legislative issues that influence real estate practice including both pending and recent legislation;
- c.* The administration of licensing provisions of real estate law and the rules, including compliance and regulatory practices;
- d.* Real estate financing, including mortgages and other financing techniques;
- e.* Real estate market analysis and evaluation, including site evaluations, market data, and feasibility studies;
- f.* Real estate brokerage administration, including office management, trust accounts, and employee contracts;
- g.* Real estate mathematics;
- h.* Real property management, including leasing agreements, accounting procedures, and management contracts;
- i.* Real property exchange;
- j.* Land use planning and zoning;
- k.* Real estate securities and syndications;
- l.* Estate building and portfolio management;
- m.* Accounting and taxation as applied to real property;
- n.* Land development;
- o.* Market analysis; and
- p.* Real estate market procedures.

3.4(4) In addition to courses approved directly by the commission, the following will be deemed to be acceptable as continuing education:

a. Credits earned in a state which has a continuing education requirement for renewal of a license if the course is approved by the real estate licensing board of that state for credit for renewal. However, state-specific courses are not acceptable.

b. Courses sponsored by the National Association of Realtors (NAR) or its affiliates.

c. Rescinded IAB 7/2/97, effective 8/6/97.

3.4(5) It is the responsibility of the licensee to furnish evidence that courses taken under subrule 3.4(2) meet the requirements listed under that rule.

3.4(6) Nonqualifying courses. The following course offerings do not qualify as continuing education:

a. Courses of instruction designed to prepare a student for passing the real estate salesperson examination;

b. Offerings in mechanical office and business skills, such as typing, speed-reading, memory improvement, language, and report writing;

c. Sales promotion or other meetings held in conjunction with a licensee's general business;

- d. Time devoted to breakfast, luncheon, or dinner;
- e. A course certified by the use of a challenge examination. All students must complete the required number of classroom hours to receive certification;
- f. Meetings which are a normal part of the in-house staff or employee training;
- g. Orientation courses for licensees, such as those offered through local real estate boards; and
- h. Other course topics. A course may be approved if it is determined that it includes such facts, concepts and current information about which licensees must be knowledgeable to conduct real estate negotiations and transactions and better protect client, customer and public interest. The same criteria will be used to evaluate courses which do not otherwise qualify under 3.4(2) or 3.4(5).

193E—3.5(543B) Approval procedures for providers, instructors and programs. All providers, instructors and courses for prelicense and continuing education must receive advance approval of the commission.

1. Providers, instructors and programs are approved on forms prescribed by the commission for 24-month periods, including the month of approval. Approval must be obtained for each course an instructor desires to teach. Instructors will need to complete an instructor development workshop every two years to maintain approval.

2. A course instructor manual and all required forms shall be submitted for approval at least 30 days prior to the first offering of the program, course or activity.

3. All data required on the application forms must be supplied to the commission.

4. Evidence of compliance with or exemption from Iowa Code sections 714.14 to 714.25 must be furnished to the commission.

5. Potential participants of all approved courses shall be clearly informed of the hours to be credited; policies concerning registration; payment of fees, refunds and attendance requirements.

6. Providers and instructors shall allow access to any classes being instructed to any member of the commission or its duly appointed representatives.

7. No part of any approved course shall be used to advertise or solicit orally or in writing any product or service.

8. Providers must show that procedures are in place to ensure that the student who completes an approved course is the student who enrolled in the course.

9. Providers/instructors shall be available during normal business hours to answer student questions and provide assistance as necessary.

3.5(1) The commission may at any time reevaluate an approved provider or instructor. If the commission finds there is basis for consideration of revocation of the provider or the instructor, the commission shall give notice by ordinary mail to the coordinator of that provider or instructor of a hearing on the possible revocation at least 20 days prior to the hearing.

3.5(2) The commission may deny approval or withdraw approval of a program, course, or activity, but the decision to deny or withdraw approval may be appealed within 20 days of the date of mailing the notice of denial or withdrawal.

3.5(3) Licensee request for prior approval of activities. A licensee seeking credit for attendance and participation in a course, program, or other continuing education activity which is to be conducted by a provider not accredited nor otherwise approved by the commission, shall apply for approval to the commission at least 45 days in advance of the commencement of the activity. The commission shall approve or deny the application in writing within 21 days of receipt of the application. Application for prior approval of a continuing education activity shall include the following information:

- 1. School, firm, organization or person conducting the activity.
- 2. Location of the activity.

3. Title of activity and description of activity.
4. Credit hours requested for approval.
5. Date of activity.
6. Principal instructor(s).

3.5(4) Licensee request for postapproval of activities. A licensee seeking credit for attendance and participation in a course, program or other continuing education activity which was not conducted by an approved provider or otherwise approved by the commission shall submit to the commission a request for credit for the activity. Within 30 days after receipt of the request, the commission shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed therefor. A licensee not complying with the requirement of this subrule may be denied credit for the activity. Application for postapproval of a continuing education activity shall include the following information:

1. School, firm, organization or person conducting the activity.
2. Location of the activity.
3. Title of activity and description of activity.
4. Credit hours requested for approval.
5. Dates of activity.
6. Principal instructor(s).
7. Verification of attendance.

193E—3.6(543B) Administrative requirements. Each approved sponsor under rule 3.5(543B) shall meet the following administrative requirements:

3.6(1) Coordinator. Each application for approval shall designate an individual as coordinator for the provider in responsible charge of its operation who shall be the contact with the commission. The coordinator is responsible for complying with the commission's rules relating to providers and submitting reports and information as may be required by the commission.

3.6(2) Name. An approved provider shall not apply to itself either as part of its name or in any other manner the designation of "college" or "university" in such a way as to give the impression that it is an educational institution conforming to the standards and qualifications prescribed for colleges and universities unless it, in fact, meets the standards and qualifications.

3.6(3) Advertising and prospectus information. No approved provider shall provide any information to the public or to prospective students which is misleading in nature.

3.6(4) Maximum hours of instruction. There shall be no more than eight classroom hours in any one day of instruction.

3.6(5) Records.

a. Each approved provider shall establish and maintain for each individual student a complete, accurate and detailed record of instruction undertaken and satisfactorily completed in the areas of study prescribed by these rules. These records shall be maintained for a period of five years.

b. The commission shall assign a number to each approved provider and shall assign a number to each approved program, course or activity. The approved provider shall include these reference numbers in correspondence with the commission and must include these numbers on certificates of attendance issued by the approved provider.

3.6(6) Certificates of attendance.

a. Each approved provider under rule 3.5(543B) shall provide an individual certificate of attendance to each licensee upon completion of the program, course, or activity. The certificate shall contain the following information:

1. Provider name and number.
2. Program, course or activity name and number.

3. Name and address of licensee.
4. Date program, course or activity was completed.
5. Number of approved credit hours.
6. Signature of coordinator or other person authorized by the commission.
7. A notation whether credit hours are to be used as prelicense or as continuing education.
 - b. Salespersons taking broker prelicense courses may request two certificates, one identified as prelicense course credit and one identified as continuing education course credit.
 - c. The attendance certificate shall be no larger than 8½" x 11".
 - d. No certificate shall be issued to a licensee who is absent from a continuing education program, course, or activity. The program, course, or activity must be completed in its entirety. Those students who arrive late, leave during class or leave early may not receive certificates.

3.6(7) Instructor.

- a. Instructors taking the salesperson or broker examination for auditing purposes must first obtain written consent from the Iowa real estate commission.
- b. Any instructor wanting to retake an examination, for auditing purposes, may be granted permission after 12 months have passed.
- c. Approved instructors may receive up to six hours of continuing education credit toward the renewal of a real estate license for verified attendance at an instructor development workshop approved by the commission. The continuing education credit may be used by a licensee only once each three-year renewal period.
- d. An instructor may receive credit for approved education programs the instructor teaches, but not more than six hours in any three-year license renewal period. Instructors may not receive credit for repeated courses in subsequent years.

These rules are intended to implement Iowa Code sections 543B.15, 543B.54 and 272C.2.

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∧Two ARCs

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CHAPTER 11
STATE OF IOWA SCHOLARSHIP PROGRAM

[Prior to 8/10/88, see College Aid Commission, 245—Ch 2]

283—11.1(261) A state-supported and administered scholarship program.

11.1(1) *Application requirements.* All Iowa high school graduates who rank in the upper 15 percent of their class at the end of their junior year and who take a national test, as designated by the commission, during the period specified by the commission are eligible to apply for state of Iowa scholar recognition awards.

11.1(2) *Eligibility for scholarship.* An applicant for a state of Iowa scholarship must meet the following initial requirements:

a. Be a resident of Iowa according to rule 681—1.4(262), established by the board of regents and adopted by the commission.

b. Release test scores, rank in class, and curriculum information to the commission on a form specified by the commission, with date of receipt by the commission as stated in the application instructions. In the case of an applicant who has earned a general equivalency diploma, class rank will be waived and academic potential will be judged on the basis of test scores alone.

11.1(3) *Eligibility for monetary scholarship.* Having qualified academically as a state of Iowa scholar, an applicant must meet the following requirements to receive a monetary award.

a. Complete requirements for the high school diploma or its equivalent by the end of the summer preceding entrance into college.

b. Plan to enroll as a full-time freshman student at an approved college, university, or other post-secondary institution in Iowa. Applicants who have fulfilled requirements for the freshman year of college, either by advanced placement examination or by entry into college prior to receipt of a high school diploma, will be considered for awards on an individual basis. The same is true of a student who plans an alternative education program (e.g., study abroad, exchange program, internship program) which may delay the regular academic period.

c. A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the state of Iowa scholarship program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—Chapter 5.

d. A recipient may request a leave of absence for a maximum of one calendar year if illness, financial circumstances, or other reasons beyond the recipient's control prevent enrollment or force withdrawal from college.

11.1(4) *Criteria for awards.* Academic rank of an applicant is determined by two factors: percentile rank in high school class and scores on the designated standard national test will be weighed equally to produce an academic index score. The commission determines the minimum academic index score, based on a descending ranking of the applicants. Approximately 2,000 students will be designated as scholars.

11.1(5) *Monetary awards.*

a. Awards are prorated on a quarterly or semester basis and are paid directly to the institution on the student's behalf after the recipient's attendance has been certified.

b. The award will be applied to the scholar's college expenses, which include tuition and mandatory fees, room and board, and a uniform allowance established by the commission for other college-related costs.

c. If a recipient is dismissed or withdraws from college before completion of the term, the award, or portion thereof, shall be refunded to the state of Iowa in conformity with the institution's accepted policy of refunds.

d. A scholarship may be transferred from one participating institution to another. The appropriate institutions shall notify the commission of the change.

11.1(6) *Eligible institutions.* The following categories of Iowa postsecondary institutions are eligible to participate in the state of Iowa scholarship program.

a. Institutions holding accreditation by the North Central Association of Colleges and Secondary Schools.

b. State-supported area community colleges and vocational-technical schools accredited by the state department of education.

c. Accredited schools of professional nursing.

d. Institutions which, in the absence of one of the above accreditations, are registered as nonprofit educational institutions with the corporations division of the secretary of state and are eligible for participation in the Pell Grant Program or have fulfilled the requirements for Iowa tuition grant participation set forth in Iowa Code section 261.9(5), paragraphs "b" and "c."

11.1(7) *Renewal of state scholarship.* Rescinded IAB 2/15/95, effective 3/22/95.

This rule is intended to implement Iowa Code sections 261.3 and 261.15.

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CHAPTER 12
IOWA TUITION GRANT PROGRAM
[Prior to 8/10/88, see College Aid Commission, 245—Ch 4]

283—12.1(261) Tuition grant based on financial need to Iowa residents enrolled at eligible private institutions of postsecondary education in Iowa.

12.1(1) *Financial need.* The need of an applicant for financial assistance under this program shall be evaluated annually on the basis of a confidential statement of family finances filed on forms designated by the commission. The form must be received by the processing agent by the date specified in the application instructions.

12.1(2) *Tuition and mandatory fees.* Tuition and mandatory fees shall be defined as those college costs paid annually by all students enrolled on a full-time basis, such costs to be reported annually to the commission by each participating institution.

12.1(3) *Student eligibility.* A recipient must be an Iowa resident who is enrolled for at least three semester hours or the trimester or quarter equivalent in a program leading to a degree from an eligible Iowa institution. A recipient may receive this grant for summer enrollment if the recipient is enrolled in an institutionally defined accelerated academic program. Schools shall submit to the commission for staff approval written plans outlining an accelerated academic program prior to making summer awards. The criteria used by the state board of regents to determine residency for tuition purposes, IAC 681—1.4(262), are adopted for this program.

12.1(4) *Self-supporting applicants.* For purposes of determining financial independence, the commission has adopted the definition in use by the U.S. Department of Education for the federally funded student assistance programs. Self-supporting applicants must certify their status on the financial aid form and supply any required documentation to the educational institution.

12.1(5) *Priority for grants.* Applicants are ranked in order of the estimated amount which the family reasonably can be expected to contribute toward college expenses and awards are granted to those who demonstrate need in order of family contribution, from lowest to highest, insofar as funds permit.

12.1(6) *Award notification.* A grant recipient is notified of the award by the educational institution(s) to which application is made. Any award notification provided by a candidate institution or an institution on probation with the accrediting agency must be made contingent upon the institution maintaining affiliation with the accrediting agency. The institution(s) is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The institution reports changes of student eligibility to the commission.

12.1(7) *Award transfers and adjustments.* Recipients are responsible for promptly notifying the appropriate institution(s) of any change in enrollment or financial situation. The educational institution will make necessary changes and notify the commission.

12.1(8) *Restrictions.* A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the Iowa tuition grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedure set forth in 283—Chapter 5. Credits that a student receives through “life experience credit” and “credit by examination” are not eligible for tuition grant funding.

This rule is intended to implement Iowa Code sections 261.15(2) and 261.16(3).

283—12.2(261) Tuition grant institutional eligibility requirements.

12.2(1) *Methods of gaining institutional eligibility under Iowa Code section 261.9.* An Iowa institution requesting participation in the Iowa tuition grant program must apply to the college student aid commission utilizing the commission's designated application.

The applicant institution must:

- a. Be accredited by the North Central Association of Colleges (NCA); or
- b. Be certified by the NCA as a candidate for accreditation; or
- c. Be a school of nursing accredited by the National League for Nursing and approved by the board of nurse examiners, including one operated, controlled, and administered by a county public hospital.

12.2(2) *Processing applications.* Applicant forms shall be provided by the commission.

The applicant institution shall furnish to the commission supporting documentation establishing accreditation or accreditation plans of the institution.

If applicant attempts to qualify for the tuition grant program under paragraph 12.2(1) "e" above, applicant shall provide to the commission a copy of the official transcript issued by applicant for any student used pursuant to paragraph 12.2(1) "e" "4" as an example of the transfer of credits earned as applicant to an NCA accredited institution.

The applicant institution must submit its application by January 1 so that on January 2 of the following year its students may begin submitting need analysis applications for the following academic year.

Applications received by the commission will be submitted to a committee of NCA registrars selected by the commission. The committee will be asked to review the application to verify that the requirements for credit transfer of these rules have been satisfied.

12.2(3) *Notice of change of status.* Any institution which (a) loses NCA accreditation, (b) ceases to be a candidate for NCA accreditation, (c) ceases to be a school giving satisfactory assurance that it has the potential for accreditation and is making progress toward accreditation, or (d) becomes aware that its credits are no longer being accepted by three NCA institutions previously identified to the commission pursuant to paragraph 12.2(1) "e" above shall so notify the commission immediately. Failure to comply with this notice of change requirement will be justification for revocation of eligibility.

12.2(4) *Definitions.*

"Accelerated program" is an academic program, defined by the institution, which allows the student to complete the program of training in less than the normal prescribed time period. An accelerated program may be defined for a set group of students or may be a self-directed program in which the student has received approval from the appropriate officials of the institution.

"Applicant" is an educational institution seeking to participate in the Iowa tuition grant program (Iowa Code section 261.9, et seq.).

"Credit" is hourly academic credit granted for completed coursework at applicant, and accepted for transfer by an NCA accredited institution. "Life experience credit" and "credit by examination" do not constitute credit for the purposes of these rules.

12.2(5) *Review of eligibility.*

a. The commission shall periodically, at least every three years, investigate and review compliance of institutions participating in the tuition grant program with criteria described in Iowa Code section 261.9 and this rule.

b. If the commission finds that an institution fails to comply with the provisions of Iowa Code section 261.9 and this rule, participation in the tuition grant program shall be suspended.

12.2(6) *Affirmative action.* Every institution which participates in the Iowa tuition grant program shall submit, each December, an affirmative action report which will include existing and proposed plans for recruitment and retention of minority students and minority faculty members and nontraditional students. The report shall also include statistics on minority enrollment and employment and other information as outlined in 1988 Iowa Acts, chapter 1284, section 23, paragraph "f, subparagraphs (1) to (5).

This rule is intended to implement Iowa Code chapter 261.

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- Region 4: Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page.
 - Region 5: Guthrie, Dallas, Polk, Jasper, Adair, Madison, Warren, Marion, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.
 - Region 6: Benton, Linn, Poweshiek, Iowa, Johnson, Muscatine, Mahaska, Keokuk, Washington, Louisa, Monroe, Wapello, Jefferson, Henry, Des Moines, Appanoose, Davis, Van Buren, and Lee.
- “Third-party administrator”* shall mean the person or entity with which the department contracts to provide administrative services for the HAWK-I program.

441—86.2(514I) Eligibility factors. A child must meet the following eligibility factors to participate in the HAWK-I program.

86.2(1) Age. The child shall be under 19 years of age. Eligibility for the program ends the first day of the month following the month of the child’s nineteenth birthday.

86.2(2) Income. Countable income shall not exceed 185 percent of the federal poverty level for a family of the same size when determining initial and ongoing eligibility for the program.

a. Countable income. When determining initial and ongoing eligibility for the HAWK-I program, all earned and unearned income, unless specifically exempted, shall be countable.

(1) **Earned income.** The earned income of all parents, spouses, and children under the age of 19 who are not students shall be countable. Income shall be countable earned income when an individual produces it as a result of the performance of services. Earned income is income in the form of a salary, wages, tips, bonuses, and commissions earned as an employee, or net profit from self-employment.

1. **Earned income from employment.** Earned income from employment means total gross income.

2. **Earned income from self-employment.** Earned income from self-employment means the net profit determined by comparing gross income with the allowable costs of producing the income. The net profit from self-employment income shall be determined according to the provisions of 441—paragraph 75.57(2)“f.” A person is considered self-employed when the person:

- Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions; or
- Establishes the person’s own working hours, territory, and methods of work; or
- Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

3. **Earned income deduction.** Each person in the household whose nonexempt income, earned as an employee or from self-employment, is considered in determining HAWK-I eligibility is entitled to a 20 percent earned income deduction. The deduction is intended to include work-related expenses other than child care. These expenses may include taxes, transportation, meals, uniforms and other work-related expenses.

(2) **Unearned income.** The unearned income of all parents, spouses, and children under the age of 19 shall be counted. Unearned income is any income in cash that is not gained by labor or service. The available unearned income shall be the amount remaining after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Examples of unearned income include, but are not limited to:

1. Social security benefits. Social security income is the amount of the entitlement before withholding of a Medicare premium.
2. Child support and alimony payments received for a member of the family.
3. Unemployment compensation.
4. Veterans benefits.

(3) Recurring lump sum income. Earned and unearned lump sum income that is received on a regular basis shall be counted and prorated over the time it is intended to cover. These payments may include, but are not limited to:

1. Annual bonuses.
2. Lottery winnings that are paid out annually.

b. Exempt income. The following shall not be counted toward the income limit when establishing eligibility for the HAWK-I program.

(1) Nonrecurring lump sum income. Nonrecurring lump sum income is income that is not expected to be received more than once. These payments may include, but are not limited to:

1. An inheritance.
2. A one-time bonus.
3. Lump sum lottery winnings.
4. Other one-time payments.

(2) Food reserves from home-produced garden products, orchards, domestic animals, and the like, when used by the household for its own consumption.

(3) The value of the coupon allotment in the Food Stamp Program.

(4) The value of the United States Department of Agriculture donated foods (surplus commodities).

(5) The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

(6) Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

(7) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

(8) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

(9) Interest and dividend income.

(10) Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe.

(11) Payments to volunteers participating in the Volunteers in Service to America (VISTA) program.

(12) Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.

(13) Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

(14) Experimental housing allowance program payments.

(15) The income of a Supplemental Security Income (SSI) recipient.

(16) Income of an ineligible child if the family chooses not to include the child in the eligibility determination in accordance with the provisions of paragraph 86.2(3)“c.”

(17) Unearned income in kind.

(18) Family support subsidy program payments.

(19) All earned and unearned educational funds of an undergraduate or graduate student or a person in training. However, any additional amount of educational funds received for the person's dependents that are in the eligible group shall be considered as nonexempt income.

(20) Bona fide loans.

(21) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the *In re Agent Orange product liability litigation*, M.D.L. No. 381 (E.D.N.Y.).

86.2(4) *Uninsured status.* The child must be uninsured. A child who is currently enrolled in an individual or group health plan is not eligible to participate in the HAWK-I program. However, a child who is enrolled in a plan that provides coverage only for a specific disease or service (e.g., a vision- or dental-only policy or a cancer policy) shall not be considered insured for purposes of the HAWK-I program.

a. A child who has been enrolled in an employer-sponsored health plan in the six months prior to the month of application but who no longer is enrolled in an employer-sponsored health plan is not eligible to participate in the HAWK-I program for six months from the last date of coverage unless the coverage ended for one of the following reasons:

- (1) Employment was lost due to factors other than voluntary termination.
- (2) Coverage was lost due to the death of a parent.
- (3) There was a change in employment to a new employer that does not provide an option for dependent coverage.
- (4) The child moved to an area of the state where the plan does not have a provider network established.
- (5) The employer discontinued health benefits to all employees.
- (6) The coverage period allowed by COBRA expired.
- (7) The parent became self-employed.
- (8) Health benefits were terminated because of a long-term disability.
- (9) Dependent coverage was terminated due to an extreme economic hardship on the part of either the employee or the employer.

Extreme economic hardship for employees shall mean that the employee's share of the premium for providing employer-sponsored dependent coverage exceeded 5 percent of the family's gross annual income.

(10) There was a substantial reduction in either lifetime medical benefits or benefit category available to an employee and dependents under an employer's health care plan.

(11) Child health insurance program (CHIP) coverage in another state was terminated due to the family's move to Iowa.

b. American Indian and Alaska Native. American Indian and Alaska Native children are eligible for the HAWK-I program on the same basis as other children in the state, regardless of whether or not they may be eligible for or served by Indian Health Services-funded care.

86.2(5) *Ineligibility for Medicaid.* The child shall not be receiving Medicaid or eligible to receive Medicaid if application were made except when the child would be required to meet a spenddown under the medically needy program in accordance with the provisions of 441—subrule 75.1(35). Additionally, a child who would be eligible for Medicaid except for the parent's failure or refusal to cooperate in establishing initial or ongoing eligibility shall not be eligible for coverage under the HAWK-I program. Children who are excluded from the household due to the child's excess income can participate in the HAWK-I program if otherwise eligible. This does not apply to children who are voluntarily excluded from the household for nonfinancial reasons.

86.2(6) *Iowa residency.* The child shall be a resident of the state of Iowa. A resident of Iowa is a person:

a. Who is living in Iowa voluntarily with the intention of making that person's home in Iowa and not for a temporary purpose; or

b. Who, at the time of application, is not receiving assistance from another state and entered Iowa with a job commitment or to seek employment or who is living with parents or guardians who entered Iowa with a job commitment or to seek employment.

86.2(7) *Citizenship and alien status.* The child shall be a citizen or lawfully admitted alien. The criteria established under Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Balanced Budget Act of 1997 shall be followed when determining whether a lawfully admitted alien child is eligible to participate in the HAWK-I program. The citizenship or alien status of the parents or other responsible person shall not be considered when determining the eligibility of the child to participate in the program.

86.2(8) *Dependents of state of Iowa employees.* The child shall not be eligible for the HAWK-I program if the child is eligible for health insurance coverage as a dependent of a state of Iowa employee.

86.2(9) *Inmates of nonmedical public institutions.* The child shall not be an inmate of a nonmedical public institution as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

86.2(10) *Inmates of institutions for mental disease.* At the time of application or annual review of eligibility, the child shall not be an inmate of an institution for mental disease as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

86.2(11) *Preexisting medical conditions.* The child shall not be denied eligibility based on the presence of a preexisting medical condition.

86.2(12) *Furnishing a social security number.* Rescinded IAB 10/20/99, effective 12/1/99.

441—86.3(514I) Application process.

86.3(1) *Who may apply.* Each person wishing to do so shall have the opportunity to apply without delay. When the request is made in person, the requester shall immediately be given an application form. When a request is made that the application form be mailed, it shall be sent in the next outgoing mail.

a. Child lives with parents. When the child lives with the child's parents, including stepparents and adoptive parents, the parent shall file the application on behalf of the child unless the parent is unable to do so.

If the parent is unable to act on the child's behalf because the parent is incompetent or physically disabled, another person may file the application on behalf of the child. The responsible person shall be a family member, friend or other person who has knowledge of the family's financial affairs and circumstances and a personal interest in the child's welfare or a legal representative such as a conservator, guardian, executor or someone with power of attorney. The responsible person shall sign the application form and assume the responsibilities of the incompetent or disabled parent in regard to the application process and ongoing eligibility determinations.

b. Child lives with someone other than a parent. When the child lives with someone other than a parent (e.g., another relative, friend, guardian), the person who has assumed responsibility for the care of the child may apply on the child's behalf. This person shall sign the application form and assume responsibility for providing all information necessary to establish initial and ongoing eligibility for the child.

c. Child lives independently or is married. When a child under the age of 19 lives in an independent living situation or is married, the child may apply on the child's own behalf, in which case, the child shall be responsible for providing all information necessary to establish initial and ongoing eligibility. If the child is married, both the child and the spouse shall sign the application form.

86.3(2) *Application form.* An application for the HAWK-I program shall be submitted on Form 470-3526, Healthy and Well Kids in Iowa (HAWK-I) Application, unless the family applies for the Medicaid program first.

When an application has been filed for the Medicaid program in accordance with the provisions of rule 441—76.1(249A) and Medicaid eligibility does not exist in accordance with the provisions of rule 441—75.1(249A), or the family must meet a spenddown in accordance with the provisions of 441—subrule 75.1(35) before the child can attain eligibility, the Medicaid application shall be used to establish eligibility for the HAWK-I program in lieu of the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526. Applications may be obtained by telephoning the toll-free telephone number of the third-party administrator.

- (3) Provides a specific medical record on demand.
- (4) Meets state and federal reporting requirements applicable to the HAWK-I program.
- (5) Maintains the confidentiality of medical records information and releases the information only

in accordance with established policy below:

1. All medical records of the enrollee shall be confidential and shall not be released without the written consent of the enrollee or responsible party.

2. Written consent is not required for the transmission of medical records information to physicians, other practitioners, or facilities that are providing services to enrollees under a subcontract with the plan. This provision also applies to specialty providers who are retained by the plan to provide services which are infrequently used, which provide a support system service to the operation of the plan, or which are of an unusual nature. This provision is also intended to waive the need for written consent for department staff and the third-party administrator assisting in the administration of the program, reviewers from the peer review organization (PRO), monitoring authorities from the Health Care Financing Administration (HCFA), the plan itself, and other subcontractors which require information as described under numbered paragraph "5" below.

EXCEPTION: Written consent is required for the transmission of medical records relating to substance abuse, HIV, or mental health treatment in accordance with state and federal laws.

3. Written consent is not required for the transmission of medical records information to physicians or facilities providing emergency care pursuant to paragraph 86.15(2) "b."

4. Written consent is required for the transmission of the medical records information of a former enrollee to any physician not connected with the plan.

5. The extent of medical records information to be released in each instance shall be based upon a test of medical necessity and a "need to know" on the part of the practitioner or a facility requesting the information.

6. Medical records maintained by subcontractors shall meet the requirements of this rule.

b. Each plan shall provide at a minimum reports and plan information to the third-party administrator as follows:

(1) A list of providers of medical services under the plan.

(2) Information regarding the plan's appeals process.

(3) A plan for a health improvement program.

(4) Periodic financial, utilization and statistical reports as required by the department.

(5) Encounter data on a monthly basis as required by the department.

(6) Time-specific reports which define activity for child health care, appeals, and other designated activities which may, at the department's discretion, vary among plans, depending on the services covered and other differences.

(7) Other information as directed by the department.

86.15(10) Systems. The participating health plan shall maintain data files that are compatible with the department's and third-party administrator's systems.

86.15(11) Payment to the participating health plan.

a. In consideration for all services rendered by a plan, the plan shall receive a payment each month for each enrollee. This capitation rate represents the total obligation of the department with respect to the costs of medical care and services provided to the enrollees.

b. The capitation rate shall be actuarially determined by the department July of 2000 and each fiscal year thereafter using statistics and data assumptions and relevant experience derived from similar populations.

c. The capitation rate does not include any amounts for the recoupment of losses suffered by the plan for risks assumed under the current or any previous contract. The plan accepts the rate as payment in full for the contracted services. Any savings realized by the plan due to lower utilization from a less frequent incidence of health problems among the enrolled population shall be wholly retained by the plan.

d. If an enrollee has third-party coverage or a responsible party other than the HAWK-I program available for purposes of payment for medical expenses, it is the right and responsibility of the plan to investigate these third-party resources and attempt to obtain payment. The plan shall retain all funds collected through third-party sources. A complete record of all income from these sources must be maintained and made available to the department.

86.15(12) *Quality assurance.* The plan shall have in effect an internal quality assurance system.

441—86.16(514I) Clinical advisory committee. Members of the clinical advisory committee established in accordance with the provisions of 441—paragraph 1.10(2)“c” shall be appointed to three-year terms. Members may be appointed for more than one term. No more than one-third of the membership of the committee shall rotate off the committee in any given calendar year.

These rules are intended to implement Iowa Code chapter 514I.

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567—135.19(455B) Analyzing for methyl tertiary-butyl ether (MTBE) in soil and groundwater samples.

135.19(1) General. The objective of analyzing for MTBE is to determine its presence in soil and water samples collected as part of investigation and remediation of contamination at underground storage tank facilities.

135.19(2) Required MTBE testing. Soil and water samples must be analyzed for MTBE when collected for risk-based corrective action as required in rules 135.8(455B) through 135.12(455B). These sampling requirements include but are not limited to:

- a. Risk-based corrective action (RBCA) evaluations required for Tier 1, Tier 2, and Tier 3 assessments and corrective action design reports.
- b. Site monitoring.
- c. Site remediation monitoring.

135.19(3) MTBE testing not required. Soil and water samples for the following actions are not required to be analyzed for MTBE:

- a. Closure sampling under rule 135.15(455B) unless Tier 1 or Tier 2 sampling is being performed.
- b. Site checks under subrule 135.7(3) unless Tier 1 or Tier 2 sampling is being performed.

135.19(4) Reporting. The analytical data must be submitted in a format prescribed by the department.

135.19(5) Analytical methods for methyl tertiary-butyl ether (MTBE). When having soil or water analyzed for MTBE from contamination caused by petroleum or hazardous substances, owners and operators of UST systems must use a laboratory certified under 567—Chapter 83 for petroleum analyses. In addition, the owners and operators must ensure all soil and water samples are properly preserved and shipped within 72 hours of collection to a laboratory certified under 567—Chapter 83 for petroleum analyses.

- a. Sample preparation and analysis shall be by:

- (1) GC/MS version of OA-1, "Method for Determination of Volatile Petroleum Hydrocarbons (gasoline)," revision 7/27/93, University Hygienic Laboratory, Iowa City, Iowa; or

- (2) U.S. Environmental Protection Agency Method 8260B, SW-846, "Test Methods for Evaluating Solid Waste," Third Edition.

- b. Laboratories performing the analyses must run standards for MTBE on a routine basis, and standards for other possible compounds like ethyl tertiary-butyl ether (ETBE), tertiary-amyl methyl ether (TAME), diisopropyl ether (DIPE), and tertiary-butyl alcohol (TBA) to be certain of their identification should they be detected.

- c. Laboratories must run a method detection limit study and an initial demonstration of capability for MTBE. These records must be kept on file.

- d. The minimum detection level for MTBE in soil is 15 ug/kg. The minimum detection level for MTBE in water is 15 ug/l.

These rules are intended to implement Iowa Code sections 455B.304, 455B.424 and 455B.474.

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CHAPTER 3
LICENSURE TO PRACTICE
REGISTERED NURSE/LICENSED PRACTICAL NURSE

[Prior to 5/23/84, IAC, appeared as separate Chapters 3 and 4]

[Prior to 8/26/87, Nursing Board[590] Ch 3]

655—3.1(17A,147,152,272C) Definitions.

Accredited or approved nursing program. An accredited or approved nursing program means a nursing education program whose status has been recognized by the board or by a similar board in another state that prepares individuals for licensure as a licensed practical nurse, registered nurse, or registration as an advanced registered nurse practitioner; or grants a baccalaureate, master's, or doctorate degree with a major in nursing.

Applicant. Applicant means a person who is qualified to take the examination or apply for licensure.

Delinquent licensee. Delinquent licensee means a registered nurse/licensed practical nurse who has failed to renew the license or place it on inactive status as provided by subrule 3.7(5) by the fifteenth day of the month following the expiration date.

Endorsement. Endorsement means the process by which a registered nurse/licensed practical nurse licensed in another state becomes licensed in Iowa.

Examination. Examination means any of the tests used to determine minimum competency prior to the issuance of a registered nurse/licensed practical nurse license.

Fees. Fees means those fees collected which are based upon the cost of sustaining the board. The nonrefundable fees set by the board are as follows:

1. For the original license based on the registered nurse examination, \$75.
2. For the original license based on the practical nurse examination, \$75.
3. For a registered nurse/licensed practical nurse license by endorsement, \$101.
4. For a license registration as an advanced registered nurse practitioner, \$21 per year, or any portion thereof.
5. For a certified statement that a registered nurse/licensed practical nurse is licensed in this state or registered as an advanced registered nurse practitioner, \$25.
6. For reactivation of a license to practice as a registered nurse/licensed practical nurse, based on \$27 per year, or any portion thereof, totals \$81 for a license lasting more than 24 months up to 36 months.
7. For the renewal of a license to practice as a registered nurse/licensed practical nurse, \$81 for a three-year period.
8. For a duplicate or reissued license/original certificate to practice as a registered nurse/licensed practical nurse, or registration card/original certification to practice as an advanced registered nurse practitioner, \$20.
9. For a registered nurse/licensed practical nurse late renewal, \$50, plus the renewal fee as specified in paragraph "6" of this rule.
10. For a registered nurse/licensed practical nurse delinquent license fee, \$100, plus all renewal fees to date due, the total back renewal fees shall not exceed \$250.

11. For a check returned for any reason, \$15. If licensure/registration had been issued by the board office based on a check for the payment of fees and the check is later returned by the bank, the board shall request payment by certified check or money order. If the fees are not paid within two weeks of notification by certified mail of the returned check, the license/registration is no longer in effect. The licensee's status returns to what it would have been had this license/registration not been issued.

12. For a copy of the Law of Iowa as it Pertains to the Practice of Nursing, \$2.

13. For a copy of the Iowa Administrative Code, Nursing Board[655], \$2.

14. For a certified copy of an original document, \$20.

15. Reserved.

16. For special licensure, \$62.

17. For a subscription to Notices of Intended Action for the period July 1 to June 30, \$25 or for the period January 1 to June 30, \$12.50.

Inactive licensee. Inactive licensee means a registered nurse/licensed practical nurse who has requested to be placed on inactive status.

Lapsed license. A lapsed license means an expired license which is either late or delinquent.

Late licensee. Late licensee means a registered nurse/licensed practical nurse who has failed to renew the license or place it on inactive status as provided by subrule 3.7(5) by the expiration date on the license. The time between the expiration date and the fifteenth day of the month following the expiration date is considered a grace period or late period.

NCLEX. NCLEX means National Council Licensure Examination, the currently used examination.

Overpayment. Overpayment means any overpayment of fees less than \$10 received by the board that shall not be refunded.

Reactivation. Reactivation means that process whereby an inactive licensee obtains a current license.

Reinstatement. Reinstatement means that process by which a delinquent licensee obtains a current license.

Temporary license. Temporary license means a license issued on a short-term basis for a specified time pursuant to subrule 3.5(3).

Verification. Verification means that process whereby the board will provide a certified statement that a registered nurse/licensed practical nurse is licensed, inactive, or lapsed, or an advanced registered nurse practitioner is registered in this state.

This rule is intended to implement Iowa Code section 147.80.

655—3.2(17A,147,152,272C) Mandatory licensure.

3.2(1) A person who practices nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of one's family, shall have a current Iowa license, whether or not the employer is in Iowa and whether or not the person receives compensation. The license shall be available for public inspection.

a. A person denied licensure or not having a current active Iowa license because of disciplinary action by the board, or having an encumbered license in another state, may not take a nursing course with a clinical component.

b. A nurse who has been licensed in another country and does not hold a current active license because of disciplinary action may not take a nursing course with a clinical component.

(2) An inactive licensee shall have completed 15 contact hours of continuing education as specified in 655—Chapter 5. The continuing education shall have been earned within the 12 months prior to reactivation.

(3) The reactivation fee is specified in rule 3.1(17A,147,152,272C).

(4) Upon receipt of the completed application, required continuing education materials, and fee, the board shall issue a current license to practice in Iowa. The license shall be issued for more than 24 months up to 36 months until the license can be placed in the three-year renewal cycle based on birth month. Expiration shall be on the fifteenth day of the birth month.

3.7(7) Duplicate license or certificate. The board shall issue a duplicate of a current license or original certificate upon written request of the licensee and payment of the fee specified in rule 3.1(17A,147,152,272C). If the current license is destroyed, lost, or stolen, a duplicate license is required as replacement.

3.7(8) Reissue of a license. If there is an error on the license or certificate made by the board of-
fice, no fee shall be charged for a reissued corrected license or certificate. A license may be reissued if a licensee desires to have a current name or address printed on the current license prior to renewal. Re-
issuance is optional; however, written notification to the board office of name or address change is man-
datory as outlined in subrule 3.7(1). The board shall reissue a license per written request of the licensee
and payment of the fee as specified in rule 3.1(17A,147,152,272C) or at the direction of the executive
director.

655—3.8(17A,147,152,272C) Verification. Upon written request from the licensee or other state and
payment of the verification fee as specified in rule 3.1(17A,147,152,272C), the board shall provide a
certified statement to another state that a registered nurse/licensed practical nurse is licensed, inactive,
or lapsed in Iowa.

These rules are intended to implement Iowa Code chapters 17A, 152, and 272C and Iowa Code sec-
tions 147.2, 147.10, 147.11, 147.36, 147.76, 147.80, 147.100, 152.1, 152.5, 152.9, and 152.10.

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◇History relating also to "Licensure to Practice—Licensed Practical Nurse," Ch 4 prior to IAC 5/23/84.

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Delay lifted by ARRC 11/16/88.

CHAPTER 7
ADVANCED REGISTERED NURSE PRACTITIONERS

[Prior to 8/26/87, Nursing Board[590] Ch 7]

655—7.1(152) Definitions.

“Advanced registered nurse practitioner (ARNP)” is a nurse with current licensure as a registered nurse in Iowa who is registered in Iowa to practice in an advanced role. The ARNP is prepared for an advanced role by virtue of additional knowledge and skills gained through a formal advanced practice education program of nursing in a specialty area approved by the board. In the advanced role, the nurse practices nursing assessment, intervention, and management within the boundaries of the nurse-client relationship. Advanced nursing practice occurs in a variety of settings within an interdisciplinary health care team which provide for consultation, collaborative management, or referral. The ARNP may perform selected medically delegated functions when a collaborative practice agreement exists.

“Basic nursing education” as used in this chapter is a nursing program that prepares a person for initial licensure to practice nursing as a registered nurse.

“Board” as used in this chapter means Iowa board of nursing.

“Certified clinical nurse specialist” is an ARNP prepared at the master’s level who possesses evidence of current advanced level certification as a clinical specialist in an area of nursing practice by a national professional nursing certifying body as approved by the board.

“Certified nurse-midwife” is an ARNP educated in the disciplines of nursing and midwifery who possesses evidence of current advanced level certification by a national professional nursing certifying body approved by the board. The certified nurse-midwife is authorized to manage the care of normal newborns and women, antepartally, intrapartally, postpartally or gynecologically.

“Certified nurse practitioner” is an ARNP educated in the disciplines of nursing who has advanced knowledge of nursing, physical and psychosocial assessment, appropriate interventions, and management of health care, and who possesses evidence of current certification by a national professional nursing certifying body approved by the board.

“Certified registered nurse anesthetist” is an ARNP educated in the disciplines of nursing and anesthesia who possesses evidence of current advanced level certification or recertification, as applicable, by a national professional nursing certifying body approved by the board.

“Collaboration” is the process whereby an ARNP and physician jointly manage the care of a client.

“Collaborative practice agreement” means an ARNP and physician practicing together within the framework of their respective professional scopes of practice. This collaborative agreement reflects both independent and cooperative decision making and is based on the preparation and ability of each practitioner.

“Consultation” is the process whereby an ARNP seeks the advice or opinion of a physician, pharmacist, or another member of the health care team. ARNPs practicing in a noninstitutional setting as sole practitioners, or in small clinical practice groups, shall regularly consult with a licensed physician or pharmacist regarding the distribution, storage, and appropriate use of controlled substances.

“Controlled substance” is a drug, substance, or immediate precursor in Schedules I through V of division II, Iowa Code chapter 124.

“National professional nursing certifying body” is a professional nursing certifying body approved by the board. Agencies approved by the board include the American Nurses Credentialing Center, the American Academy of Nurse Practitioners, the American College of Nurse-Midwives Certification Council, the Council on Certification of Nurse Anesthetists, the Council on Recertification of Nurse Anesthetists, the National Certification Board of Pediatric Nurse Practitioners and Nurses, the National Certification Corporation for the Obstetric, Gynecologic, and Neonatal Nursing Specialties, and the Oncology Nursing Certification Organization.

“Physician” means a medical doctor licensed under Iowa Code chapter 148 or osteopathic physician and surgeon licensed under Iowa Code chapter 150A.

“Prescriptive authority” is the authority granted to an ARNP registered in Iowa in a recognized nursing specialty to prescribe, deliver, distribute, or dispense prescription drugs, devices, and medical gases when the nurse is engaged in the practice of that nursing specialty. Registration as a practitioner with the Federal Drug Enforcement Administration and the Iowa board of pharmacy examiners extends this authority to controlled substances. ARNPs shall obtain a copy of the Iowa Pharmacy Law and Informational Manual. ARNPs are encouraged to subscribe to the Iowa Board of Pharmacy Newsletter.

“Referral” is the process whereby the ARNP directs the client to a physician or another health care professional for management of a particular problem or aspect of the client’s care.

655—7.2(152) General requirements for the advanced registered nurse practitioner.

7.2(1) Specialty areas of nursing practice for the advanced registered nurse practitioner. The board derives its authority to define the educational and clinical experience that is necessary to practice at an advanced registered nurse practitioner level under the provisions of Iowa Code section 152.1(6)*“d.”* The specialty areas of nursing practice for the advanced registered nurse practitioner which shall be considered as legally authorized by the board are as follows:

- a. Certified clinical nurse specialist.
- b. Certified nurse-midwife.
- c. Certified nurse practitioner.
- d. Certified registered nurse anesthetist.

7.2(2) Titles and abbreviations. A registered nurse who has completed all requirements to practice as an advanced registered nurse practitioner and who is registered with the board to practice shall use the title advanced registered nurse practitioner (ARNP). Utilization of the title which denotes the specialty area is at the discretion of the advanced registered nurse practitioner.

a. No person shall practice or advertise as or use the title of advanced registered nurse practitioner for any of the defined specialty areas unless the name, title and specialty area appear on the official record of the board and on the current license.

b. No person shall use the abbreviation ARNP for any of the defined specialty areas or any other words, letters, signs or figures to indicate that the person is an advanced registered nurse practitioner unless the name, title and specialty area appears on the official record of the board and on the current license.

c. Any person found to be practicing under the title of advanced registered nurse practitioner or using the abbreviation ARNP without being registered as defined in this subrule shall be subject to disciplinary action.

7.2(3) General education and clinical requirements.

a. The general educational and clinical requirements necessary for recognition by the board as a specialty area of nursing practice are as follows:

(1) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills as approved by the board; or

(2) Satisfactory completion of a formal advanced practice educational program of study in a nursing specialty area approved by the board and appropriate clinical experience as approved by the board.

b. Additional requirements. Nothing in this rule shall be construed to mean that additional general educational or clinical requirements cannot be defined in a specialty area.

7.2(4) Application process. A registered nurse who wishes to practice as an advanced registered nurse practitioner shall submit the following to the office of the board:

a. An advanced registered nurse practitioner application form which may be obtained from the office of the board.

b. A registration fee as established by the board.

c. A copy of the time-dated, advanced level certification by appropriate national certifying body evidencing that the applicant holds current certification in good standing; copy of official transcript directly from the formal advanced practice educational program maintaining the records necessary to document that all requirements have been met in one of the specialty areas of nursing practice as listed in subrule 7.2(1). The transcript shall verify the date of completion of the program/graduation and the degree conferred. A registered nurse may make application to practice in more than one specialty area of nursing practice.

7.2(5) Initial registration. The executive director or a designee shall have the authority to determine if all requirements have been met for registration as an advanced registered nurse practitioner. If it has been determined that all requirements have been met:

a. Official licensure records of the registered nurse shall denote registration as an advanced registered nurse practitioner as well as the specialty area(s) of nursing practice.

b. The registered nurse shall be issued a registration card and a certificate to practice as an ARNP which clearly denotes the name, title, specialty area(s) of nursing practice, and expiration date of registration. The expiration date shall be based on the same period of license to practice as a registered nurse.

7.2(6) Registration completion. The registered nurse shall complete the registration process within 12 months of receipt of the application materials. The board reserves the right to destroy the documents after 12 months.

7.2(7) Denial of registration. If it has been determined that all requirements have not been met, the registered nurse shall be notified in writing of the reason(s) for the decision. The applicant shall have the right of appeal to the Iowa board of nursing within 30 days of denial by the executive director or designee.

7.2(8) Application process for renewal of registration. Renewal of registration for the advanced registered nurse practitioner shall be for the same period of license to practice as a registered nurse. The executive director or a designee shall have the authority to determine if all requirements have been met for renewal as an advanced registered nurse practitioner. A registered nurse who wishes to continue practice as an advanced registered nurse practitioner shall submit the following at least 30 days prior to the license expiration to the office of the Iowa board of nursing:

- a. Completed renewal application form.
- b. Renewal fee as outlined in rule 7.1(152), definition of “fees.”
- c. Copy of current time-dated, advanced level certification by appropriate national certifying body.

7.2(9) Continuing education requirements. Continuing education shall be met as required for certification by the relevant national certifying body, as outlined in 655—subrule 5.2(3), paragraph “e.”

7.2(10) Denial of renewal registration. If it has been determined that all requirements have not been met, the applicant shall be notified in writing of the reason(s) for the decision. Failure to obtain the renewal will result in termination of registration and of the right to practice in the advanced registered nurse practitioner specialty area(s). The applicant shall have the right of appeal to the Iowa board of nursing within 30 days of denial of the executive director or designee.

7.2(11) Registration to practice as an advanced registered nurse practitioner restricted, revoked, or suspended. The board may restrict, suspend or revoke a registration to practice as an advanced registered nurse practitioner on any of the grounds stated in Iowa Code section 147.55 or 152.10 or chapter 272C. In addition:

- a. The board may refer a complaint against an advanced registered nurse practitioner to a peer review committee for investigation and review in accordance with Iowa Code section 272C.6(2).
- b. The peer review committee shall be comprised of three advanced registered nurse practitioners in the same specialty area of nursing practice.
- c. The board may appoint a physician from a related area of medical specialty to serve as a consultant to the peer review committee.

These rules are intended to implement Iowa Code sections 17A.3, 147.10, 147.53, 147.76, 147.107(6) and 152.1.

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661—5.620(100,135C) General requirements for small group homes (specialized licensed facilities) licensed pursuant to Iowa Code section 135C.2.

5.620(1) Scope. This rule applies to specialized licensed facilities licensed under the provisions of Iowa Code section 135C.2 having three to five beds and serving persons with mental retardation, chronic mental illness, developmental disabilities, or brain injuries.

5.620(2) Exits.

a. There shall be a minimum of two approved exits from the main level of the home and from each level with resident sleeping rooms.

b. Interior and exterior stairways shall have a minimum clear width of not less than 30 inches.

5.620(3) Windows. Every resident sleeping room shall have an outside window or outside door arranged and located to permit the venting of products of combustion and access to fresh air in the event of an emergency.

a. In new construction, windows shall have a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, minimum net clear openable width of 20 inches and the finished sill height shall be not more than 44 inches above the floor.

b. In existing construction the finished sill height shall be not more than 44 inches above the floor or may be accessible from a platform not more than 44 inches below the window sill.

5.620(4) Interior finish. Interior finish in exit shall be Class A, B or C. See Table No. 5-C, following 661—5.105(100).

5.620(5) Doors. Doors to resident sleeping rooms shall be a minimum of 1 3/8-inch solid core wood or equivalent.

5.620(6) Vertical separations. Basement stairs must be enclosed with one-hour rated partitions and 1 3/4-inch solid core wood doors equipped with self-closers. These doors must be kept closed unless held open by an approved electromagnetic holder, actuated by an approved smoke detection device located at the top of the stairwell and interconnected with the alarm system.

5.620(7) Fire detection, fire alarms and sprinklers.

a. The home shall have smoke detection installed on each occupied floor including basements in accordance with National Fire Protection Association Standard No. 74. Smoke detectors shall be interconnected so that activation of any detector will sound an audible alarm throughout. The system shall be tested by a competent person at least semiannually with date of test and name noted.

b. Homes may be protected with a sprinkler system meeting the requirements of National Fire Protection Association Standard No. 13D, 1989 edition.

5.620(8) Fire extinguishers.

a. Approved fire extinguishers shall be provided on each floor, so located that a person will not have to travel more than 75 feet from any point to reach the nearest extinguisher. An additional extinguisher shall be provided in, or adjacent to, each kitchen or basement storage room.

b. Type and number of portable fire extinguishers shall be determined by the fire marshal.

5.620(9) Mechanical, electrical and building service equipment.

a. Air conditioning, ventilating, heating, cooking and other service equipment shall be in accordance with state regulations governing same, or nationally recognized standards such as National Fire Protection Association standards governing the type of equipment, and shall be installed in accordance with the manufacturer's specifications. All hazardous areas normally found in one- and two-family dwellings, such as laundry, kitchen, heating units and closets need not be separated with walls if all equipment is installed in accordance with the manufacturer's listed instructions.

b. Portable comfort heating devices are prohibited.

5.620(10) Attendants, evacuation plan.

a. Every home shall have at least one staff person on the premises at all times while residents are present. This staff person shall be at least 18 years of age and capable of performing the required duties of evacuation. No person other than the management or a person under management control shall be considered as an attendant.

b. Every facility shall formulate a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. All employees shall be instructed and kept informed respecting their duties under the plan. This plan is to be posted where all employees may readily study it. Fire drills shall be held at least once a month. Records must be kept available for inspection.

5.620(11) Smoking.

a. There shall be no smoking in resident sleeping areas and smoking and no smoking policies shall be strictly adhered to.

b. Ashtrays shall be constructed of noncombustible material with self-closing tops and shall be provided in all areas where smoking is permitted.

5.620(12) Exit illumination. Approved rechargeable battery-powered emergency lighting shall be installed to provide automatic exit illumination in the event of failure of the normal lighting system.

5.620(13) Occupancy restrictions.

a. Occupancies not under the control of, or not necessary to, the administration of residential care facilities are prohibited therein with the exception of the residence of the owner or manager.

b. Nonambulatory residents shall be housed only on accessible floors which have direct access to grade which does not involve stairs or elevators.

5.620(14) Maintenance.

a. All fire and life safety equipment or devices shall be regularly and properly maintained in an operable condition at all times in accordance with nationally recognized standards. This includes fire extinguishing equipment, alarm systems, doors and their appurtenances, cords and switches, heating and ventilating equipment, sprinkler systems and exit facilities.

b. Storerooms shall be maintained in a neat and proper manner at all times.

c. Excessive storage of combustible materials such as papers, cartons, magazines, paints, sprays, old clothing, furniture and similar materials shall be prohibited at all times.

This rule is intended to implement Iowa Code section 135C.2(5) "b."

661—5.621 to 5.624 Reserved.

661—5.625(100,231B) Elder group homes. This rule applies to elder group homes certified by the Iowa department of elder affairs.

5.625(1) Definitions. The following definitions apply to rule 661—5.625(100,231B):

"Elder" means a person 60 years of age or older.

"Elder group home" means a single family residence that is the residence of a person who is providing room, board, and personal care to three to five elders who are not related to the person providing the service within the third degree of consanguinity or affinity and which is certified as an elder group home by the Iowa department of elder affairs.

5.625(2) Exits. There shall be a minimum of two approved exits from the main level of the home and from each level with resident sleeping rooms. Interior and exterior exit stairways shall have a minimum clear width of not less than 30 inches.

5.625(3) Windows. Each resident sleeping room shall have an outside window or outside door arranged and located to provide ventilation, access to fresh air, and an emergency escape route. New or replacement windows shall have a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, minimum net clear openable width of 20 inches, and the finished sill height shall not be more than 44 inches above the floor.

5.625(4) Interior finish. Interior finish in resident occupied areas shall be Class A or B in accordance with Table 5-C, 661 IAC 5.105(100).

5.625(5) Doors. Door to resident sleeping rooms shall be a minimum of one and three-eighths inches solid core wood or equivalent.

5.625(6) Fire detection. An elder group home shall have smoke detectors installed on each floor, including the basement, and in each sleeping room, in accordance with National Fire Protection Association # 74, Standard for Household Fire Warning Equipment, 1989 edition, and 661 IAC 5.807(100). Smoke detectors shall be interconnected so that activation of any detector will activate detectors throughout the home.

5.625(7) Fire extinguishers. Fire extinguishers shall be provided on each floor and shall be located so that a person will not have to travel any more than 75 feet from any point in the home to reach the nearest extinguisher. An additional extinguisher shall be provided in, or adjacent to, the kitchen. Type, distribution, inspection, maintenance, and recharging of extinguishers shall conform to National Fire Protection Association # 10, Standard for Portable Fire Extinguishers, 1990 edition.

5.625(8) Smoking. There shall be no smoking in resident sleeping rooms. Smoking may be permitted in designated areas only. If an indoor area within an elder group home is designated as a smoking area, that area shall be equipped with ashtrays constructed of noncombustible material and with self-closing tops.

5.625(9) Exit illumination. Approved rechargeable battery-powered emergency lighting shall be installed to provide automatic exit illumination in the event of failure of the normal lighting system.

5.625(10) Maintenance. All fire and life safety equipment or devices shall be U.L. or independent testing laboratory approved, installed according to manufacturer specifications, and regularly and properly maintained at all times in accordance with nationally recognized standards. This includes, but is not limited to, fire extinguishing equipment, alarm systems, doors and their appurtenances, and exit facilities. Flammable and combustible materials shall be properly stored in original, properly labeled containers or approved safety containers. Storerooms shall be maintained in a neat and proper manner at all times. Excessive storage of combustible materials is not permitted.

5.625(11) Equipment. Electrical, heating, and ventilating equipment shall be installed and maintained in accordance with manufacturer's instructions and nationally recognized standards. Portable space heaters are not permitted.

5.625(12) Emergency procedures. Every home shall formulate a plan for the protection of occupants in the event of a fire or other emergency. The plan shall take into consideration areas of refuge within the building as well as evacuation from it. The written plan must be provided to each resident and explained to them at the time they move into the facility and at least annually thereafter.

5.625(13) Compressed gases. If oxygen or other compressed gases are required by residents for respiratory purposes, the applicable standards for use, containers, equipment, maintenance and storage of compressed gases, as set forth in National Fire Protection Association # 99, 1993 edition, shall be adhered to.

5.625(14) Basements. Interior basement stairways, if enclosed, must have walls and ceilings constructed of five-eighths inch gypsum board or material providing equivalent fire protection. Basements must be separated from the first floor by a self-closing one and three-eighths inch solid wood core door or equivalent. If a basement is used by residents, it must have a door leading to the outside or an operational window having a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, minimum net clear openable width of 20 inches, and the finished sill height shall not be more than 44 inches above the floor.

5.625(15) Construction. Unprotected wood frame structures of more than two stories in height, excluding basement, shall not be permitted for use as elder group homes.

EXCEPTION: Unprotected wood frame structures protected throughout by an approved automatic sprinkler system may be used as elder group homes.

This rule is intended to implement Iowa Code chapter 100 and section 231B.2.

661—5.626(231C) Assisted living housing.

5.626(1) Definitions. The following definitions apply to rule 661—5.626(231C):

“*Assisted living*” means provisions of housing with services which may include but are not limited to health-related care, personal care and assistance with instrumental activities of daily living to six or more tenants that are certified by the department of elder affairs or voluntarily accredited.

“*Existing assisted living facility*” is an assisted living facility operating on or before June 30, 1997, or which was in use on or before June 30, 1997, in another category or categories of state-licensed, long-term residential care facilities and was converted after that date to use as an assisted living facility.

“*New assisted living facility*” is an assisted living facility which begins operation on or after July 1, 1997, and was not in operation prior to July 1, 1997, in any category of state-licensed, long-term care facility.

5.626(2) New assisted living facilities. The standard “NFPA 101, Chapter 22, New Residential Board and Care Occupancies,” 1994 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing new assisted living facilities, with the following deletion:

Delete the definition of “Residential board and care occupancy” from Section 22-1.3.

5.626(3) Existing assisted living facilities. The standard “NFPA 101, Chapter 23, Existing Residential Board and Care Occupancies,” 1994 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing assisted living facilities in existing apartments and in those buildings that are converted from other classifications of state-licensed, long-term residential care facilities with the following deletion:

Delete the definition of “Residential board and care occupancy” from Section 23-1.3.

This rule is intended to implement Iowa Code chapter 231C.

661—5.627 to 5.649 Reserved.

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Jubrule 5.305(3) which was delayed 70 days from November 8, 1979, is renumbered and amended as 5.305(2) to be effective January 17, 1980.

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CHAPTER 77
DETERMINATION OF VALUE OF UTILITY COMPANIES

[Prior to 12/17/86, Revenue Department[730]]

701—77.1(428,433,437,438) Definition of terms.

77.1(1) The term “*utility company*” shall mean and include all persons engaged in the operating of gasworks, waterworks, telephones, including telecommunication companies, pipelines, electric transmission lines, and electric light or power plants, as set forth in Iowa Code chapters 428, 433, 437, and 438.

77.1(2) The term “*unit value*” or “*unit market value*” shall mean the market value arrived at by using the appraisal method of valuing an entire operating property, considered as a whole and capable of performing the function for which it was created, such as (by way of illustration and not limitation) (1) generating, transmitting and distributing electricity; or (2) transporting or distributing natural gas.

77.1(3) The term “*operating property*” shall mean all property owned by or leased to a utility company, not otherwise taxed separately, made nontaxable by law, or property leased to companies valued and assessed pursuant to Iowa Code chapter 428, which is necessary to and without which the utility could not perform the activities for which the utility is formed, such as (by way of illustration and not limitation) (1) generating, transmitting and distributing electricity; or (2) transporting or distributing natural gas. With regard to property whose identity as “operating” or “nonoperating” property is not clearly ascertainable, the property shall be considered operating property if the utility could not reasonably be expected to perform the referenced activities in the absence of such property.

77.1(4) The term “*nonoperating property*” shall mean all property owned by a utility not defined by subrule 77.1(3) as “operating property.”

77.1(5) The term “*comparable sales*” shall mean actual sales transactions, between willing buyers and willing sellers, neither being under any compulsion to buy or sell, of property which is similar in purpose, function and design to the property to which the comparison is being made. Where the determination of value is being made, the sale of a portion of a unit which is nominally similar in purpose and function to the unit being valued shall not be considered a comparable sale, absent proof by evidence other than the terms of the sale itself, that the sales price was based on some unit of measurement which is common both to the property sold and the property being valued and which is not affected by the fact that less than the entire unit is being sold, such as (by way of illustration and not limitation) the price per square foot of the property.

77.1(6) The term “*income approach to unit value*” shall mean the estimate of unit market value obtained by dividing an appropriate income stream by an appropriate discount rate.

77.1(7) The term “*stock and debt approach to unit value*” shall mean the estimate of unit market value determined by combining the market value of the stock, debt, current liabilities, other liabilities, including leases, except those leases of companies valued and assessed pursuant to Iowa Code chapter 428, and deferred credits associated with the operating property of a utility company.

77.1(8) The term “*cost approach to unit value*” shall mean the estimate of value determined by combining the original cost less a depreciation allowance for the operating property of a utility company.

77.1(9) The term “*respondent*” shall include the utility company whose property is to be valued.

77.1(10) The term “*leased assets*” shall mean both operational and capital leases.

77.1(11) The term “*original cost*” shall mean the actual cost of the property to its present owner, not the first cost at the time it was originally constructed and placed in service.

77.1(12) “*Long distance telephone company*” means an entity that provides telephone service and facilities between local exchanges and has been classified as such by the utilities board of the department of commerce, but does not include a cellular service provider or a local exchange utility holding a certificate issued under Iowa Code section 476.29(12). The rules contained in 701—Chapter 71, rather than this chapter, apply to the assessment of long distance telephone company property first assessed for taxation on or after January 1, 1996.

This rule is intended to implement Iowa Code chapters 428, 433, 437 and 438 and Iowa Code section 476.1D(10) as amended by 1995 Iowa Acts, House File 518.

701—77.2(428,433,437,438) Filing of annual reports.

77.2(1) Annual reports required to be filed by the reporting utility company shall be on forms prescribed and supplied by the department. It shall be the responsibility of the utility company to obtain the forms supplied by the department.

77.2(2) Additional schedules or attachments submitted by respondent shall be identified as to subject matter, shall be typed on paper of similar size to that used in the annual report, and all data contained in the schedules or attachments shall be adequately explained and documented as to source. When such additional schedules or attachments are submitted, they shall be considered part of the annual report.

77.2(3) The director may require the filing of additional information if deemed necessary. The request for additional information shall be answered completely and in accordance with instructions therein specified. Additional information required shall be considered part of the annual report.

This rule is intended to implement Iowa Code sections 428.23, 433.1, 433.2, 437.2, 437.4, 437.14, 438.3, 438.4, 438.5 and 438.6.

701—77.3(428,433,437,438) Comparable sales. Sale prices of comparable property in normal transactions shall be taken into consideration in arriving at its market value. In the event comparable sales are not available, the market value of operating property shall be determined by utilizing the three recognized unit approaches to value (i.e., stock and debt approach, income capitalization approach and the cost approach).

This rule is intended to implement Iowa Code sections 428.28, 433.1, 433.2, 437.2, 437.4, 437.14, 438.3, 438.4, 438.5 and 438.6.

701—77.4(428,433,437,438) Stock and debt approach to unit value.

77.4(1) The stock and debt approach to unit value estimates the market value of the operating property by combining the market values of the common stock, preferred stock, debt, current liabilities, other liabilities, leases, and deferred credits associated with the operating property of the utility company, on the basis that the market value of these items may be used as a surrogate for the market value of the operating property itself.

77.4(2) The market value of the long-term debt associated with the operating property shall be calculated by first determining a ratio, based on book values, whose numerator shall be the operating property and whose denominator shall be the total property of the utility company. This ratio shall then be multiplied times the gross market value of the long-term debt and the result obtained shall be the market value of the long-term debt associated with the operating property. The market value of publicly traded debt shall be determined by utilizing an average of the monthly high and low value of the debt for the 12 months preceding the valuation date. The values to be utilized shall be obtained by reference to any acceptable reporter of the market on which the securities are traded. If all or some of the securities are not publicly traded, the value of the securities shall be determined by appropriate comparable securities. The comparable securities shall be publicly traded and shall have a similar maturity date and coupon rate, as well as risk indicators similar to the untraded security. In each instance, the utility company shall provide the department a statement of the market value of all securities and an explanation of how that market value was derived, including the identity of any comparable securities utilized. In the event that any utility is unable to utilize the foregoing rule to value its securities, it may provide the department with its own determination of the fair market value of its untraded securities together with a complete explanation of why the foregoing rule was not used and a detailed explanation of the method used.

77.4(3) The market value of the preferred stock associated with the operating property shall be calculated by first determining a ratio, based on book values, whose numerator shall be the operating property and whose denominator shall be the total property of the utility company. This ratio shall then be multiplied times the gross market value of the preferred stock and the result obtained shall be the market value of the preferred stock associated with the operating property.

The market value of publicly traded shares of preferred stock shall be determined by utilizing an average of the monthly high and low value of the preferred stock for the 12 months preceding the valuation date. The values to be utilized shall be obtained by reference to any acceptable reporter of the market on which the preferred stock is traded. If all or some series of the preferred stock are not publicly traded, the value of such preferred stock shall be determined by appropriate comparable securities. The comparable securities shall be publicly traded and shall have the same or a similar dividend rate, as well as risk indicators similar to the untraded preferred stock. In each instance, the utility company shall provide the department a statement of the market value of its preferred stock and an explanation of how that market value was derived, including the identity of any comparable securities utilized. In the event that any utility is unable to utilize the foregoing rule to value its securities, it may provide the department with its own determination of the fair market value of its untraded securities together with a complete explanation of why the foregoing rule was not used and a detailed explanation of the method used.

77.4(4) The market value of the common equity of a utility company associated with the company's operating property shall be determined by capitalizing the income available to the common equity holders from the operating property, by an appropriate common equity return rate, all of which shall be determined as follows:

a. The calculation of the income to be capitalized shall begin with the utility company's net income after taxes but before interest charges and preferred dividends for the 12-month period preceding the valuation date. The net income after taxes, but before interest charges and preferred dividends, shall be determined from the utility company's regulatory report, or if no regulatory report is filed, from the audited financial statements of the utility company. In the event that the respondent has no income or has negative income, an alternative method may be utilized to estimate the market value of the common equity.

b. For rate base regulated companies which do not earn a return on construction-work-in-progress, the income determined in subrule 77.4(4) shall be increased by the amount of income associated with the construction-work-in-progress which will be placed into service within one year of the assessment date. The income associated with the construction-work-in-progress shall be determined by multiplying the cost of said construction by the latest overall cost of capital as determined by the regulatory agency.

c. The income determined in 77.4(4) "a" shall be further reduced by that portion of the preferred dividends serviced by the income generated by the operating property, which shall be calculated by multiplying the total preferred dividend requirement by the ratio determined in 77.4(3).

d. The income determined in 77.4(4) "a" shall be further reduced by that portion of the debt service provided by the income generated by the operating property, which shall be calculated by multiplying the total debt service by the ratio determined in 77.4(2).

e. If there are any other interest payments required, a determination shall be made as to whether the underlying obligation was used to purchase operating or nonoperating assets. If no direct determination can be made, the interest payment shall be allocated in the same fashion as the debt service and preferred dividends. If the underlying obligation can be shown to be associated particularly, or in some specific proportion, to operating or nonoperating property, the interest payment shall be allocated either entirely or in such proportion to operating or nonoperating property. It shall be the obligation of the utility company, in its reports to the department, to identify and detail any interest payments which are particularly associated with operating or nonoperating property, and if the utility company fails to do so, the department may determine that all such payments may be allocated between operating and nonoperating property in the same ratio as is the debt service and preferred stock dividends (see subrules 77.4(2) and 77.4(3)).

f. The income determined in 77.4(4) "a" shall be adjusted by deducting any net income included therein received from nonoperating property and, conversely, the referenced income shall be increased to account for any net loss created by any nonoperating property.

g. Any extraordinary item affecting the income determined herein shall be eliminated in the calculation of the income shown under this rule. Any construction-work-in-progress not placed into service within one year of the assessment date shall be separately valued by the department.

h. The equity rate of return for the utility company shall be determined by the use of the capital asset pricing model although where appropriate discounted cashflow model (commonly called the Gordon Growth Model - $r = \frac{D_1}{P_0} + g$) may be utilized as an alternative.

P_0

Only in circumstances where these models are not able to be utilized will reliance be placed on a risk premium model or upon an earnings-price ratio, or other similar model, for determining the expected market rate of return on equity.

i. The income attributable to operating property available to the common equity holder as determined in 77.4(4) "a" to "g" shall then be divided by the equity rate as determined in 77.4(4) "h," and the result shall be the market value of the common equity associated with the operating property.

77.4(5) In the event the utility company has entered into leases of operating property, the market value of the property leased shall be determined by calculating the net present value of the leases, which shall be accomplished by discounting the future lease payments for each lease. The following is offered as an illustration of the calculation of such market value:

Length of Lease	Annual Lease Payments
1. Lease (a) 5 years	\$1,500,000
2. Lease (b) 7 years	\$ 800,000
3. Lease (c) 3 years	\$ 120,000
Net present value of leases (assuming 8 percent rate)	
Lease (a) = $1,500,000 + (1.08)^1 + 1,500,000 + (1.08)^2 \dots 1,500,000 + (1.08)^5$	
Lease (b) = $800,000 + (1.08)^1 + 800,000 + (1.08)^2 \dots 800,000 + (1.08)^7$	
Lease (c) = $120,000 + (1.08)^1 + 120,000 + (1.08)^2 \dots 120,000 + (1.08)^3$	
Net Present Value of Lease (a)	= \$ 5,989,065
Net Present Value of Lease (b)	= \$ 4,165,096
Net Present Value of Lease (c)	= \$ <u>309,251</u>
Total Lease Values	<u>\$10,463,412</u>

The discount rate shall be equal to the utility company's overall market cost of capital.

77.4(6) In the event the utility company has other sources of capital, such as (by way of illustration and not limitation) current liabilities, accumulated deferred income taxes and accumulated investment tax credits which cannot be identified as having been utilized to purchase specific assets, the market value of such sources of capital shall be allocated between operating and nonoperating assets in the same manner as long-term debt or preferred stock (see subrules 77.4(2) and 77.4(3)). If any such source of capital was created specifically for the purchase of property which can be identified as operating property or nonoperating property, the utility company must identify such sources of capital in their annual report to the department, together with the appropriate evidence of such. If the utility company fails to provide such information, the department may determine that such sources of capital may be allocated in the same manner as long-term debt or preferred stock (see subrules 77.4(2) and 77.4(3)). The market value of any such source of capital, in the absence of evidence to the contrary submitted by the utility with its annual report, shall be the book value.

77.4(7) The value determined by summing the portions of the enumerated sources of capital associated with the operating property of the utility company provided in subrules 77.4(2) to 77.4(6) shall be the unit value of the operating properties determined by the stock and debt approach to unit value.

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

701—77.5(428,433,437,438) Income capitalization approach to unit value.

77.5(1) The income capitalization approach to unit value estimates the market value of the operating property by dividing the income stream generated by the operating assets by a market derived capitalization rate based on the costs of the various sources of capital utilized or available for use to purchase the assets generating the income stream. The purpose and intent of the income indicator of value is to match income with sources of capital and, therefore, every source of capital utilized or available to be utilized to purchase assets should be reflected in the capitalization rate determination as well as all operating income.

In the event the utility company has no income or has a negative income, the indicator of value set forth in this subrule shall not be utilized.

If the utility company is one which is not allowed to earn a return on assets purchased with sources of capital such as the company's deferred income taxes, the income will not reflect the earnings on those assets, and as a consequence, a separate adjustment to the income indicator of value must be made to account for the value of those assets. In such instances, the income indicator of value shall be increased by an amount equal to the book value of the source of capital involved, such as the accumulated deferred income taxes. If any other operating property is clearly not income producing, therefore, not reflected in the income stream, the value of that asset shall be determined separately and added to the value of the other operating property as determined using the income indicator of value. The capitalization rate shall be adjusted, if necessary, for the market rate of return for the sources of capital utilized to purchase such non-income-producing properties where the sources can be clearly identified, otherwise the cost of the sources of capital shall be presumed to be equal to the overall market weighted costs of the identified sources of capital.

77.5(2) If the utility company is one which can earn a return on assets purchased with sources of capital such as the company's deferred income taxes, the income will reflect the earnings on those assets, and as a consequence, a separate adjustment to the capitalization rate is required. The capitalization rate shall be determined by utilizing, where appropriate, market rates of return weighted according to a market-determined capital structure, with the exception of deferred credits whose market value shall be equal to its value on the company's books and whose cost shall be zero. All sources of capital shall be considered in the capital structure as well as market costs associated with each source of capital, otherwise, the cost of the sources of capital shall be presumed to be equal to the overall market-weighted costs of the identified sources of capital. The following is an example of the application of this rule:

	(1)	(2)	(3)	(4)
	Market	Market	% to	Component
	Value	Rate of	Total	(Col. 2 ×
		Return		Col. 3)
Common Stock	60,000	15%	62.50	9.38
Preferred Stock	5,000	13%	5.21	.68
Debt	25,000	12%	26.04	3.12
Deferred Credits	6,000	—0—	6.25	—0—
	<u>96,000</u>		<u>100.00</u>	<u>13.18</u>

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

701—77.6(428,433,437,438) Cost approach to unit value. The cost approach to unit value shall be determined by combining the cost of the operating properties of the utility and deducting therefrom an allowance for depreciation calculated on a straight-line basis. Other forms of depreciation may be deducted if found to exist.

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

701—77.7(428,433,437,438) Correlation. In making a final determination of value the director may give consideration to each of the methodologies described in these rules, the use of which will result in the determination of the fair and reasonable market value of the utility company's entire operating property. Generally, for other than pipeline companies, the stock and debt indicator of value shall be considered to be the most useful, the income indicator the next most useful and the cost indicator the least useful. If circumstances dictate that a particular indicator is inappropriate or less reliable for a particular company, the correlation of the indicators of value shall be adjusted accordingly. The correlation for pipeline companies will consider the cost indicator to be the most useful, the income indicator the next most useful, and the stock and debt indicator the least useful. In making the final determination of value, the director will weigh the stock and debt indicator of value at 10 percent, the income indicator of value at 40 percent and the cost indicator of value at 50 percent.

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

701—77.8(428,433,437,438) Allocation of unit value to state.

77.8(1) Allocation by director. The director shall allocate that portion of the total unit value of the utility company's operating property to the state of Iowa based on factors which are representative of the ratio that the utility company's property and activity in the state of Iowa bear to the utility company's total property and activity. These factors are:

- a. Gross operating property weighted 75 percent, and
- b. Gross operating revenues, or MCF miles, or barrel miles weighted 25 percent. The selection of the property and use factor to be utilized shall depend on the type of utility being valued.

77.8(2) Alternative methods. In the event that the allocation prescribed by subrule 77.8(1) does not fairly and reasonably allocate unit value of the utility company's operating property to the state of Iowa, the director shall consider such other factors as the director deems appropriate by the exercise of sound appraisal judgment.

This rule is intended to implement Iowa Code sections 428.29, 433.4, 437.6, 437.7, 437.14 and 438.14.

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