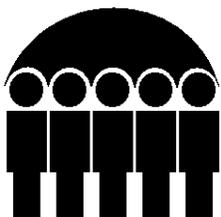


Revised May 14, 2010

Employees' Manual  
Title 3  
Chapter G

# GENERAL FACILITY POLICIES



Iowa  
Department  
of  
Human Services

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## **Overview**

The Iowa Department of Human Services is the state agency statutorily responsible for the administration of human service programs for the people of Iowa (Iowa Code section 217.1).

The governor appoints the director of the Department. A seven-member Council on Human Services is appointed by the governor. The Council acts in an advisory and policy-making capacity on budget matters for the Department.

The administrator of the Department's Division of Mental Health and Disability Services is appointed by the director under Iowa Code Chapter 218.1 to control, manage, direct, and operate the facilities under the director's jurisdiction. The facilities covered by the policies in this chapter are:

- ◆ The state mental health institutes,
- ◆ The state resource centers,
- ◆ The state training schools at Eldora and Toledo,
- ◆ The Iowa juvenile home, and
- ◆ The civil commitment unit for sexual offenders (CCUSO).

The mission statement adopted by the Department is:

"The Mission of the Iowa Department of Human Services is to help individuals and families achieve safe, stable, self-sufficient, and healthy lives, thereby contributing to the economic growth of the state. We do this by keeping a customer focus, striving for excellence, sound stewardship of state resources, maximizing the use of federal funding, leveraging opportunities, and by working with our public and private partners to achieve results."

## **Legal Basis**

Iowa Code section 8.7 requires the reporting of gifts and bequests received by a Department.

Iowa Code Chapter 144A provides the legal basis for executing a declaration for life-sustaining procedures.

Iowa Code Chapter 144B provides the legal basis for establishing a durable power of attorney for health care.

Iowa Code Chapter 144C provides the legal basis for making a declaration regarding the final disposition of an individual's remains and the ceremonies planned after death.

Iowa Code section 217.30 provides the basis for the confidentiality guidelines for the Department.

Iowa Code Chapter 218 governs the general operations of the mental health institutes, state resource centers, juvenile home, and state training schools.

Iowa Code section 218.1 provides that the operations of the facilities are under the authority of the director of the Department and that the director may assign the director's authority to a division administrator.

Iowa Code section 218.22 provides for the confidentiality of Department facility records.

Iowa Code section 218.96 authorizes the director to accept gifts, grants, devises, or bequests of real property.

Iowa Code Chapter 221 is the enacting legislation for the Interstate Compact on Mental Health.

Iowa Code Chapter 222 governs the operation of the state resource centers at Glenwood and Woodward.

Iowa Code sections 222.84 through 222.87 provide guidelines for managing the personal funds of individuals admitted or committed to a resource center.

Iowa Code Chapter 226 governs the operation of the state mental health institutes at Clarinda, Cherokee, Independence, and Mt. Pleasant.

Iowa Code, sections 226.1(1) (c) and 229A.12 govern the operation of the Civil Commitment Unit for Sexual Offenders at Cherokee.

Iowa Code sections 226.43 through 226.46 provides guidelines for managing the personal funds of individuals admitted or committed to a mental health institute or the civil commitment unit for sexual offenders.

Iowa Code Chapter 228 provides for the confidentiality of mental health and psychological information.

Iowa Code sections 229.24 and 229.25 provides for the confidentiality of mental health hospitalization and hospital records.

Iowa Code Chapter 233A governs the operation of the state training schools at Eldora and Toledo.

Iowa Code section 233A.17 provides guidelines for managing the personal funds of an individual placed at the state training school.

Iowa Code Chapter 233B governs the operation of the Iowa Juvenile Home at Toledo.

Iowa Code sections 233B.6 and 233B.17 provide guidelines for managing the personal funds of an individual placed at the state juvenile home.

Administrative rules at 441 Iowa Administrative Code 82.1(1)"c" provide for the confidentiality of the records at the resource centers.

Section 6032 of Public Law 109-171, Deficit Reduction Act of 2005, governs policy on Medicaid false claims.

Public Law 104-191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), governs the release of medical record information.

### **Definitions**

**"Adult"** means an individual who is 18 years of age or older.

**"Advance directive"** means:

- ◆ A written declaration relating to the use of life-sustaining procedures implemented under Iowa Code Chapter 144A, used when a person is both incapacitated and terminally ill, or
- ◆ A durable power of attorney implemented under of Iowa Code Chapter 144B, used when an individual is unable to make health care decisions, or
- ◆ A declaration of final disposition under Iowa Code Chapter 144C.

**"Business day"** means a working day in the usual Monday-through-Friday workweek. A holiday falling within this workweek shall not be counted as a business day.

**“Clinical staff”** means a group of specialized professional employees who are required to be licensed, accredited, or certified to practice in their field of specialty. For the purposes of this policy, “clinical staff” includes but is not limited to professionals in dentistry, medicine, neurology, neuropsychiatry, nursing, nutrition, occupational therapy, pharmacology, physical therapy, psychiatry, psychology, social work, and speech and language pathology.

**“Director”** means the director of the Department of Human Services as defined in Iowa Code section 217.5.

**“Documentation”** means the provision of sufficient information concerning the action taken that a reasonable person reviewing the information would be able to understand:

- ◆ What behavior or incident prompted the need for action,
- ◆ What response was provided, and
- ◆ How the response was appropriate to the behavior or incident.

**“Division administrator”** means the person designated by the director as the administrator of the Division of Mental Health and Disability Services.

**“Employee serious injury”** means an injury, self-inflicted or inflicted by another, that results in significant impairment of an employee’s physical condition as determined by qualified medical personnel. Serious injuries include but are not limited to injuries that:

- ◆ Result in bone fractures;
- ◆ Result in an altered state of consciousness;
- ◆ Require a resuscitation procedure including cardiopulmonary resuscitation (CPR) or abdominal thrusts;
- ◆ Result in full thickness lacerations with damage to deep structures;
- ◆ Result in injuries to internal organs;
- ◆ Result in a substantial hematoma that causes functional impairment;
- ◆ Result in a second-degree burn involving more than 20% of the total body surface area;
- ◆ Result in a second-degree burn with secondary cellulitis;
- ◆ Result in a third-degree burn involving more than 10% of the total body surface area;
- ◆ Require emergency hospitalization; or
- ◆ Result in death.

**“Facility”** means the four mental health institutes, the two resource centers, the two training schools, the civil commitment unit for sexual offenders, and the juvenile home.

**“Facility administrator”** means the person appointed to direct the overall operation of the civil commitment unit for sexual offenders.

**“Gift or bequest”** means anything that a facility receives that is intended for use directly by the employees of the facility. Items intended for public distribution such as clothes, furniture, or other items do not constitute a gift to the facility.

**“Governing body”** is synonymous with division administrator.

**“Health care”** means the same as defined in [Iowa Code section 144B.1\(3\)](#).

**“Health care decision”** means the same as defined in [Iowa Code section 144B.1\(4\)](#).

**“Individual”** means any child or adult voluntarily admitted or committed to and receiving services from a Department facility. For the purposes of the Interstate Compact on Mental Health, “individual” means the same as “patient” as defined in Iowa Code section 221.1, Article II.

**“Individual’s facility record”** means any and all information maintained either in written, recorded, or electronic form; photos, video, or audio tapes; that is specifically identified to an individual.

**“Life sustaining procedure”** means the same as defined in [Iowa Code section 144A.2\(8\)](#).

**“Life sustaining procedures declaration”** means the same as defined in [Iowa Code section 144A.3](#).

**“Medical staff”** means a physician, an advance registered nurse practitioner, or a physician assistant.

**“Normal business hours”** means from 8:00 am until 4:30 pm on weekdays excluding week days that fall on a state holiday.

**“Office of the governing body”** means the central office employees reporting to the administrator of the Division of Mental Health and Disability Services.

**“Personal funds”** means any funds that the individual:

- ◆ Brings along when admitted to the facility, or
- ◆ Comes into possession of while at the facility, such as Social Security payments, funds earned from work at the facility, or gifts received.

“Personal funds” do not include funds received by the facility that are intended to pay for all or part of the cost of the individual’s care, including but not limited to Medicare, Medicaid, state appropriation, county payments, or trust funds.

**“Resuscitation”** means the same as defined in [Iowa Code section 144A.2\(12\)](#).

**“Superintendent”** means the person appointed by the division administrator to direct the overall operation of a mental health institute, a resource center, a training school, the juvenile home and the person appointed to administer the civil commitment unit for sexual offenders.

**“Terminal condition”** means, as defined in [Iowa Code section 144A.2\(13\)](#).

### **Policy on Facility Governing Body**

The division administrator serves as the governing body for the facilities under the jurisdiction of the Department. The governing body is responsible for general oversight and management of the facilities. The superintendents are under the operational direction of the governing body. Oversight is provided through regular meetings, reporting, and the office of the governing body’s employee visits.

#### **Appointment of Governing Body**

The director appoints the division administrator as the governing body of the facilities. The division administrator serves at the will of the director and constitutes the membership of the governing body.

The governing body member is an official of the state as defined in Iowa Code section 68B.2(17) and shall carry out governing body functions in conformance with the laws of the state of Iowa.

The governing body has the ultimate responsibility and legal authority for the safety and quality of care, treatment, and services provided by the facility and shall carry out these functions and duties delegated to the governing body.

All rules, regulations, policies, or procedures adopted by a facility are subject to the review and approval of the governing body.

### **Duties of Governing Body**

The governing body's duties include but are not limited to:

- ◆ Defining the scope of services to be provided by each facility in accordance with each facility's Code of Iowa authorization. Any service to be provided beyond those authorized by Code of Iowa shall require the prior approval of the governing body.
- ◆ Working with each facility in the development of budget requests necessary to support the facility's scope of service and to seek appropriate funding from the legislature through the Department's budget and appropriation process.
- ◆ Conducting at least quarterly meetings with all of the superintendents of the facilities under the governing body's administration and related administrative staff, as required by Iowa Code section 218.45.
- ◆ Visiting, or causing to be visited by an employee of the office of the governing body, each facility under its administration at least once every six months.

The governing body delegates to the superintendent of each facility responsibility for maintaining records of each visit. Minutes of governing body visits shall be kept on file in the office of the superintendent.

- ◆ Providing for resources and support systems for the quality assessment and improvement functions and risk management functions related to the care and safety of individuals served.
- ◆ Applying established mechanisms for administrative and clinical reporting to assure that delegated responsibilities are being met. These shall include, but not be limited to the following:
  - Monthly and annual superintendent reports.
  - Monthly and annual population movement reports.
  - Monthly and annual statistical summaries.
  - Monthly and annual accounting reports as required in Iowa Code sections 218.47 and 218.48.

- ◆ Providing for administrative, clinical, and treatment employee participation in the development of program policies, relative to program management and care of individuals served, through on-site visits, conferences with representatives of administrative, clinical, and treatment employees, and other mechanisms.
- ◆ Approving and annually reviewing each facility's administrative structure and policy and procedures.

### **Governing Body Training**

Provisions shall be made for orientation and continuing education for the governing body through on-site visits, seminars, workshops, and other relevant and appropriate resources.

### **Appropriation and Budget**

The state legislature annually provides an appropriation that provides financial support for the operation of each facility under the jurisdiction of the governing body. The appropriation covers both operating and capital costs.

Supplemental and emergency appropriations can annually be made without legislative approval between facility appropriation categories consisting of state training school and state juvenile home; mental health institutes; and the resource centers. Transfers beyond established categorical appropriations require legislative approval.

The governor, legislative leadership, and state Department of Management establish a formalized budget development and presentation process annually.

Each facility biennially or annually, as determined by the director of the Department of Management, prepares a budget request to support its programs and submits it to the governing body for approval. The budget request is to include both operating and capital costs. Such requests shall be based upon the facility's planning process and program evaluation.

The Department of Human Services then prepares a budget presentation annually, for legislative review. The Department's approved budget document is available in the office of the governing body.

Each facility shall have a written plan that specifies the process and procedures for developing budget requests necessary to support the program's goals and objectives including a long-term capital plan. This plan shall be developed in coordination with and approved annually by the governing body.

#### **Schedule of Charges**

For those facilities that charge for the facility's services, the governing body shall approve a current written schedule of charges.

#### **Insurance**

The state of Iowa is self-insured. Iowa Code Chapter 669, "State Tort Claims," sets forth the procedure by which a person may seek recovery from the state for the torts of state employees or state agencies.

#### **Superintendents**

The superintendents shall be responsible to the governing body and shall comply with all policy, procedures, and directives issued by the governing body.

#### **Appointing Authority**

The governing body shall be the appointing authority for the position of superintendent at each facility as provided in Iowa Code section 218.9 and the facility administrator of the civil commitment unit for sexual offenders. Each superintendent and the facility administrator shall serve at the pleasure of the appointing authority.

In filling superintendent or facility administrator vacancies, a committee appointed by the governing body will screen applicants and make recommendations for appointment. The committee:

- ◆ Shall represent the facility's medical staff (where appropriate), other facility staff, and the governing body, and
- ◆ May include other persons as deemed appropriate by the governing body.

When the superintendent or facility administrator is to be absent from the facility, the governing body shall be notified and an appropriately qualified person shall be appointed as the acting superintendent.

### **Statutory Authority of Superintendent**

The statutory authority granted to the superintendents is delimited in the following Iowa Code Chapters:

- ◆ State mental health institutes, Iowa Code Chapter 226.
- ◆ Civil commitment unit for sexual offenders, Iowa Code Chapter 226.
- ◆ State resource centers, Iowa Code Chapter 222.
- ◆ State training schools, Iowa Code Chapter 233A.
- ◆ Iowa juvenile home, Iowa Code Chapter 233B.

### **General Duties of Superintendent**

The governing body delegates to the superintendent the responsibility for:

- ◆ Providing leadership that creates an environment or culture that enables the facility to:
  - Fulfill its mission,
  - Meet or exceed its approved goals, and
  - Instill in the employees a sense of ownership and pride in their work processes.
- ◆ Having a mechanism to assure that all necessary licenses and accreditations are in place and maintained.
- ◆ Developing and implementing the policies and procedures necessary for the discharge of the facility's duties, the management of the facility, quality of care, safety of the individuals served, and the admission of individuals, as necessary to carry out the facility's responsibilities.
- ◆ Developing and implementing the necessary administrative and committee structure necessary for the management of the facility and carrying out the facility's responsibilities. NOTE: The governing body shall approve the committee structure and review its activities annually.
- ◆ Developing policies and allocating available resources to individual facility programs to assure funding to meet service requirements. If adequate funding is not available, the superintendent shall notify the governing body in writing. NOTE: Approval of the governing body shall be required for all budget revisions.
- ◆ Recruiting and retaining employees.

- ◆ Appointing clinical staff and subordinate officers and employees in accordance with rules established by the Department of Management, the Human Resources Enterprise of the Department of Administrative Services and, when applicable, union contract provisions. NOTE: All appointments of clinical staff shall be reviewed and approved by the governing body.
- ◆ Requiring all subordinate officers and employees to perform their respective duties, regularly evaluating each employee's performance, and taking appropriate personnel action when necessary.
- ◆ Maintaining immediate custody and control of all property used in connection with the facility as provided in Iowa Code section 218.9, subject to the approval of the governing body.
- ◆ Conserving the physical and financial assets of the facility.
- ◆ Establishing and maintaining information and support systems.
- ◆ Directing the performance of accounting and business procedures as provided in the Code of Iowa as follows:
  - Monthly reports: Section 218.47
  - Annual reports: Section 218.48
  - Contingent fund: Section 218.49-51
  - Supplies and purchasing: Sections 218.52-218.56
  - Uniform system of accounting: Section 218.85
  - Facility payrolls: Section 218.88
  - Canteen maintenance: Section 218.98
- ◆ Implementing Iowa Code sections 218.99, 222.84 through 222.87, 226.43 through 226.47, 233A.17, 233B.6, 233B.16, and 234.37, which provide for creation of personal accounts for the individuals served and the responsibilities related to the deposit, accounting, and payment of personal funds.
- ◆ Keeping proper books and detailed records of receipts and disposition of all moneys and supplies received on account of any individual served.

### **Responsibilities Specific to the Mental Health Institutes**

The mental health institute superintendents shall be responsible for developing and implementing policies necessary for operation and management of the medical and clinical staff. These policies shall, at a minimum, do the following:

- ◆ Define the functions of the administrative, professional, and clinical employees of the facility in accordance with appropriate professional standards and local, state, and federal laws and regulations.
- ◆ Define the organizational structure of the clinical staff, including the method for selection, duties, functions, responsibilities, and the composition of any standing committees.
- ◆ Assure that clinical staff has sufficient autonomy and freedom to carry out their responsibilities and sufficient authority to provide high quality of care.
- ◆ Describe the methods for performing credential reviews.
- ◆ Define the procedures for admission to, and retention of, clinical staff membership including delineation and assignment of administrative or clinical authority and responsibilities.
- ◆ Define the procedures for granting or denying staff appointments, curtailments, suspensions, or revocations of clinical or staff responsibilities and authorities.
- ◆ Define the procedures for selection of staff officers, directors, and service administrators.
- ◆ Specify the requirements governing evaluations and authentication of medical histories, performance, and recording of physical examinations, and prescribing of medications by authorized and qualified physicians.
- ◆ Specify the requirements governing frequency and staff attendance at general and department service, team, or unit meetings.
- ◆ Delineate clinical privileges of clinical staff and responsibilities of physician members in relation to non-medical staff.

### **Clinical Staff**

Each superintendent shall be the responsible for:

- ◆ Determining the composition of the clinical staff.
- ◆ Establishing the privileging process and credentials review process.
- ◆ Requiring and assuring that the clinical staff abides by the ethical standards established by their professional standards.
- ◆ Assuring that only privileged members of the clinical staff shall admit patients to the hospital.
- ◆ Providing the primary relationship between the facility's clinical staff and the governing body.
- ◆ Presenting for final approval to the governing body the recommendations for the clinical staff regarding staff appointments, reappointments, and privileging.
- ◆ Providing to the governing body on a regular basis clinical staff recommendations.

### **Medical Staff**

Each superintendent shall be responsible for:

- ◆ Establishing and maintaining within the facility the organized medical staff that are responsible for uniform quality of care, treatment, and services.
- ◆ Maintaining a medical staff executive committee.
- ◆ Arranging medical staff executive committee meetings and maintaining the minutes from the meetings.

Each medical staff executive committee shall:

- ◆ Develop and submit for governing body approval its by-laws, rules, and regulations.
- ◆ Make specific recommendations to the governing body concerning:
  - The structure of the medical staff;
  - The mechanism used to review the current license status, training, experience, competency and ability to perform a requested privilege and to delineate individual clinical privileges;

- Medical staff membership;
- Delineated clinical privileges for each eligible staff member;
- The organization of the medical staff's quality assessment and improvement, activities as well as the mechanism used to conduct, evaluate, and revise such activities;
- The mechanism by which membership on the medical staff may be terminated;
- The mechanism for fair-hearing procedures; and
- Participation in continuing education.

All recommendations, written and oral, shall be presented or authenticated by an authorized representative of the medical staff executive committee.

Medical staff representatives shall have the opportunity to meet at least once every six months with the office of the governing body for the purpose of discussing concerns and recommendations.

#### **Performance Evaluation**

The governing body requires a process for performance evaluation, based on job descriptions, for employees who provide patient care services and are not subject to the medical staff privilege delineation process.

#### **Competency Training**

The governing body requires a process or processes designed to assure that all employees responsible for the assessment, treatment, or care of patients are competent in the following, as appropriate to the ages of the patients served:

- ◆ Ability to obtain information and interpret information in terms of the patient's needs,
- ◆ Knowledge of growth and development, and
- ◆ Understanding the range of treatment needed by these patients.

### **Level of Care**

The governing body requires mechanisms be in place to assure:

- ◆ The provision of one level of patient care for all programs at each facility.
- ◆ That all patients with the same health problem are receiving the same level of care in the facility.

### **Reporting**

The governing body requires the medical staff and employees of the facility's departments and services to implement and report on the activities and mechanisms for:

- ◆ Monitoring and evaluating the quality of patient care,
- ◆ Identifying opportunities to improve patient care, and
- ◆ Identifying and resolving problems.

The governing body, through the superintendent, shall support these activities and mechanisms.

### **Planning**

Each facility shall have:

- ◆ A written facility plan of the program's goals and objectives and procedures for implementation.
- ◆ An ongoing process for annually updating the facility plan.

The plan shall:

- ◆ Reflect the facility's mission statement.
- ◆ Set out the facility planning, budgeting and control (quality assessment and improvement) activities with adjustments made as necessary.
- ◆ Include the plans for treatment services evaluation and utilization review.

The governing body shall annually review and approve the facility plan as it relates to treatment services, facility management, and program management.

### **Citizen's Advisory Board**

The governing body delegates to the superintendent responsibility for convening a citizen's advisory board at each facility at least quarterly. The purpose of the board is as follows:

- ◆ To inform the superintendent and the administration of the facility how the public interprets:
  - Ongoing facility programs and their effectiveness, and
  - Proposed facility programs.
- ◆ To consult with the superintendent and the facility administration on suggested changes in the facility mission, goals, and policies.
- ◆ To interpret to the public the facility mission, goals, and programs.
- ◆ To recommend to the superintendent and the administration how they can best explain the facility mission, goals, and programs to the public.
- ◆ To assist in making citizens in the facility's catchment area aware of facility services available to them.
- ◆ To provide education on mental health issues and problems.

### **Community Planning**

The governing body delegates to the superintendent responsibility for integrating facility planning into the regional and state plans in coordination with representative community agencies and non-provider individuals.

### **Responsibilities Specific to the Boys' Training School**

The governing body delegates to the superintendent the responsibility for the establishment and operation of the advisory committee required in 441 Iowa Administrative Code 103.21(218,233A). The superintendent shall:

- ◆ With the consent of the governing body, appoint the membership;
- ◆ Facilitate the called meetings;
- ◆ Consult with the governing body on the agenda;
- ◆ Take and maintain the minutes from the meetings; and
- ◆ Provide the governing body with a report of the activities of each committee meeting.

## **Policy on Personnel Administration**

It is the policy of the Division that each facility superintendent shall be responsible for assuring that the implementation of personnel policies for all employees of the facility comply with the personnel policies of the Department and the State.

Major personnel actions and decisions shall be coordinated with the division administrator to assure that the overall management of the personnel responsibilities is in conformance with the goals and objectives of the Division and the Department.

### **New Hires or Promotions**

Facility written policies and procedures shall assure that the division administrator shall be given prior notification of the facility's intent to make an offer to a person for employment or promotion to management or professional level positions. The positions shall include but are not limited to:

- ◆ Physician supervisor,
- ◆ Physician,
- ◆ Nurse practitioner,
- ◆ Physician assistant,
- ◆ Administrator of nursing,
- ◆ Nursing services director,
- ◆ Pharmacist,
- ◆ Psychology administrator,
- ◆ Social work administrator,
- ◆ Treatment services director,
- ◆ Treatment program administrator,
- ◆ Public service executive 2 and 3,
- ◆ Public service supervisor 2 and 3,
- ◆ Executive officer 3,
- ◆ Education administrator,
- ◆ Business manager,
- ◆ Administrator of nursing,
- ◆ Deputy superintendent,
- ◆ Food services director 2 and 3, and
- ◆ Operations plant manager.

Notice shall be given by the superintendent before the offer of employment or promotion by direct phone contact with the division administrator during business days, evenings, weekends, and holidays.

### **Serious Personnel Actions**

Facility written policies and procedures shall assure that superintendent or the superintendent's designee shall report all serious personnel actions to the administrator before the action being taken, except in an emergency, in which case notice shall be given as soon as possible. Serious personnel actions shall include but are not limited to:

- ◆ Suspension with pay,
- ◆ Suspension without pay,
- ◆ Discharge, and
- ◆ Any action that is likely to create a request to the division administrator for response.

### **Reporting Serious Personnel Actions**

Facility written policies and procedures shall assure that the superintendent or the superintendent's designee provide the required reports to the division administrator by direct phone contact with the division administrator during business days, evenings, weekends, and holidays.

### **Employee Injury Reporting**

Facility written policies and procedures shall assure that the superintendent or the superintendent's designee shall be informed of all serious employee injuries related to work. The superintendent or the superintendent's designee shall report:

- ◆ All serious injuries resulting in the employee's death. Notice shall be provided to the division administrator within two hours of receipt of notice of the death by direct phone contact with the division administrator during business days, evenings, weekends, and holidays.
- ◆ All other serious injuries notice shall be reported to the division administrator by email by 12:00 pm the next working day after the superintendent or superintendent's designee has received notice of the injury.

### **Injuries Requiring Medical Attention off Grounds**

Facility written policies and procedures shall assure that all employee injuries requiring medical attention off grounds shall be reported to the division administrator. The superintendent or the superintendent's designee shall:

- ◆ Make the report as soon as the superintendent or the superintendent's designee is aware of the injury.
- ◆ Make the report by direct phone contact with the division administrator during business days, evenings, weekends, and holidays.
- ◆ Provide the division administrator with a written email report of the injury by 12 p.m. the next business day.

NOTE: If a full report of the injury is not known within the required reporting time frames, a follow-up email report shall be provided to the division administrator as soon as possible.

### **Record Checks**

The Department is responsible to protect the safety of the individuals served. The Department has a duty to provide a safe environment where the individual is safe from abuse or neglect.

Part of providing a safe environment is to assure that persons employed by the Department, volunteers, contractors or a contractor's employees performing work on the campus of the facility do not have a background of prior abuse or neglect. It is the policy of the Department to assure that background checks shall be conducted before a person is:

- ◆ Offered employment,
- ◆ Authorized to volunteer on a regular basis, or
- ◆ Authorized to provide contract services.

All record checks shall be completed as outlined in the ***Registry and Record Check Manual for DHS*** issued by the Department's Office of Human Resources.

### **Pre-Employment Record Checks**

Facility written policies and procedures shall assure that before a person is offered employment, approved to regularly volunteer, or approved as a contractor the following record checks shall be completed:

- ◆ Criminal Records in Iowa,
- ◆ Iowa Child Abuse Registry,
- ◆ Iowa Dependent Adult Abuse Registry,
- ◆ Sexual Offender Registry,
- ◆ List of Excluded Individuals and Entities (LEIE), and
- ◆ Excluded Parties List System (EPLS).

### **Out-of-State Pre-Employment Checks**

Facility written policies and procedures shall assure that, in addition to the required national and in-state required record checks, when employing a person from out of state the facility shall:

- ◆ Complete pre-employment and ongoing out-of-state child abuse and dependent adult abuse records checks when the facility because of proximity regularly hires and employs persons who live in another state.
- ◆ Make a reasonable attempt to complete pre-employment child abuse and dependent adult abuse record checks on incidental out-of-state hires.

At the discretion of the superintendent, the check may be waived based on the application information submitted, licensure checks, or a reference's recommendations that provide reasonable evidence that a check is not required.

### **Post-Employment Record Checks**

Facility written policies and procedures shall assure that subsequent to the employment of a person, a national FBI criminal record check shall be completed.

### **Volunteer Record Checks**

Facility written policies and procedures shall assure that persons who volunteer on a regular basis shall be subject to the same records checks as a person seeking employment. Checks are not required for:

- ◆ Individual volunteers who volunteer less than once per calendar quarter and who during their duties shall be under constant supervision by an employee.
- ◆ One-time group volunteers who during their duties shall be provided constant supervision by an employee.

### **Record Check Evaluations**

Facility written policies and procedures shall assure that persons seeking to volunteer who require a record check evaluation shall be subject to the same evaluation process as a person seeking employment using form 470-2310, *Record Check Evaluation*.

### **Contractor Record Checks**

Facility written policies and procedures shall assure that all persons who provide contract services on the facility's campus shall be subject to the same records checks as a person seeking employment. The facility shall be responsible to:

- ◆ Conduct the records checks for the contractors who contract directly with the facility.
- ◆ Assure that contractors providing services through the Department of Administrative Services have had the required records checks on all the persons who will be providing services under the contract.

If the Department of Administrative Services has not conducted the records checks, it shall be the responsibility of the facility to see that record checks are completed before the contract services are provided.

Records checks do not need to be completed on an intermittent contractor who does not provide services directly to an individual and who is under the constant supervision of an employee at all times.

### **Record Check Evaluations**

Facility written policies and procedures shall assure that persons seeking to contract who require a record check evaluation shall be subject the same evaluation process as a person seeking employment using form 470-2310, *Record Check Evaluation*.

### **Ongoing Employee Record Checks**

Facility written policies and procedures shall assure that ongoing record checks shall be completed on employees as follows:

- ◆ For an employee who:
  - Is transferring from another facility or state agency,
  - Is being promoted, or
  - Has a substantial change in duties.
- ◆ As determined by the director.
- ◆ As determined by the superintendent. The superintendent shall have the authority to require a partial or complete records check for a current employee at any time the superintendent believes it is appropriate to:
  - Protect the safety of the individuals served or other employees, or
  - Assure compliance with Medicaid funding requirements.

### **Nonemployee Campus Resident**

Facility written policies and procedures shall assure that a person who is not an employee, volunteer, or contractor of the facility but is listed in a campus rental agreement as living with the tenant shall be subject to the same record screening process as an applicant for employment.

Dependent children of the tenant or a person under the age of 18 years living with the tenant may, at the discretion of the superintendent, be exempt from the background check requirement. Background checks with the List of Excluded Individuals and Entities (LEIE) and the Excluded Parties List System (EPLS) do not need to be included.

See [Approval to Live on Campus](#) for more information.

### **Policy on Rental or Leasing of Facility Grounds or Buildings**

With the approval of the division administrator, Department facilities are authorized to rent or lease space at the facility. To support the development of and promote the efficient operation of publicly funded services, space that is not needed for the facility's current program operations may be rented or leased to:

- ◆ A department or division of state government,
- ◆ A county or group of counties, or
- ◆ A private non-profit agency.

Facility space designed for residential living, such as apartments or houses, may be used to enhance employment opportunities or improve the efficiency of the operation of the facility.

Facility written policies and procedures shall assure that the rental or leasing of space shall conform to the policies in 24-C, [Rental of Housing and Storage Space at DHS Institutions](#).

#### **Approval to Live on Campus**

Facility written policies and procedures shall assure that approval of a nonemployee to live on campus shall be contingent on:

- ◆ The person or the person's parent, guardian, or legal representative giving consent to required records check,
- ◆ Having a satisfactory background check or being authorized based on a record check evaluation,
- ◆ Agreeing to abide by any conditions placed on the person's residence at the facility, and
- ◆ Authorizing the facility to perform a new records check at any time and for any purpose.

See [Nonemployee Campus Resident](#) for record check policies.

NOTE: Nothing in this policy shall be interpreted as providing that a non-employee who complies with these conditions has a right to live on campus. The final decision on approval shall rest with the superintendent.

### **Agency Lease Contract**

Facility written policies and procedures shall assure that in the process of developing a lease for the use of campus space, a determination shall be made as to whether or not the lease shall require that the lessee conduct the same record checks for the lessee's employees as is required for Department employees.

- ◆ Checks with the List of Excluded Individuals and Entities (LEIE) and the Excluded Parties List System (EPLS) do not need to be included.
- ◆ A lessee that is subject by law to the same legal record check requirements as the facility shall not be required to have the record check requirement included in the lease.
- ◆ A lessee that is not subject to the same legal requirements shall be evaluated to determine the level of opportunity for interaction between the lessee's employees and the individuals served by the facility to determine whether or not the requirement shall be included.

See [Record Checks](#) for record check policies.

### **Retirement**

Facility written policies and procedures shall assure that the division administrator is informed of a retirement notice given by an employee in a management level position.

Notice shall be provided by the superintendent or the superintendent's designee to the division administrator by e-mail no later than 12 p.m. the next business day after the day the superintendent was informed of the retirement.

### **Exceptional Employee Action Recognition**

Facility written policies and procedures shall assure that the superintendent or the superintendent's designee shall provide notification to the division administrator of the facility's actions to provide special recognition to an employee for exceptional job performance or other reason.

Notice shall be provided to the division administrator by e-mail at least one week before the recognition will be made.

### **Authorized Table of Organization**

Facility written policies and procedures shall assure that the superintendent shall submit all proposed changes to the facility's authorized table of organization to the division administrator for approval before any action being taken.

### **Policy on Medical Officer of the Day**

It is the policy of the Division that the mental health institutes and resource centers shall provide on call medical services 24 hours per day seven days per week. The services outside of normal working hours shall be provided by a designated medical officer of the day (MOD). The responsibilities of the MOD are:

- ◆ To be readily available to on-duty staff,
- ◆ To provide medical support services, and
- ◆ To assure that appropriate medical responses are provided when the need arises.

### **Qualifications**

Facility written policies and procedures shall assure that the MOD shall meet the following requirements:

- ◆ Have a current valid Iowa physician's license, or
- ◆ At a mental health institute when a licensed physician is designated as a senior MOD, have a current valid license as a physician assistant (PA) or as an advanced registered nurse practitioner (ARNP).

NOTE: MOD responsibilities may be fulfilled using either facility employees or through a personal services contract as long as the licensure and telephone and in-person standards can be met.

### **Senior Medical Officer of the Day**

Facility written policies and procedures shall assure that an employee appointed as senior medical officer of the day shall have a current valid Iowa physician's license.

### **Hours**

Facility written policies and procedures shall limit MOD coverage to the following:

- ◆ Week nights from 4:30 p.m. to 8:00 a.m., Monday through Friday,
- ◆ Weekends from 4:30 p.m. Friday through 8:00 a.m. Monday, and
- ◆ State-paid holidays from 4:30 p.m. on the day preceding the holiday to 8:00 a.m. on the day following the holiday.
- ◆ The number of hours used to calculate MOD time shall not exceed:
  - For week nights, 15.5 hours;
  - For weekends, 63.5 hours; and
  - For holidays, 39.5 hours.

NOTE: The actual starting and ending time may vary by facility depending on the facility's actual work shift schedule.

### **Availability**

Facility written policies and procedures shall assure that the MOD is available as follows:

- ◆ By telephone within five minutes of being called by an on-duty employee.
- ◆ In person within 20 minutes of being called by an on-duty employee when, based on accepted medical practice guidelines, it is determined that immediate medical attention is required.

NOTE: The MOD is not required to be physically present on campus as long as the telephone and in person time standards can be met.

#### **Senior Medical Officer of the Day Availability**

Facility written policies and procedures shall assure that an employee appointed as a senior MOD shall be available to the MOD by telephone within five minutes of being called by the MOD.

### **Compensation**

Facility written policies and procedures shall assure that MOD compensation shall be as follows:

- ◆ Physicians employed by a mental health institute shall be compensated in accordance with the pay plan approved by the governing body.
- ◆ Physicians employed by a resource center shall receive compensatory time at the rate of:
  - One hour for each six hours worked on a week night,
  - One hour for each three hours worked on a weekend, and
  - One hour for each three hours worked on a state-paid holiday.
- ◆ An employed PA or ARNP shall be compensated in accordance with the applicable union contract.
- ◆ MODs employed under a personal services contract shall be compensated in accordance with the Department's policies on personal services contracts.

### **Senior Medical Officer of the Day Compensation**

Facility written policies and procedures shall assure that an employed senior MOD shall receive one hour of compensatory time for each ten hours of senior MOD worked.

### **Maximum Compensatory Time Accumulation**

Facility written policies and procedures shall assure that an employee who accumulates compensatory time under this policy:

- ◆ Shall not accumulate compensatory time in excess of 80 hours, and
- ◆ Shall be paid off on the next payroll for hours in excess of 80 when the employee's schedule will force the accumulation to exceed 80 hours.

### **Medical Staff Responsibilities**

Facility written policies and procedures shall assure that the facility's medical staff is responsible to:

- ◆ Establish practice guidelines to be used by a PA or ARNP providing MOD coverage to determine when the senior MOD shall be called.
- ◆ Review the implementation of the facility's MOD policy to determine the adequacy of the facility's response to the medical needs of the individuals served.
- ◆ At least annually, report the results of its review to the superintendent and provide recommendations for needed improvements in the implementation of this policy.

### **Superintendent's Report**

Facility written policies and procedures shall assure that the superintendent, upon receipt of the required report from the medical staff, shall forward a copy of the report to the governing body.

### **Policy Exceptions**

Facility written policies and procedures shall assure that any facility-desired exceptions or deviations to this policy shall be submitted to the governing body for approval before implementation.

### **Policy on Public Performance License**

It is the policy of the Division that all facilities will comply with all copyrights governing media that is use for public showing in the facility.

Facility written policies and procedures shall assure, before showing any copyright protected videos, movies, DVDs, etc. that:

- ◆ The facility shall have in place or is covered by a public performance license which allows for the showing of the copyrighted materials in a non-theatrical public performance, and
- ◆ The facility shall adhere to the applicable copyright laws.

## **Policy on Receipt of Gifts**

It is the policy of the Division to encourage the acceptance of gifts and bequests from persons and groups interested in supporting the mission of the Division. Superintendents are authorized to receive gifts and bequests in accordance with this policy. The following gift protocol shall be followed in the receipt of gifts.

All gifts and bequests received shall be reported to the division administrator.

### **Gift Guidelines**

Facility written policies and procedures shall assure that:

- ◆ Gifts or bequests designated for a particular purpose shall be accepted only if the purpose is consistent with the goals and mission of the facility and the Department.
- ◆ Any designation of the use of the gift shall be made in writing by the donor before the gift is accepted.
- ◆ Gifts or bequests given with no designated purpose shall be used only in accordance with the overall plan of services provided by the facility.
- ◆ The division administrator's approval shall be obtained before the acceptance of the gift or bequest if receipt requires an expenditure of \$100 or more in either cash or in-kind of state resources for receipt of the gift or bequest.
- ◆ The donor will be publicly named unless anonymity is approved by the division administrator.

### **Gift or Bequest of Real Property**

Facility written policies and procedures shall assure that if a gift or bequest of real property is proposed, then the acceptance of the gift or bequest shall only be made by the director.

### **Facility Planned Solicitations**

Facility written policies and procedures shall assure that a superintendent shall obtain the approval of the division administrator before initiating a planned solicitation of gifts or bequests.

### **Reporting Gifts and Bequests**

Facility written policies and procedures shall assure that all gifts and bequests are reported regardless of value.

#### **Reporting to the Division Administrator**

Facility written policies and procedures shall assure that before accepting a gift or bequest, the superintendent or the superintendent's designee shall report to the division administrator if:

- ◆ The donor requests anonymity;
- ◆ The gift or bequest value will exceed \$2,000; or
- ◆ Receipt of the gift or bequests requires the expenditure, in cash or in-kind, of state resources of more than \$100.

#### **Reporting to the Ethics and Campaign Discloser Board**

Facility written policies shall assure that:

- ◆ All gifts or bequests, regardless of value, are reported to the Ethics and Campaign Discloser Board within 20 days of receipt of the gift or bequest.
- ◆ The report shall be made using the board's Form GB. The form is available at:  
[http://www.state.ia.us/government/iecdb/forms\\_brochures/forms/ethicsforms.htm#gift](http://www.state.ia.us/government/iecdb/forms_brochures/forms/ethicsforms.htm#gift).
- ◆ One copy of the completed form shall be sent to the division administrator.

NOTE: If there are questions about this report, then contact the Ethics and Campaign Disclosure Board at 515-281-3489.

#### **Reporting to the Director's Office**

Facility written policies and procedures shall assure that a report of all gifts or bequests received and reported to the Ethics and Campaign Disclosure Board shall be reported to the director's office. The report shall be due by July 1 each year and cover all gifts and bequests received during the previous fiscal year.

### **Policy on Scientific Misconduct**

It is the policy of the Division that all research conducted by or with the Division's facilities shall be conducted consistent with established principles of research design and ethical conduct. All research shall be conducted in a manner to prevent scientific misconduct or research misconduct. Allegations of misconduct shall be investigated and corrected in a timely manner.

Facility written policies and procedures shall assure that before the facility conducts or participates in a research project, the Division's policy on scientific misconduct is reviewed to determine what the research project will be required to include for compliance with the policies and procedures.

The full policy may be obtained by contacting the division administrator.

All research projects shall require prior approval by the division administrator.

### **Policy for Confidentiality of Individual's Information**

State and federal laws provide for the protection of the confidentiality of information concerning individuals served by the Department's facilities. Confidentiality applies to:

- ◆ The records maintain on each individual served,
- ◆ The general records developed in the operation of the facility containing information about an individual, and
- ◆ The personal knowledge an employee has about any individual served.

Protecting confidential information is paramount to protecting the individual's rights. Confidentiality is also important to providing an atmosphere where individuals feel free to participate in the treatment process without the threat of having personal information made public.

### **General Principles of Confidentiality**

The facility's written policies and procedures shall assure that:

- ◆ The confidentiality of all information contained in the files of the facility relating to a specific individual shall be protected from unauthorized use, dissemination, or release.
- ◆ The individual shall have the right to access the confidential information that the individual provided to the facility or the information generated by the facility within a reasonable period of time.
- ◆ Confidential information provided to the facility by another agency, service provider, or individual shall not be released. Any person, agency, service provider, or individual seeking the information shall be directed to the provider of that information.
- ◆ The individual shall have the right to have the facility release confidential information that the individual provided to the facility or the information generated by the facility to any person or agency the individual desires, by providing proper consent.
- ◆ Confidential information shall be released only based on the informed consent of the individual or the parent, guardian, other legal representative with the authority to give consent to release, or a proper legal authority for release of the information.
- ◆ The release of all medical information shall conform to Public Law 104-191, the Portability and Accountability Act of 1996 (HIPAA).
- ◆ When there is question about the legal release of confidential information, the information shall not be released and the question shall be directed to the office of the division administrator.
- ◆ There shall be internal procedures and practices for recording and storing confidential information that assure that only authorized employees or others have access to the confidential information.
- ◆ An employee shall be authorized to access confidential information only to the extent that the employee requires the information to perform the employee's assigned job duties.
- ◆ An employee who releases confidential information without the proper consent or legal authority, or who accesses confidential information without proper consent or legal authority for personal or other purposes, shall be subject to discipline up to and including discharge.

### **General Department Policy**

Facility written policy and procedures shall assure compliance with the Department's policy on confidentiality found in: [Employees' Manual Chapter 1-C](#).

### **Policy on Law Enforcement Requests**

It is the policy of the Division that facility written policies and procedures shall assure that all requests for confidential information from county, state, or federal law enforcement agencies concerning current or former resident of a facility, shall be directed to the division administrator for a determination of the appropriate response.

### **Policy on Advance Directives**

The Department has a legal obligation to comply with laws of the state of Iowa in regard to advanced directives. The individuals served by the Department's facilities have the right to prepare advance directives. When an individual served by a facility has an advance directive, the facility is legally obligated to comply with the individual's wishes as stated in the directive.

NOTE: This policy does not apply to the state training schools or the juvenile home.

### **General Principles on Advance Directives**

Facility written policies and procedures governing advanced directives shall assure that:

- ◆ Adult individuals shall be informed of and supported in their right to make decisions regarding their health care.
- ◆ Adult individuals admitted shall be informed of and supported in their right to execute or not execute an advance directive.
- ◆ Treatment is not provisioned on whether or not the individual has or has not executed an advance directive.
- ◆ The individual's wishes expressed through an advance directive are followed.

### **Right to Make Decisions**

Facility written policies and procedures shall assure an individual's rights under state and federal laws to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives are complied with.

### **Admission Procedure on Advance Directives**

Facility written policies and procedures governing admissions shall assure that upon admission, each adult individual:

- ◆ Shall be informed in writing of the individual's right to:
  - Make decisions regarding the individual's medical care, and
  - Accept or refuse offered treatment, unless:
    - The treatment has been ordered by the court, or
    - The treatment is needed to provide immediate protection to the individual's health or safety or the safety of others.
- ◆ Shall be provided written information concerning the individual's right to execute an advance directive as provided for in the Code of Iowa.
- ◆ Shall be asked if the individual has an advance directive currently in place and if so, shall be asked to provide a copy.

If the individual is not competent to enter into or provide information on the existence of an advance directive upon admission, information concerning advance directives may be given to the individual's family, family contact, guardian, or legal representative.

At any time during the stay when the individual regains competence, the information shall be provided to the individual.

### **Social Services**

Facility written policies and procedures governing social services shall assure that:

- ◆ Within five business days of an individual's admission, a social services employee shall meet with the individual to:
  - Clarify with the individual, the individual's right to make decisions regarding medical care, including the right to accept or refuse offered treatment unless:
    - The treatment has been ordered by the court, or
    - The treatment is needed to provide immediate protection to the individual's health or safety or the safety of others.
  - Confirm whether or not the individual has an advance directive in effect, and
  - Provide the individual with any additional information requested about the right to implement an advance directive.
- ◆ If the individual indicates having an advance directive at admission or during the interview but the facility has not received a copy, a copy shall be requested.
- ◆ The individual shall be informed that the facility cannot comply with the advance directive until a copy is received.
- ◆ If the individual wants the facility to comply with the advance directive, then the employee shall work with the individual to obtain a copy.
- ◆ If the individual does not have an advance directive and wants to make one, the employee shall refer the individual to the appropriate community resources for the development of the advance directive.
- ◆ The individual understands that treatment at the facility will not be affected and is not contingent upon whether or not the individual has an advance directive.
- ◆ The issue of advance directives shall be reviewed at least annually with any individual at the facility on a long-term basis.

### **Declaration on Life-Sustaining Procedures**

Facility written policies and procedures shall assure that when an individual provides the attending physician with a declaration relating to life-sustaining procedures as provided in [Iowa Code section 144A.3](#), the facility and its employees shall:

- ◆ Assume that the declaration, in the absence of any information to or actual notice to the contrary, is valid.
- ◆ Assure that as long as the individual is able to make decisions regarding the use of life-sustaining procedures, the individual shall be able to do so.
- ◆ Assure that the declaration shall govern the decisions regarding the provision of life-sustaining procedures when the individual:
  - Has been determined to have a terminal condition, and
  - Is not able to make decisions regarding the use of life-sustaining procedures.

### **Terminal Condition**

Facility written policies and procedures shall assure that, when a physician determines the individual to have a terminal condition:

- ◆ The determination is confirmed by another physician, and
- ◆ The determination is documented in the individual's facility record.

### **Alternative Procedure for Declaration**

Facility written policies and procedures shall assure that when an individual does not have a declaration under [Iowa Code section 144A.3](#) and the individual is comatose or incompetent or otherwise physically or mentally incapable of communication and has a terminal condition:

- ◆ The family (unless the individual has expressly stated that family is not to be contacted), guardian, or other legal representative shall be informed of the procedure under [Iowa Code section 144A.7](#).
- ◆ The facility's attending physician shall offer to consult with the following, in the following order, if reasonably available:
  - An attorney in fact who has been designated to make health care decisions for the individual;

- An individual's guardian, providing court approval is obtained;
  - An individual's spouse;
  - An adult child of the individual, or if there is more than one adult child, a majority of the adult children;
  - A parent of the individual or parents;
  - An adult sibling.
- ◆ A decision by the appropriate decision maker, guided by the express or implied intentions of the individual, may be made to withhold life-sustaining procedures based on the physician's recommendations.
  - ◆ The consultation and decision process shall be witnessed by an adult person other than the physician, the person for whom the declaration is being made, or the decision maker.
  - ◆ The consultation and decision shall be documented in the individual's facility record.

#### **Absence of Declaration**

Facility policies and procedures shall assure that in the absence of a valid declaration or a decision made under the alternative procedure, life-sustaining procedures shall be provided.

#### **Out-Of-Hospital Do-Not-Resuscitate Orders**

Facility written policies and procedures shall assure that when an out-of-hospital do-not-resuscitate order is received for an individual being admitted or transferred:

- ◆ The order is written on the form required by the Iowa Department of Public Health. This form is available at [www.idph.state.ia.us/ems](http://www.idph.state.ia.us/ems).
- ◆ The order shall be implemented if the facility believes the order to be valid.
- ◆ Necessary and appropriate resuscitation shall be provided if the facility is uncertain whether the order is valid or applicable.
- ◆ An order shall not apply when the individual is in need of emergency medical services outside the scope of the individual's terminal condition.

- ◆ In carrying out an order, appropriate comfort, care, and pain relief shall be provided.
- ◆ The order shall be revoked if at any time that the individual, or a person authorized to act on behalf of the individual as designated on the out-of-hospital do-not-resuscitate order, is able to communicate to the facility in any manner that the order is revoked.
- ◆ The compliance or noncompliance with the order shall be documented in the individual's facility record, including the reasons for not complying as follows:
  - If the order was revoked, then evidence the order was revoked shall be documented in the individual's facility record.
  - If the facility is uncertain whether the order is valid or applicable, then the uncertainty regarding the validity or applicability of the order shall be documented in the individual's facility record.

### **Durable Power of Attorney for Health Care Decisions**

Facility written policies and procedures shall assure that:

- ◆ When an individual provides the facility with a durable power of attorney for health care, as provided in [Iowa Code section 144B](#), the facility and its employees shall:
  - Assume that, in the absence of actual knowledge to the contrary, the durable power of attorney is valid.
  - Assure that as long as the individual is able to make health care decisions, the individual shall be able to do so.
  - Assure that the attorney in fact shall be responsible for the health care decisions when:
    - The individual is not able to make decisions regarding health care decisions, in the judgment of the attending physician, unless:
    - A district court setting in equity has found that the attorney in fact is acting in a manner contrary to the individual's wishes.

NOTE: The attending physician's rationale for the determination shall be supported by documentation in the individual's facility record.

- ◆ The attorney in fact's decisions regarding health care of the individual shall have priority over any other person, including a guardian appointed under Iowa Code Chapter 633.

An attending physician may decline to withdraw or withhold healthcare necessary to keep the individual alive despite a contrary health care decision by the attorney in fact. Any decision to not follow the attorney in fact's decision regarding health care shall be supported by documentation in the individual's facility record.

If the attorney in fact authorizes the withholding of life-sustaining treatment and the health care provider believes this is consistent with the principal's wishes, the provider shall allow the individual an opportunity to object.

- ◆ The individual shall be presumed able to make a decision if at any time, in the judgment of the attending physician:
  - The individual is capable of making health care decisions, or
  - The individual objects to a decision to withhold or withdraw health care.

The basis for the decision shall be supported by documentation in the individual's facility record.

- ◆ The attorney in fact, unless limited by the durable power of attorney, shall be given the same right to access and to review the individual's facility record as the individual has and the attorney in fact may consent to the disclosure of the records when acting pursuant to the durable power of attorney.
- ◆ An employee of the facility shall not be a witness to or appointed as attorney in fact for a durable power of attorney to be applied to health care decisions made by any facility employee.

### **Revocation of an Advanced Directive**

Facility written policies and procedures governing revocation of an advanced directive shall assure that:

- ◆ An individual who has an advance directive in place may revoke the advance directive at any time and in any manner by which the individual is able to communicate.
- ◆ Revocation shall be effective only when the individual makes the revocation communication the physician or to another person who communicates the revocation to the physician.

- ◆ The physician shall document the revocation in the individual's facility record. Any copies of the advance directive shall be:
  - Marked "revoked,"
  - Removed from the individual's facility record, and
  - Maintained in a separate file.

### **Declaration of Final Disposition**

Facility written policies and procedures governing a final disposition declaration shall assure that:

- ◆ When an individual provides the facility with a final disposition declaration as provided in Iowa Code Chapter 144C, the facility and its employees shall:
  - Assume that the final disposition declaration is valid in the absence of actual knowledge to the contrary.
  - Upon the death of the individual, notify the designee or an alternate designee of the death and follow the wishes of the designee or alternate designee in the disposition of the decedent's body.
- ◆ The designee shall have access to information from the decedent's facility record necessary to carry out the responsibilities of the decedent's declaration.
- ◆ An employee of the facility shall not be a witness to or be appointed as a designee.

### **Revocation of Final Disposition Declaration**

Facility written policies and procedures shall assure that a declaration shall be complied with unless the declarant has provided a written statement, signed by the declarant, that the declaration is revoked.

### **Complaints**

Facility policies and procedures shall assure that if an individual has a complaint about the facility's advance directive policies or their implementation, the individual shall be informed of the right to file a complaint with the Iowa Department of Inspection and Appeals.

### **Community Education on Advance Directives**

Facility policies and procedures shall assure that education on advance directives is provided and documented. Education shall be provided through written materials made available to individuals, families, or other interested community persons. Education shall provide information on:

- ◆ An individual's rights to make decisions regarding medical care and final disposition of the individual's remains,
- ◆ How the Code of Iowa defines advance directives,
- ◆ How advance directives are designed to enhance an individual's control over medical treatment and decisions regarding disposition of the individual's remains, and
- ◆ The process for formulating an advance directive.

### **Employee Training on Advance Directives**

Facility written policies and procedures shall assure that all employees responsible for providing information about or implementing advanced directives are trained on:

- ◆ An adult individual's right to make decisions regarding the health care,
- ◆ An adult individual's right to make decisions regarding the disposition of the individual's remains and the ceremonies planned,
- ◆ Supporting an individual in those decisions,
- ◆ The types of advance directives available in Iowa,
- ◆ The processes for developing advance directives,
- ◆ The process for compliance with advance directives,
- ◆ The process for revoking an advance directive, and
- ◆ Documentation of actions taken in relationship to advance directives.

## **Policy on Clozapine Administration**

It is the policy of the Division that each facility that uses clozapine as part of an individual's plan of treatment shall have in place a detailed protocol governing its administration and use.

### **Clozapine Protocol**

Facility written policies and procedures shall assure that the facility's protocol address the following topics:

- ◆ Informed consent,
- ◆ The establishment of a clozapine review panel responsible to:
  - Have knowledge about all the individuals in the facility who are on clozapine,
  - Review each individual's facility record to ensure that protocols are being followed, and
  - Conduct ongoing monitoring to evaluate the therapeutic effect and costs.
- ◆ The guidelines established for determining which individuals are candidates for the use of clozapine.
- ◆ The guidelines for prescribing clozapine, including:
  - The criteria used to determine which individuals are appropriate candidates,
  - The contraindications in the use of clozapine,
  - The pre-prescription examination,
  - A review of any concurrent medications and their use jointly with clozapine,
  - The process for monitoring toxic effects,
  - The process for evaluating continued use,
  - The process for monitoring the individual's white blood cell count,
  - The process for reinstatement of clozapine after its discontinuation,
  - The standards for discontinuation, and
  - Referral for aftercare for individuals discharged on clozapine.
- ◆ The procedures to be used for a new admission or a transferred individual who is on clozapine.

## **Policy on Interstate Mental Health Compact**

The Interstate Compact on Mental Health was ratified and adopted by the 60<sup>th</sup> General Assembly of the State of Iowa on April 25, 1963, and became effective on July 1, 1963. It is the policy of the Division to assure that the provisions of the Compact are enforced within the state.

### **Purposes of Compact**

The Division shall use the Compact for the following purposes:

- ◆ To assure that any member state shall provide care and treatment to any person found in that state who is in need of institutionalization for mental illness or mental retardation regardless of residence or legal settlement,
- ◆ To permit the transfer of an individual with mental illness or mental retardation at an institution in another state when clinical determinations indicate such a transfer would be in the best interest of the individual, and
- ◆ To permit cooperative arrangements between member states for after-care services or supervision of an individual on convalescent or conditional release.

### **Major Provisions of the Compact**

The major provisions of the Interstate Compact on Mental Health are:

- ◆ When an individual, physically present in any member state, shall be in need of institutionalization by reason of mental illness or mental retardation, the individual shall be eligible for care and treatment in a public facility in the state irrespective of the individual's residence, legal settlement, or citizenship qualifications.
- ◆ An individual may be transferred to an institution in another state whenever there are factors, based on clinical determinations, indicating that the care and treatment of the individual would be facilitated or improved thereby. Factors include but are not limited to:
  - The individual's full record,
  - The location of the individual's family,
  - Character of the illness, and
  - Probable duration of the illness.

- ◆ A receiving state shall not be required to accept an individual from another state unless the receiving state agrees to accept the individual.
  - ◆ An interstate individual under the Compact shall receive the same priority for admission as a local individual.
  - ◆ Further transfer of an individual may be considered at any time if it is determined the individual would benefit from treatment in another facility.
  - ◆ Whenever a dangerous or potentially dangerous individual is on unauthorized leave from a facility in any member state, that state shall promptly notify the appropriate authorities within and without its jurisdiction of the unauthorized leave in order to facilitate apprehension. Upon apprehension and identification of the individual, the individual shall be detained in the state where found pending proper disposition.
  - ◆ The duly accredited officers of any member state, upon the establishment of their authority and the identity of the individual, shall be permitted to transport, without interference, any individual being moved through any and all member states.
  - ◆ No individual shall be admitted to more than one facility at any given time. The completion of the transfer of an individual to a facility in a receiving state shall have the effect of making the individual a patient in the receiving state's facility.
  - ◆ The sending state shall pay all the costs of transportation when transporting an individual under the terms of the Compact.
  - ◆ The Compact does not apply to a person whose institutionalization occurs:
    - While under sentence in a penal or correctional facility or while subject to trial on a criminal charge, or
    - Due to the commission of an offense for which, in the absence of mental illness or mental retardation, said individual would be subject to incarceration in a penal or correctional facility.
- NOTE: Dangerous individuals on unauthorized leave are exempted from this requirement.
- ◆ To every extent possible, it shall be the policy of the member states that no individual shall be placed or detained in any prison, jail, or lockup, except as a temporary measure.

### **Compact Administrator and Coordinator**

The director designates the administrator of the Division of Mental Health and Disability Services as the compact administrator.

For operational purposes, the division administrator may appoint one staff position within the Division to serve as the compact coordinator.

### **Types of Transfers Covered**

Division policy shall cover the following types of individual transfers:

- ◆ The transfer of an individual from another state to Iowa for inpatient care,
- ◆ The transfer of an individual from another state to Iowa for after-care services or supervision,
- ◆ The transfer of an individual from Iowa to another state for inpatient care,
- ◆ The transfer of an individual from Iowa to another state for after-care services or supervision,
- ◆ The return and detention in Iowa of an individual on unauthorized leave from another state facility, and
- ◆ The return and detention in another state of an individual on unauthorized leave from an Iowa facility.

### **Procedures for Transfers Into Iowa**

Division policy for all Compact requests to transfer an individual into Iowa is:

- ◆ All requests shall be directed to the compact administrator.
- ◆ Upon receipt of a request for a facility transfer, the compact coordinator shall:
  - Review the materials to determine if appropriate information has been submitted, including any consents required before the facility can contact family or other interested persons.
  - When needed information is missing, contact the requesting state for the additional information.
  - When the appropriate information has been received, forward the information to the superintendent of the appropriate facility.

- Assure that the facility receiving the information shall:
  - With appropriate consent, contact the individual's family or other interested persons to determine their interest in the individual and their attitude toward the transfer,
  - Review the information in terms of the appropriateness of the admission, and
  - Provide results of the evaluation and a recommendation as to the transfer to the compact coordinator.
- ◆ Upon receipt of a request for after-care services or supervision, the compact coordinator shall:
  - Review the materials to determine if appropriate information has been submitted, including any consents required before the facility can contact family or other interested persons.
  - When needed information is missing, contact the requesting state for the additional information.
  - When the appropriate information has been received, forward the information to the Division of Field Operations for referral to the appropriate Department local office.
  - Assure that the local office receiving the information shall:
    - With appropriate consent, contact the proposed place of placement and evaluate interest and attitude toward the placement,
    - Evaluate the appropriateness of the living arrangement and the availability of needed supports, and
    - Provide results of the evaluation and a recommendation as to the transfer to the compact coordinator.
- ◆ The compact coordinator shall review the facility or local office recommendation for appropriateness and advise the requesting state of the decision.

When a transfer is approved into Iowa for after-care services or supervision, the compact coordinator shall provide a copy of the information received to the appropriate facility in case an inpatient admission is required.

### **Procedures for Transfers Out of Iowa**

Division policy for all Compact requests to transfer an individual out of Iowa is:

- ◆ The facility requesting transfer to a facility or for after-care services or supervision in another state shall:
  - Identify the treatment goals of the individual and treatment team to be achieved by a transfer.
  - Determine the type of placement needed based on the identified treatment goals and the specific treatment needs or supports required to meet the goals.
  - Where appropriate, evaluate the attitude and desires of family or other interested persons about the transfer.
  - Prepare a transfer request which shall contain, at a minimum, the following information:
    - A clinical summary describing the individual's illness, diagnosis, treatment, prognosis, the treatment goals to be achieved by the transfer, and the type of treatment or supports needed,
    - A summary of appropriate information concerning the attitudes and desires of the family or other interested persons including names and contact information,
    - The appropriate consents needed by the out-of-state facility to contact family or other interested parties, and
    - Signed consent to transfer from the individual and, where appropriate, a guardian, or other legal representative.
- ◆ The compact coordinator shall:
  - Review the information submitted by the requesting Iowa facility to determine if it is complete.
  - If not complete, request that the Iowa facility submit needed information.
  - If complete, forward the information to the receiving state.
  - Advise the requesting Iowa facility of the decision obtained from the receiving state.
- ◆ If the individual being transferred is involuntarily committed, the sending facility shall notify the Iowa court of the receiving state's approval of the transfer.

### **Detention of an Individual on Unauthorized Leave From Another State**

Division policy for all Compact requests for detention of an individual on unauthorized leave from another state is:

- ◆ Upon the request of another state to detain an individual, the compact coordinator shall have the authority to authorize the detention of the individual temporarily at a Department facility.
- ◆ The compact coordinator shall request verbal authorization from the other state to return the individual. The other state shall confirm the verbal authorization in writing.
- ◆ Once authorization for return has been received, specific transportation plans shall be worked out between the sending and receiving facilities.
- ◆ If return is not authorized, the detaining facility shall release the individual within 24 hours unless an application for involuntary commitment is filed.
- ◆ Copies of all correspondence between the sending and receiving facility shall be provided to the compact coordinator.

### **Return to Iowa of an Individual on Unauthorized Leave**

Division policy for all Compact requests to return an individual on unauthorized leave to Iowa is:

- ◆ Notification of the detention of an individual on unauthorized leaves from an Iowa facility shall be made to the compact coordinator.
- ◆ The compact coordinator shall confirm with the appropriate facility that the individual is on unauthorized leave, and provide authorization to return the individual to Iowa.
- ◆ Once authorization has been provided, specific transportation plans shall be worked out between the sending and receiving facilities.
- ◆ Copies of all correspondence between the sending and receiving facilities shall be provided to the compact coordinator.

### **Procedures for Out-of-State Travel Requests**

All requests for out-of-state travel shall be submitted following the current State policies for out-of-state travel.

## **Policy on Protection and Advocacy Protocol**

The Department is committed to providing the individuals our facilities serve with a safe humane environment, free from abuse or harm. As part of that commitment, it is the policy of the Department to work cooperatively with the Iowa Protection and Advocacy Agency (P & A) as it carries out its legal responsibilities.

P & A has statutory authority and responsibility to investigate allegations of abuse or neglect of individuals with developmental disabilities or mental illness when the allegation has been reported to the agency or there is probable cause to believe that the alleged incident occurred.

### **General Procedures**

To assure that appropriate cooperation and coordination is provided to P & A employees, facility written policies and procedures, shall:

- ◆ Permit P & A employees to arrive at the facility unannounced,
- ◆ Designate a position as the point of contact that P & A employees shall check in with upon arrival. The point of contact shall be responsible to:
  - Request a letter from P & A indicating the purpose of the visit.
  - Provide assistance to P & A employees in locating any individual to be interviewed.
  - Serve as the point position for all requests for information submitted by P & A employees.
  - Assure the superintendent is aware of the presence of P & A employees on campus.
  - Maintain a record of P & A's letter indicating the purpose of the visit, time spent on campus, requests for information submitted, staff and employees interviewed, and monitor the provision of requested information.
- ◆ The superintendent of designee shall immediately notify the division administrator of P & A employees' arrival on campus within two hours of being informed of their arrival.

### **Access to Individuals**

Facility written policies and procedures shall assure that P & A employees shall have unaccompanied access at reasonable times to individuals to:

- ◆ Investigate allegations of abuse or neglect,
- ◆ Provide information and training on, and referral to, programs addressing the needs of individuals with developmental disabilities, or
- ◆ Monitor compliance with respect to rights and safety of individuals.

NOTE: "Reasonable time" is defined as, the normal business hours and visiting hours of a facility.

### **Individual Access Includes**

Facility written policies and procedures shall assure that access provided to P & A employees includes:

- ◆ Unaccompanied access to individuals residing in the facility in any location in which the individuals receive services, supports, or other assistance.
- ◆ Unaccompanied opportunities to meet and communicate privately with individuals.
- ◆ Opportunities to interview any individual residing at the facility, facility employee, or other person who might reasonably be believed to have knowledge of the incident under investigation.
- ◆ Opportunities to view and photograph all areas of the facility premises that are reasonably believed to have been connected to the incident under investigation.

### **Access Denied**

Facility written policies and procedures shall assure that if access is denied, P & A shall be provided a written statement of the reasons for the denial within three business days. If the reason for denial is lack of authorization, the statement shall include the name and address of the legal guardian, conservator, or other legal representative of the individual.

### **Access to an Individual's Records**

Facility written policies and procedures shall assure that, upon receipt of a written request, P & A employees shall have access to an individual's facility record when an allegation with probable cause has been made and one of the following conditions is met:

- ◆ A signed release from the individual or the individual's guardian is presented.
- ◆ There is a complaint with probable cause and:
  - The individual is not able to provide consent because of the individual's mental or physical condition and there is no guardian; or
  - P & A employees have made a good faith effort to contact the guardian, but the guardian has refused or failed to act; or
  - The health or safety of the individual is in immediate jeopardy; or
  - The individual is missing or has died.

### **Records Available**

Facility written policies and procedures shall assure that the records made available to P & A employees include but are not limited to:

- ◆ An individual's facility record.
- ◆ General facility records that are relevant to conducting the investigation.
- ◆ Employee personnel files.

### **Access Provided**

Facility written policies and procedures shall assure that access shall be provided to facility records, data, documents, information, and similar materials related to the individual or individuals in an allegation with probable cause. Access shall be provided:

- ◆ Within three business days of receipt of a written request from P & A, or
- ◆ Within 24 hours of receipt of the written request when there is probable cause to believe that the health or safety of the individual is in serious and immediate jeopardy or in the case of an individual's death.

A facility employee shall be present at all times when a P & A employee has access to an individual's record.

### **Copying Records**

Facility written policies and procedures shall assure that P & A employees shall be able to copy or receive copies of records as follows:

- ◆ When P & A requests the facility to make copies of a record, the copies shall be promptly provided and P & A will be billed for the duplicating supplies and the labor time to make the copies.

NOTE: P & A shall not be charged for the labor time required to assemble material for copying.

- ◆ P & A employees may make their own copies using facility equipment, under the supervision of facility staff, and shall be billed for the cost of duplicating supplies.
- ◆ P & A employees may make their own copies using their own equipment under the supervision of facility staff.

### **Employee Access**

Facility written policies and procedures shall assure that P & A employees shall have the opportunity to interview any facility employee who has or might have information relative to an allegation with probable cause under the following conditions:

- ◆ Employee interviews shall be scheduled by the facility at reasonable times during the employee's normal work hours.
- ◆ Employees selected for interview may determine to what extent they participate in the interview.
- ◆ Employees who participate in an interview shall:
  - Be cooperative,
  - Answer all questions to the best of the employee's knowledge,
  - Provide only factual first-hand information, and
  - Refrain from answering questions requiring the employee to reach a conclusion or interpretation from the facts. NOTE: Questions requiring a conclusion or interpretation shall be referred to the Attorney General's Office.
- ◆ An employee covered by a union bargaining shall not have the employee's rights under the bargaining agreement superseded or eroded by any actions required under this policy.

### **Personnel Record Access**

Facility written policies and procedures shall assure that P & A employees shall have access to an employee's personnel record within 48 hours when:

- ◆ The request for the record is submitted in writing, and
- ◆ The request identifies the specific employee whose record is requested.

### **Notice to the Employee**

Facility written policies and procedures shall assure that:

- ◆ A written notice the request to view an employee's personnel record shall be given to the employee as promptly as possible.
- ◆ The written notice shall contain the following language:

"Iowa Protection and Advocacy has requested that (name of facility) provide information from your personnel file for their review. We believe that under federal law we are required to release the requested information. As a result, the requested record shall be delivered to Iowa Protection and Advocacy on (date) unless before that date you provide this facility with a court order that temporarily enjoins this facility from taking this action. (See Iowa Code Chapter 22; 42 U.S.C. Section 10800 et seq.; 42 U.S.C. section 15001 et seq.; and related federal regulations.)

If you have any questions or concerns regarding this, please consult with your attorney. Be advised, however, that the facility will comply with the request by the date noted above."

- ◆ The written notice shall be hand-delivered to the employee if possible. If not, the notice shall be sent by registered mail, return receipt requested.
- ◆ if the employee has not responded, the facility shall attempt to contact the employee on the day before the expiration date of the notice to determine whether or not the employee intends to take legal action.
- ◆ At any time the employee indicates that legal action is pending, the facility shall consult with the Attorney General's Office.

- ◆ At any time the employee indicates that no legal action will be taken, the requested information shall be provided in the most expeditious manner requested by P & A.
- ◆ When the notice period has expired and the facility has made reasonable attempts but has not been able to contact the employee, the facility shall assume there is no legal action pending and release the information in the most expeditious manner requested by P & A.

### **Policy on Representative Payee**

It is the policy of the Division that a facility may serve as an individual's representative payee to receive benefits for Social Security, Supplemental Security Income (SSI), Railroad Retirement dependent, Miner dependent, or a U.S. Department of Veterans Affairs dependent.

It is the facility's responsibility to assure that all funds received are used for the benefit of the individual in accordance with laws and rules governing the use of the funds.

### **General Provisions for Representative Payee**

Facility written policies and procedures shall assure that:

- ◆ The facility may serve as a representative payee for an individual when the individual's stay will be long enough to make establishing the representative payee practical.
- ◆ When the facility is appointed as a representative payee, the benefits received shall be used only for the benefit of the individual and in the individual's best interest. Benefits shall be used to pay for current needs. Use for other purposes shall be permissible only when current needs have been met.
- ◆ Benefits shall not be used to purchase items normally provided by the facility or covered by a state or federal program.
- ◆ The use of more than one individual's benefits for a group purchase is prohibited, unless the group purchase is approved by the local Social Security office.
- ◆ All benefits received shall be accounted for in accordance with the [Policy on Individual's Personal Accounts](#).

### **Medicaid-Eligible Individuals**

Facility written policies and procedures shall assure that when an individual is eligible for Medicaid:

- ◆ The individual shall be permitted to retain from the individual's benefit a personal allowance in the amount currently authorized by Medicaid.
- ◆ The remainder of the individual's benefit after deduction of the personal allowance shall be used to pay a portion of the individual's cost of care in accordance with Medicaid policies.

### **Annual Accounting**

Facility written policies and procedures shall assure that the required Social Security Administration annual accounting of benefits shall be completed and filed in a timely manner.

### **Prepaid Burial Contract**

If an individual's benefit funds are used to purchase a prepaid burial contract, facility written policies and procedures shall assure that:

- ◆ The contract shall be irrevocable,
- ◆ The beneficiary of the contract shall always be the owner of the policy,
- ◆ The premiums shall not diminish the individual's funds to the point where the individual's current needs are not being met, and
- ◆ The contract money shall be deposited in an interest-bearing, federally insured account.

NOTE: Contact Social Security before purchase of a contract for an individual receiving SSI.

### **Termination of Representative Payee**

Facility written policies and procedures shall assure that:

- ◆ When an individual leaves the facility, the representative payee status shall be terminated or transferred.
- ◆ NOTE: When a new representative payee is appointed, the old payee will receive instructions from Social Security on what to do with the funds in the individual's account.
- ◆ All the funds in the individual's account, including interest and cash, shall be returned to the Social Security Administration when the individual leaves the facility and representative payee status is terminated or transferred.
- ◆ When the representative payee status is terminated due to the death of the individual and funds remain in the account:
  - If the individual is eligible for Medicaid, a referral showing the balance in the individual's account shall be made to the estate recovery unit at the Iowa Medicaid Enterprise for a determination as to how the balance will be distributed.
  - If the individual is not eligible for Medicaid, all the funds in the account shall be given to the legal representative of the individual's estate.

NOTE: Social Security benefits are paid each month representing payment for the previous month. If a beneficiary dies in June, the check for June received in July must be returned to the Social Security Administration.

Supplemental Security Income (SSI) benefits are paid each month for that month. Checks received after the month of death shall be returned to the Social Security Administration.

## **Policy on Individual's Personal Accounts**

Individuals served by the Department's facilities frequently have personal assets or income managed by the facility.

Each facility has a fiduciary responsibility to assure the individual that the funds in the facility's care are kept safe and are used only as authorized by the individual. Each individual's funds shall be accounted for separately from any other individual.

When an individual is no longer being served by the facility, all funds and assets belonging to the individual shall be returned to the individual.

### **General Principles on Personal Accounts**

Facility written policies and procedures shall assure that all personal funds belonging to an individual residing at a facility that come into the possession of the facility shall be:

- ◆ Safeguarded and individually tracked.
- ◆ Deposited in an account fund that is separate from any other facility account.
- ◆ Reasonably accessible for the personal use of the individual.
- ◆ Cared for in compliance with the law and rules governing the use and management of funds for persons receiving Medicaid, Medicare, or an individual's social security funds where the facility serves as the individual's representative payee.
- ◆ Returned to the individual or a person legally responsible for the individual's funds when the individual leaves the facility unless state or federal laws or rules require otherwise.

### **Personal Deposit Fund**

Facility written policies and procedures shall assure that:

- ◆ A fund identified as the "patient's personal deposit fund" shall be established in the business office that shall be:
  - Used for the deposit of the funds belonging to an individual, including social security benefits, which come into the possession of the superintendent or administrator or any employee;
  - Maintained as a separate identifiable account that shall not be co-mingled with any other facility account; and
  - Operated in such a manner that each individual's deposited funds are separately tracked and identifiable.
- ◆ The funds in the account shall be deposited in a commercial account at a state or federally chartered bank insured by the Federal Deposit Insurance Corporation.

### **Bank Account Interest**

Facility written policies and procedures shall assure that:

- ◆ When the balance in the bank account exceeds the average monthly withdrawal, the excess funds may be deposited in an interest-bearing account.
- ◆ All interest earned by an interest-bearing bank account shall be credited to the individuals who have money in the account on a pro-rated basis based on the amount of money each individual has in the account at the time the interest is paid.

### **Guardian of the Individual's Property**

Facility written policies and procedures shall assure that:

- ◆ If an individual who has funds in the personal deposit fund has a court-appointed guardian of the property of the individual, then the guardian shall have the right to demand and receive the funds.

EXCEPTION: If the facility has been appointed the representative payee for the individual's social security payments, the rules governing the responsibilities of the representative payee shall be followed.

- ◆ When a guardian makes such a request, the facility shall require the guardian to provide evidence of the court appointment.
- ◆ If the facility has any concern about the legality of the appointment, the office of the division administrator shall be contacted before the disbursement is made.

### **Representative Payee**

Facility written policies and procedures shall assure that:

- ◆ The facility may serve as a representative payee for an individual's social security benefits when the individual's length of stay will be long enough to make establishing the representative payee practical.
- ◆ When the facility is appointed as a representative payee, the social security funds received are cared for, managed, and tracked in accordance with the requirements of the Social Security Administration for representative payees.
- ◆ When the facility ceases being the individual's representative payee, all funds in the individual's account received as representative payee shall be returned to the Social Security Administration.

### **Payment for Care**

Facility written policies and procedures shall assure that:

- ◆ An individual who is receiving Medicaid shall be responsible for any payment and may use the personal account to pay for the individual's cost of care at the facility in accordance with Medicaid laws and rules.

- ◆ An individual who is not receiving Medicaid shall be responsible for paying a portion of the cost of the individual's care at the facility if:
  - There is no reasonable expectation that the individual will have a need for the funds to meet community placement costs within the next three months;
  - The individual's account balance is in excess of \$200 at the end of any month; and
  - The individual either:
    - Has a county of legal settlement and the county requests that the balance be used to reduce the county's liability, or
    - Has no county of legal settlement and the facility receives approval of the division administrator to use the excess balance to reduce the state's liability.

### **Individual's Access to Funds**

Facility written policies and procedures shall assure that:

- ◆ Each individual shall be provided with the written rules governing the use of personal funds within the facility.
- ◆ The rules governing personal use of funds within the facility shall be based on a reasonable need of the facility to provide a safe therapeutic setting for providing treatment and to protect individuals from loss of their personal funds.
- ◆ Within the facility's rules for use of personal funds, each individual shall be provided reasonable and timely access to the individual's funds in the account for use as the individual wishes unless:
  - The individual's treatment team has an approved plan for assisting the individual in managing the individual's funds, or
  - The individual has a court appointed guardian of property and the guardian provides specific instructions for the expenditure of the individual's funds.

## **Policy on Medicaid False Claims**

A significant part of the cost of services for individuals served by the resource centers and mental health institutes is paid through the Medicaid Program. The Department has an obligation to assure that all claims filed with Medicaid are valid. False claims can result in fiscal sanctions and loss of Medicaid funding.

### **General Principles on Medicaid Claims**

It is the policy of the Department that all claims for payment made to the Medicaid program shall be only for services authorized for payment that are actually rendered. Each facility that is authorized to file claims with Medicaid shall have policies and procedures in place that monitor the claims process and assure that only legitimate claims are filed.

The Department does not condone and will not tolerate the filing of fraudulent claims of any nature. All claims for payment submitted for payment to the Medicaid Program shall be appropriate and legal.

Employees, contractors, and subcontractors shall be aware of this policy and the requirement to report allegations of false claims or misrepresentation. All allegations of false claims or misrepresentation shall be immediately and thoroughly investigated.

Management is responsible for monitoring the claims process to assure that fraudulent claims shall not be submitted. Claim billing procedures are regularly monitored and reviewed to assure that all billings shall be legal.

When improper claims, false claims, or misrepresentations occur, immediate action shall be taken to correct the improper claims and to implement necessary system corrections to prevent future improper claims.

### **Detecting and Preventing Fraud, Waste, and Abuse**

The mental health institutes and resource centers shall have policies and procedures in place to assure that:

- ◆ Employees, contractors, and subcontractors shall be prohibited from knowingly making a false statement or misrepresentations of material facts or knowingly and deliberately failing to disclose material facts in a claim for Medicaid payment for services or merchandise rendered or purportedly rendered.
- ◆ All employees, contractors, and subcontractors shall be informed of the laws pertaining to the filing of Medicaid claims and this policy.
- ◆ Facility fiscal management policies and procedures shall provide for checks and balances to detect fraud, misrepresentation, and misapplication of Medicaid claim billing procedures.
- ◆ All employees, contractors, and subcontractors shall be required to report to management any suspicion or allegation of false Medicaid claims or misrepresentation without fear of reprisal and shall be provided with the whistle blower protections in federal and state laws.
- ◆ The policies and procedures in this chapter shall provide a guide for the filing of payment claims to any other state, county, or federal agency.

### **Reporting Allegations of Fraud or Misrepresentation**

Mental health institute and resource center policies and procedures may assure that:

- ◆ Employees, contractors, and subcontractors shall be required to immediately report any knowledge, suspicion, or awareness of an alleged Medicaid false claim or misrepresentation to the superintendent or the superintendent's designee.
- ◆ The superintendent or the superintendent's designee shall immediately report the allegation to the division administrator and to the administrator of the Division of Fiscal Management.

- ◆ If an employee, contractor, or subcontractor reasonably believes that a Medicaid false claim or misrepresentation has occurred, the employee, contractor, or subcontractor shall have the right to report any knowledge, suspicion, or awareness of a Medicaid false claim or misrepresentation to a member or staff of the General Assembly, another public official, or a law enforcement agency.
- ◆ The employee, contractor, or subcontractor may make the report without informing the Department of that report unless the employee, contractor, or subcontractor represents the disclosure as the official position of the Department.

### **Division Actions**

When any allegation of Medicaid fraud or misrepresentation is reported, the division administrator shall assure that:

- ◆ Immediate notice is given to:
  - The division administrator,
  - The administrator of the Division of Fiscal Management, and
  - The administrator of the Iowa Medicaid Enterprise.
- ◆ An employee of the office of the division administrator shall be assigned to assure that:
  - Facility staff make a fair and impartial investigation of the allegation, and
  - Proper corrective actions are developed and implemented.

### **Case and Medical Records Review**

Mental health institute and resource center policies and procedures shall assure that:

- ◆ "Record" is defined as any part of the facility's case, medical, or other records for an individual that is used to record the services, activities, or treatments funded in whole or in part through the Medicaid program.
- ◆ A proper case and medical record system shall be in place to collect and document the information required on services provided to support all claims for Medicaid payments.

- ◆ The superintendent or the superintendent's designee shall:
  - Select a random monthly sample equal to of 5% of all individuals receiving current active services funded in whole or in part by Medicaid.
  - Direct and supervise the review of the case and medical records of the sample to determine if the Medicaid-required documentation of services in the record supports the Medicaid claim filed for that individual.
  - Select an employee to conduct the review.
  - Assure that all reviews are completed by the 15<sup>th</sup> business day of each month.
- ◆ The review shall be conducted by an employee who:
  - Has been trained on what documentation is required, and
  - Has not been responsible for providing the documentation being reviewed.
- ◆ The findings of the review shall be documented in writing indicating:
  - The number of records reviewed;
  - The facility unique identifier number of the record reviewed;
  - The date of the review;
  - The specific program areas reviewed;
  - The employee responsible for documenting the service;
  - Whether or not the review found the record compliant; and
  - If the record was not compliant, a detailed explanation of the noncompliance, including an evaluation as to whether the noncompliance may have been the result of a fraudulent action.
- ◆ The superintendent or the superintendent's designee shall:
  - Receive the report of the review as soon as each review is completed.
  - Prepare a report of the findings of each month's reviews, and
  - Submit the report to the division administrator by the fifth business day of the following month.

### **Corrective Action on Case and Medical Record Review**

Mental health institute and resource center policies and procedures shall assure that:

- ◆ If a noncompliant record is found, the superintendent or the superintendent's designee shall implement appropriate corrective action with the Medicaid program.
- ◆ If a noncompliant record is found that may be the result of fraudulent actions, when the superintendent or the superintendent's designee becomes aware of the noncompliance, the superintendent or designee shall report that finding to the division administrator within two hours.
- ◆ Within five business days of a report of noncompliance, the superintendent, or the superintendent's designee shall develop a corrective action plan to correct the deficiency in that individual case. The plan shall address whether personnel action is or is not required. In either case, information shall be included to support that decision.
- ◆ For any program area in which a deficiency is found, a 25% sample shall be pulled of the records in that program area and reviewed.
- ◆ If any additional deficiencies are found, the superintendent or the superintendent's designee shall contact the division administrator to develop a plan for further review and corrective action.

### **Fiscal Management Review**

Mental health institute and resource center policies and procedures shall assure that:

- ◆ An accounting system shall be in place that shall provide accurate and sufficient detail to track all claims filed for Medicaid payment and receipt of Medicaid payments.
- ◆ Financial management practices and procedures shall provide for a complete and thorough system of checks and balances to reduce or eliminate opportunities for the filing of fraudulent claims or making misrepresentations in Medicaid payment claims.

At the resource centers, these practices and procedures shall include but are not limited to the following:

- ◆ Before submittal, all Medicaid billing claims prepared shall be reviewed to assure that the census data on client days and the claimed amount are correct for each individual for whom a claim is submitted. This review shall be conducted by:
  - At least one employee of the resource center's business office, and
  - At least one other employee other than the employee who prepared the claim.
- ◆ The business manager or the business manager's designee shall authorize the claim by signing the claim before submittal. The designee shall be an employee other than the employees who initially prepared and reviewed the billing claim.
- ◆ A final reconciliation of all claims shall be done when payment for the claim is received. The reconciliation shall be done by at least two employees from the resource center's business office and shall review the payment received to determine that:
  - The amount received is correct,
  - The number of patient days paid is correct, and
  - The amount deducted for client participation is correct.

At the mental health institutes, these practices and procedures shall include but not be limited to the following:

- ◆ Before submittal, all Medicaid billing claims shall:
  - Have the eligibility of the individual confirmed by calling the Eligibility Verification System (ELVS) line at 1-800-338-7752 or local 515-323-9639.
  - Have the number of days certified checked against the written certification.
  - Have the number of days to bill checked against the daily or weekly census reports. At least two separate employees shall be involved in independently checking the number of days billed on a claim.
  - Have any ancillary services included in the claim checked for accuracy.

- ◆ When payment for the claim is received, a final reconciliation of all claims shall be done by at least two employees from the mental health institute's business office. The employees shall review the payment received to determine that:
  - The amount received is correct, and
  - The number of patient days paid is correct.

All facilities shall select a random monthly sample equal to 5% of the claims filed for payment in the previous month for detailed review.

- ◆ The sample claims shall be reviewed to determine:
  - If the individual for whom a claim was filed was Medicaid-eligible,
  - If the claim was for the proper amount,
  - If the claim was properly filed, and
  - If the claim may have been fraudulently filed.
- ◆ The review shall be under the direction and supervision of the superintendent or the superintendent's designee who shall:
  - Select the sample of claims to be reviewed,
  - Select the employee to do the review, and
  - Assure that reviews are completed by the 15<sup>th</sup> business day of each month.
- ◆ The review shall be conducted by an employee who:
  - Has been trained on the claim requirements, and
  - Has not been responsible for filing the claim or receipt of the payment being reviewed.
- ◆ The findings of the claims review shall be documented in writing indicating:
  - The number of records reviewed;
  - The facility unique identifier number of the claim reviewed;
  - The date of the review;
  - The employee responsible for documenting the filing of the claim;
  - Whether or not the review found the claim compliant; and
  - If the claim was not compliant, a detailed explanation of the noncompliance including an evaluation as to whether or not the non-compliant claim may have been as the result of fraudulent action.

- ◆ The superintendent or the superintendent's designee shall:
  - Receive the report of the review as soon as each review is completed,
  - Prepare a report of the findings of each month's reviews, and
  - Submit the report to the division administrator by the fifth business day of the following month.

### **Corrective Action on Fiscal Review**

Mental health institute and resource center policies and procedures shall assure that:

- ◆ If a noncompliant claim is found, the superintendent or the superintendent's designee shall implement appropriate corrective action with the Medicaid program.
- ◆ If a noncompliant claim is found that may be the result of fraudulent actions, when the superintendent or the superintendent's designee becomes aware of the noncompliance, the superintendent or designee shall report that finding to the division administrator within two hours.
- ◆ Within five business days of a report of noncompliance, the superintendent or the superintendent's designee shall develop a corrective action plan to correct the deficiency in the claim. The plan shall address whether personnel action is or is not required. In either case, information shall be included to support that decision.
- ◆ For any month in which a deficiency is found, a 25% sample shall be pulled of the claims for the month and reviewed.
- ◆ If any additional deficiencies are found, the superintendent or the superintendent's designee shall contact the division administrator to develop a plan for further review and corrective action.
- ◆ An audit of Medicaid claims shall be performed by the state auditor no less frequently than annually. A superintendent or the division administrator may request the state auditor to perform an audit at any time.
- ◆ All employees, contractors, or subcontractors shall provide all information requested and cooperate fully with any review or audit.

### **Personnel Practices for Medicaid Claims**

Mental health institute and resource center policies and procedures shall assure that:

- ◆ Before beginning employment or changing jobs within the facility, all employees, contractors, and subcontractors shall be checked to determine whether or not they are on the federal Excluded Parties List (EPL). [www.epls.gov](http://www.epls.gov).
- ◆ The findings shall be documented in the individual's employment record in a manner that permits the information to be available individually and in aggregate form.
- ◆ Before beginning employment, all employees, contractors, and subcontractors shall be notified of the laws governing Medicaid fraud including:
  - The requirements of the Federal False Claims Act established in Title 31, Chapter 38, of the United States Code;
  - The administrative remedies for submitting false claims and statements established in Title 31, Chapter 38, of the United States Code;
  - The civil and criminal penalties for knowingly submitting false claims or making false statements established in Title 31, Chapter 38, of the United States Code;
  - The whistle-blower protections provided under federal and state laws; and the mental health institute's or resource center's policies and procedures for detecting and preventing fraud, waste, and abuse.
- ◆ All employees, contractors, and subcontractors shall be required to sign form 470-4857, *Department of Human Services Briefing Sheet*, to signify that they have received notification of the laws governing Medicaid fraud. The signed form shall be retained in the facility personnel files.
- ◆ Any employee, contractor, or subcontractor who makes an allegation of Medicaid false claim fraud or misrepresentation in good faith shall be offered protection from retaliation or harm as provided in Iowa Code section 70A.28 and Title 31, subsection 3730(h), United States Code. (See [Whistle-Blower Protections](#).)

- ◆ Any employee, contractor, or subcontractor who has been found to have submitted a false Medicaid claim or made false representation relating to a Medicaid claim shall be subject to sanctions, up to and including dismissal or termination of contract.
- ◆ Any employee, contractor, or subcontractor who fails to report to the superintendent or the superintendent's designee knowledge, suspicion, or awareness of any allegation of false Medicaid claim or misrepresentation shall be subject to sanctions, up to and including dismissal or termination of contract.
- ◆ All decisions on type and severity of disciplinary actions taken against any employee shall be done timely and shall be based on an evaluation of:
  - The type and severity of the incident based on the evidence contained in the report of the investigation,
  - Prior personnel actions taken with the employee, and
  - Other components of just cause.

### **Performance Improvement on Medicaid Claims**

Mental health institute and resource center policies and procedures shall assure that the facility's management employees have in place quality management practices to:

- ◆ Monitor the implementation and operation of the Medicaid claim process;
- ◆ Review the findings of the review processes for records, filed claims, and payment receipts to assure that the system is implemented as required in this policy;
- ◆ Review the combined findings of the separate reviews to identify broader systemic problems or issues needing corrective action, whether actual or potential;
- ◆ Develop corrective action plans to address identified problems or issues; and
- ◆ Monitor the completion and implementation of corrective action plans.

### **Employee, Contractor and Subcontractor Training**

Mental health institute and resource center policies and procedures shall assure that:

- ◆ All employees, contractors, and subcontractors shall be trained in general knowledge about the Medicaid claim billing process including:
  - The services provided by the facility that are eligible for payment through Medicaid;
  - The review process to be used to monitor the accuracy of supporting documentation, claims filed, and payments received;
  - The process for reporting any suspected Medicaid false claims or misrepresentation; and
  - Protections provided by the state and federal laws covering whistle blowers.
- ◆ All employees, contractors, and subcontractors responsible for documenting services provided and for which reimbursement is sought shall be trained in proper documentation.
- ◆ All employees, contractors, and subcontractors responsible for preparing and filing claims for payment shall be trained in the proper preparation and filing of claims.
- ◆ All employees, contractors, and subcontractors responsible for monitoring the claims process shall be trained in the proper procedures for monitoring Medicaid claims.
- ◆ All training shall be regularly documented in a manner that permits the information to be available individually and in aggregate form.
- ◆ Training curriculum shall be updated regularly to reflect current Medicaid claims policies and procedures, facility policies and procedures, and changes in services eligible for Medicaid payment.
- ◆ Training shall be implemented in a timely manner.

### **Laws Relating to Detecting and Preventing Fraud, Waste and Abuse**

**Federal** laws relating to detecting and preventing Medicaid fraud, waste, and abuse are found in Title 31 of the United States Code, as follows:

- ◆ Sections 3729-3733 are known as the False Claims Act and provide for significant damages against persons who:
  - Knowingly present false or fraudulent claims to the U.S. government for payment or approval, or
  - Conspire to defraud the government.

The damages assessed can range from \$5,000 to \$10,000 plus three times the amount of damages sustained by the government. A copy of this law can be found at:

[http://www4.law.cornell.edu/uscode/html/uscode31/usc\\_sec\\_31\\_00003729----000-.html](http://www4.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00003729----000-.html)

- ◆ Sections 3801 to 3812 authorize federal administrative authorities to assess a civil money penalty of \$5,000 per claim plus an assessment of twice the amount of the claim against persons who submit false, fictitious, or fraudulent claims. A copy of this law can be found at:  
[http://www4.law.cornell.edu/uscode/search/display.html?terms=3801&url=/uscode/html/uscode31/usc\\_sec\\_31\\_00003801----000-.html](http://www4.law.cornell.edu/uscode/search/display.html?terms=3801&url=/uscode/html/uscode31/usc_sec_31_00003801----000-.html)

**State** law relating to detecting and preventing Medicaid fraud, waste, and abuse includes Iowa Code Section 249A.7, which provides that:

“A person who obtains assistance or payments for medical assistance under this chapter by knowingly making or causing to be made, a false statement or a misrepresentation of a material fact or by knowingly failing to disclose a material fact required of an applicant for aid under the provisions of this chapter and a person who knowingly makes or causes to be made, a false statement or a misrepresentation of a material fact or knowingly fails to disclose a material fact, concerning the applicant’s eligibility for aid under this chapter commits a fraudulent practice.”

A copy of this law can be found at: <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=IowaCode&input=249A.7>

### **Whistle-Blower Protections**

**Federal** laws relating to whistle-blower protection are found in Title 31 of the United States Code, section 3730(h), which specifies the federal protections provided to an employee who:

- ◆ Lawfully participates in a federal false claims act case; and
- ◆ Is discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against.

Employees have the right to pursue a cause of action in federal district court for reinstatement, back pay, special damages and costs and attorney fees.

A copy of this law can be found at:

[http://www4.law.cornell.edu/uscode/search/display.html?terms=3730&url=/uscode/html/uscode31/usc\\_sec\\_31\\_00003730----000-.html](http://www4.law.cornell.edu/uscode/search/display.html?terms=3730&url=/uscode/html/uscode31/usc_sec_31_00003730----000-.html)

**State** law relating to detecting and preventing Medicaid fraud, waste, and abuse includes Iowa Code Section 70A.28, which provides protections to state of Iowa employees who disclose information the employee reasonably believes is evidence of "a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority or a substantial and specific danger to public health or safety."

Protected disclosures can be made to a member or employee of the state legislature, the office of the Citizen' Aide/Ombudsman, a public official, or a law enforcement agency. This law is commonly known as the State's "whistle blower" law. A copy of this law can be found at:

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=iowaCode&input=70A.28>