



Iowa Department of Human Services

Kim Reynolds
Governor

Adam Gregg
Lt. Governor

Jerry R. Foxhoven
Director

November 17, 2017

GENERAL LETTER NO. 3-G-5

ISSUED BY: Division of Mental Health and Disability Services

SUBJECT: Employees' Manual, Title 3, Chapter G, **GENERAL FACILITY POLICIES**, Title page, revised; Contents (pages 1 and 4), revised; pages 1 through 4, 5, 6, 8, 9, 10, 11, 25, 28, 32, 64, 67, and 68, revised; and pages 4a, 69, and 70, new.

Summary

Chapter 3-G is revised to:

- ◆ Establish guidelines regarding victim notification related to patient discharged from the Civil Commitment Unit for Sexual Offenders (CCUSO).

Policy: The Department and CCUSO shall comply with Iowa Code section 915.45 regarding written notification to victims before discharge of a person committed under Iowa Code chapter 229A. Reasonable efforts shall be made to identify and notify victims whose address is known to the Department Director and CCUSO.

Victim Notification Principles:

- Victims known to the Department Director and CCUSO shall be notified of patient discharges as appropriate.
- Reasonable efforts shall be made to identify victims' names and current addresses for notification purposes.
- The Division Administrator shall assure staff research available resources for victim information and prepare notification letters for the Department Director's signature.
- Victim rights shall be considered at all times during the notification process.
- Special requests from victims regarding notification will be evaluated on a case-by-case basis.

Victim Identification Practices: The Division Administrator shall assure that:

- The Department shall apply reasonable efforts to identify and contact victims as appropriate.
- The Department shall document victims who contact the Department for notification purposes.

- The Department shall use a variety of resources to attempt to identify victims for notification purposes, including but not limited to, the following:
 - Department of Corrections' Iowa Corrections Offender Network (ICON) system;
 - Victims' Rights Coordinator with the Iowa Office of Attorney General;
 - Patient records acquired by the Department and CCUSO; and
 - A record of victim contacts (self-reporting) to the Department, CCUSO, or any of the above mentioned resources for the purpose of future patient discharge notification.
 - At the time a patient is court ordered to the CCUSO Transitional Release Program (TRP), directly discharged, or is AWOL, the Department shall identify victims and establish a victim file with a list of known victims and the corresponding contact information for notification.
 - Once a patient's discharge date and future residence is confirmed the Department will send a discharge notification letter from the Department Director to the victim's address on record.
 - If a patient is AWOL, the Department will notify all known victims as described above as soon as possible.
 - The Department shall document all victim notification letters mailed and any letters returned as undeliverable in the appropriate victim file.
- ◆ Update references to the Department's institutions.
 - ◆ Update links to websites.

Effective Date

Immediately.

Material Superseded

This material replaces the following pages from Employees' Manual, Title 3, Chapter G:

<u>Page</u>	<u>Date</u>
Title page	May 14, 2010
Contents (pages 1 and 4)	August 6, 2010
1-6, 8-11, 25, 28, 32, 64, 67, 68	May 14, 2010

Additional Information

Refer questions about this general letter to the administrator of the Division of Mental Health and Disability Services.

Revised November 17, 2017

Employees' Manual
Title 3
Chapter G

GENERAL FACILITY POLICIES



	<u>Page</u>
Overview	1
Legal Basis	1
Definitions	4
Policy on Facility Governing Body.....	6
Appointment of Governing Body.....	6
Duties of Governing Body.....	7
Governing Body Training.....	8
Appropriation and Budget	8
Schedule of Charges	9
Insurance	9
Superintendents	9
Appointing Authority	9
Statutory Authority of Superintendent	10
General Duties of Superintendent.....	10
Responsibilities Specific to the Mental Health Institutes	12
Clinical Staff.....	13
Medical Staff	13
Performance Evaluation	14
Competency Training.....	14
Level of Care.....	15
Reporting	15
Planning	15
Citizen's Advisory Board	16
Community Planning	16
Responsibilities Specific to the Boys' Training School.....	16
Policy on Personnel Administration	17
New Hires or Promotions.....	17
Serious Personnel Actions	18
Reporting Serious Personnel Actions.....	18
Employee Injury Reporting.....	18
Injuries Requiring Medical Attention off Grounds	18a
Record Checks	18a
Pre-Employment Record Checks.....	18b
Out-of-State Pre-Employment Checks.....	18b
Post-Employment Record Checks	18b
Volunteer Record Checks	18c
Record Check Evaluations	18c
Contractor Record Checks.....	18c
Record Check Evaluations	18d
Ongoing Employee Record Checks.....	18d
Nonemployee Campus Resident	18d

	<u>Page</u>
Policy on Representative Payee	49
General Provisions for Representative Payee.....	49
Medicaid-Eligible Individuals.....	50
Annual Accounting	50
Prepaid Burial Contract.....	50
Termination of Representative Payee.....	51
Policy on Individual's Personal Accounts.....	52
General Principles on Personal Accounts.....	52
Personal Deposit Fund	53
Bank Account Interest	53
Guardian of the Individual's Property.....	54
Representative Payee.....	54
Payment for Care.....	54
Individual's Access to Funds	55
Policy on Medicaid False Claims	56
General Principles on Medicaid Claims.....	56
Detecting and Preventing Fraud, Waste, and Abuse	57
Reporting Allegations of Fraud or Misrepresentation.....	57
Division Actions	58
Case and Medical Records Review	58
Corrective Action on Case and Medical Record Review	60
Fiscal Management Review.....	60
Corrective Action on Fiscal Review.....	63
Personnel Practices for Medicaid Claims	64
Performance Improvement on Medicaid Claims	65
Employee, Contractor and Subcontractor Training	66
Laws Relating to Detecting and Preventing Fraud, Waste and Abuse.....	67
Whistle-Blower Protections	68
Policy on Victim Notification	69
Victim Notification Principles.....	69
Victim Identification Practices	69

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 boy's state training school at Eldora, 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, and the boy's state training school.

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 chapter 229A provides, in addition to any other information required to be released under chapter 229A, that before discharge of a person committed under chapter 229A, the Director of the Department of Human Services shall give written notice of the person's discharge to any living victim of the person's activities or crime whose address is known to the Director or, if the victim is deceased, to the victim's family, if the family's address is known. Failure to notify shall not be a reason for postponement of discharge. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this action.

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 boy's 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 boy's state training school.

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.

Iowa Code section 915.45 provides notice to victims of discharge of persons committed. The notification required pursuant to this section may occur through the automated victim notification system referred to in section 915.10A to the extent such information is available for dissemination through the system.

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.

“Department” means the Iowa Department of Human Services (DHS).

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

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

“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.

“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 two mental health institutes, the two resource centers, the boy’s training school, and 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 boy’s training school, and the person appointed to administer the civil commitment unit for sexual offenders.

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

“Victim” means a person or persons identified in Iowa Code section 915.45.

“Victim file” means a secure file separate from the patient’s clinical and medical file established by CCUSO and the Department which contains:

- ◆ Information concerning the victim, including any requests,
- ◆ Notices provided by the Department to the victim, and
- ◆ Any other information which acknowledges the identity and location of the victim.

This file is established with the intent that the victims who have been identified by name and address will be contacted once a patient is pending discharge or is AWOL.

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.

- ◆ 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 the boy's state training school; 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. Each superintendent shall serve at the pleasure of the appointing authority.

In filling superintendent 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 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.
- ◆ Boy's state training school, Iowa Code Chapter 233A.

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, 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.

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/forms_download/gbg_form.pdf
- ◆ 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.

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 boy's state training school.

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.

- 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 <https://idph.iowa.gov>
- ◆ 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.

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 \(EPLS\)](#).
- ◆ 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](#).)

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: <https://www.law.cornell.edu/uscode/text/31>

- ◆ 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: <https://www.law.cornell.edu/uscode/text/31>

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:

<https://www.law.cornell.edu/uscode/text/31>

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>

Policy on Victim Notification

For the Department of Human Services (DHS) to establish guidelines regarding victim notification related to patients discharged from the Civil Commitment Unit for Sexual Offenders (CCUSO) and the Iowa DHS.

Policy:

The Department and CCUSO shall comply with Iowa Code section 915.45 regarding written notification to victims before discharge of a person committed under Iowa Code chapter 229A. Reasonable efforts shall be made to identify and notify victims whose address is known to the Department Director and CCUSO.

Victim Notification Principles

Victims known to the Department Director and CCUSO shall be notified of patient discharges as appropriate.

Reasonable efforts shall be made to identify victims' names and current addresses for notification purposes.

The Division Administrator shall assure staff research available resources for victim information and prepare notification letters for the Department Director's signature.

Victim rights shall be considered at all times during the notification process.

Special requests from victims regarding notification will be evaluated on a case-by-case basis.

Victim Identification Practices

The Division Administrator shall assure that:

- ◆ The Department shall apply reasonable efforts to identify and contact victims as appropriate.
- ◆ The Department shall document victims who contact the Department for notification purposes.

- ◆ The Department shall use a variety of resources to attempt to identify victims for notification purposes, including but not limited to, the following:
 - Department of Corrections' Iowa Corrections Offender Network (ICON) system;
 - Victims' Rights Coordinator with the Iowa Office of Attorney General;
 - Patient records acquired by the Department and CCUSO; and
 - A record of victim contacts (self-reporting) to the Department, CCUSO, or any of the above mentioned resources for the purpose of future patient discharge notification.
- ◆ At the time a patient is court ordered to the CCUSO Transitional Release Program (TRP), directly discharged, or is absent without leave, the Department shall identify victims and establish a victim file with a list of known victims and the corresponding contact information for notification.
- ◆ Once a patient's discharge date and future residence is confirmed the Department will send a discharge notification letter from the Department Director to the victim's address on record.
- ◆ If a patient is absent without leave, the Department will notify all known victims as described above as soon as possible.
- ◆ The Department shall document all victim notification letters mailed and any letters returned as undeliverable in the appropriate victim file.

NOTE:

- ◆ Absent without leave is a status given to a patient who is missing or not present and accounted for when expected for an extended amount of time and after attempts are made to verify the patient's location the patient still cannot be located.
- ◆ A patient is considered discharged when the court has ordered a patient of the CCUSO program to be released to a level of the program where the patient will no longer be living in a secure setting or may be discharged entirely from DHS custody.