Department of HUMAN SERVICES

Employees' Manual
Title 3, Chapter G

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GENERAL FACILITY POLICIES

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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 boy's state training school at Eldora, and
- The civil commitment unit for sexual offenders (CCUSO).

Vision

The Iowa Department of Human Services makes a positive difference in the lives of Iowans we serve.

Mission

To help Iowans achieve healthy, safe, stable, and self-sufficient lives through the programs and services we provide.

Guiding Principles

Customer Focus

We listen to and address the needs of our customers in a respectful and responsive manner that builds upon their strengths. Our services promote meaningful connections to family and community.

Excellence

We are a model of excellence through efficient, effective, and responsible public service. We communicate openly and honestly and adhere to the highest standards of ethics and professional conduct.

Accountability

We maximize the use of resources and use data to evaluate performance and make informed decisions to improve results.

Teamwork

We work collaboratively with customers, employees, and 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 Cherokee and Independence.

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.

"AWOL" means "absent without leave," which 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.

"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.

"Cannabidiol (CBD)" means the same as defined in Iowa Code section 124E.2(6).
"CCUSO" means the Civil Commitment Unit for Sexual Offenders.

"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.

"Debilitating medical condition" means the same as defined in Iowa Code section 124E.2(2).

"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" means the division of mental health and disability services in the Iowa Department of Human Services.

"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.

"Health care decision" means the same as defined in Iowa Code section 144B.1(5).

"Hepatitis C Virus (HCV) Infection" means a contagious liver disease that ranges in severity from a mild illness lasting a few weeks to a serious, lifelong illness that attacks the liver. It results from infection with the Hepatitis C virus, which is spread primarily through contact with the blood of an infected person. (Source CDC)

"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.

"Multidisciplinary Team (MDT)" means a team of professionals, including representatives of different disciplines, who coordinate the contributions of each profession, which are not considered to overlap, in order to improve patient care.

"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 Care Physician (PCP)" means the primary care physician assigned to treat and monitor the medical care of an individual served at a state facility.

"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.

"Primary caregiver" means the same as defined in Iowa Code section 124E.2(7) when referenced with CBD usage.

"Resuscitation" means the same as defined in Iowa Code section 144A.2(12).

"State facility" means a reference to any one or all six of the Department-operated residential programs, which are:

- Civil Commitment Unit for Sexual Offenders,
- Cherokee Mental Health Institute,
- Independence Mental Health Institute,
- Woodward State Resource Center,
- Glenwood State Resource Center, and the
- Boy's State Training School.

"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.

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 superintendent reports.
  - Monthly and annual population movement reports.
  - 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 operating costs.

Fund transfers can be made between facility appropriations as identified in Iowa code section 218.6.

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. 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 226.46, 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.

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 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. See 441 IAC 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,
- Public service manager 1 and 2,
- Public service supervisor,
- Executive officer 3,
- Education administrator,
- Business manager,
- Deputy superintendent,
- Food services director 2 and 3, and
- Plant operations manager 2 and 3.

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 division 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 Director, 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
- 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 5 minutes of being called by an on-duty employee.
- In person within 30 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 5 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/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.

Policy on Scientific Misconduct and Research

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 and research is reviewed to determine expectations and requirements.

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

Research Policy and Procedures

Introduction:

Purpose

To define the core principles and practices for requesting, conducting, and monitoring research at or with the Mental Health and Disability Services' (MHDS) facilities and persons served in or by those facilities. These policies and procedures provide guidance on how to (1) review, approve, and monitor research projects; (2) protect the rights and welfare of human subjects; and (3) ensure that research projects are conducted in a manner consistent with federal and state rules for the protection of human subjects, including their de-identifiable data, and consistent with current expectations for scientific research.

Scope

This document applies to all MHDS facilities, regardless of whether the facility has their own research policy or research committee. The policy and procedures noted herein supersede any facility-specific policy and procedures to the extent that discrepancies exist or the facility policy or procedures provide less restrictions or protections for research participants or the state of Iowa. Any discrepancies between a Facility and Division policy and procedure should be directed immediately to the Division Administrator for Facilities for review and clarification.

Guiding Principles

The Department of Human Services (DHS) values research and the opportunities it provides to contribute to the development and refinement of evidence-based services for people with mental illness, intellectual disability, and developmental disability. The Department is interested in using ethically and scientifically-sound research to further guide and support the mission and services of the Division and its facilities. Research priority will be given to applied research projects that relate directly to improving the understanding of the services, settings, and/or population(s) served by the facilities. Decisions regarding research requests, approvals, and monitoring will be made in accordance with this document, federal and state law, and current scientific standards and expectations.

Definitions

As Updated and Defined Specifically for Research Policy:

"Department" means the Iowa Department of Human Services (DHS).

"Developmental disability" means a severe, chronic disability of an individual that is attributable to a mental or physical impairment or combination of mental and physical impairments; is manifested before the individual attains age 22 years; is likely to continue indefinitely; results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated (Iowa Code 2020, Chapter 225C; 42 U.S.C. §15002).

"Division" means the Iowa Department of Human Services (DHS) Division of Mental Health and Disability Services (MHDS) – Facilities.

"Facility" means any of the MHDS facilities in operation including the following: Woodward Resource Center (WRC); Glenwood Resource Center (GRC); Cherokee Mental Health Institute (CMHI); Independence Mental Health Institute (IMHI); Boys State Training School (BSTS) in Eldora; and the Civil Commitment Unit for Sexual Offenders (CCUSO).

"Human subject" is a living individual about whom an investigator (whether a professional or student) conducting research obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens, or obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens.

"Informed consent" is the knowing and willing consent by an individual with decision-making capacity, or their legally authorized representative, so as to be able to exercise free power of choice without undue inducement of any element of force, fraud, deceit, duress, or constraint.

"Intellectual disability" means a disability of children and adults who as a result of inadequately developed intelligence have a significant impairment in ability to learn or to adapt to the demands of society, and, if a diagnosis is required, "intellectual disability" means a diagnosis of a developmental condition that is characterized by significant deficits in both intellectual functioning and adaptive behavior, including conceptual, social, and practical skills (DSM-5, 2013).

"Legally authorized representative" means a legally authorized substitute decision-maker, such as a guardian.

"Mental illness" means every type of mental disease or mental disorder, except intellectual disability, insanity, diminished responsibility, or mental incompetency as these terms are defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules as defined by Iowa Code § 4.1(21A).

"Principal Investigator" means the person(s) primarily responsible for proposing, conducting, and reporting the research as noted by the approved Institutional Review Board (IRB) application.

"Research" means a systemic investigation, including design, development, testing, and evaluation, that is intended to develop or contribute to generalized knowledge. Research does not include assessments conducted for a clinical purpose or quality improvement initiatives that collect pre-existing clinical data.

"Scientific misconduct" means any form of fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting results by persons who, at the time of the alleged misconduct, was employed by, an agent of, or affiliated with the research project (42 CFR Part 93).

Policy

Legal and Ethical Research

It is the policy of the Division that research conducted by or with the MHDS facilities shall be conducted as permitted by law, carried out by qualified individual(s), and in accordance with current scientific standards, guidelines, and practices. This includes, but is not limited to: the protection of rights to privacy; the need for informed consent; the protection of confidentiality; and the protection against undue physical, social, or emotional injury. All individuals involved in research projects will be under mandate from the Department to adhere to the ethical standards of their respective profession(s) concerning the conduct of research, and also adhere to the policies, procedures, and principles noted herein. Treatment or other support services shall not be contingent upon a patient's/resident's/student's agreement to participate in any research project or activity.

Affiliation with Regionally-Accredited College or University

All research projects proposed to, conducted at, or conducted with the Division or its facilities shall be affiliated with a regionally-accredited college or university for purposes of reviewing, approving, and monitoring research by the college or university's Institutional Review Board (IRB).

- Interested parties shall engage the Division and Facility in preliminary discussions to ensure that the proposed research project aligns with the Department's guiding principles and can be managed within existing financial, staffing, and other resource constraints.
- These discussions shall require that a written research proposal be submitted, which shall discuss the specifics of the research project, the protections for human subjects, and the rationale for how the project aligns with the Division's principles and contributes meaningfully to the field.
- The Division may provide a letter of support to the Principal Investigator(s) (PI) to use in their IRB application.
- Once initial or preliminary IRB approval is granted by the regionally-accredited college or university, the PI(s) shall submit the completed IRB application, including the IRB approval letter, to the Division and Facility for further review and consideration.

- The DHS Director, in consultation with the Division Administrator and the Iowa Attorney General's Office, retains ultimate authority to approve or deny the research project, and will base their decision primarily on the degree to which the research project aligns with the Department's mission and guiding principles, and the degree to which it impacts Facility, Division, and Department resources.
- If approved, the Department Director and the Division Administrator will jointly submit an official approval letter that the PI can submit to their IRB for final approval.
- Once final IRB approval is received from the regionally-accredited college or university, the PI must provide the complete research application to both the Division and the Facility where the research is conducted or archival data is obtained from. Receipt of this information must be confirmed, in writing, before the research project may commence.

Protection of Human Subjects and Vulnerable Populations

Protection of human subjects and vulnerable populations (e.g., minors, persons with decisional impairment, prisoners, pregnant women, and persons with HIV/AIDS) is of the utmost importance to the Department. Given the populations served at our facilities, the Department presumes that relevant research projects are more than minimal risk. However, even for research that is no more than minimal risk and/or does not involve a vulnerable population, the Department requires that the IRB reviewing the application has (1) federal assurance, (2) at least one licensed psychologist/clinical psychologist reviewing the proposal, and (3) that the proposal undergo "full committee" review. This includes the requirement that the college or university IRB review and approve recruitment, informed consent, and any other procedures, documents, and scripts that may be used across the research project.

- If a research participant cannot legally consent, then their legally authorized representative may consent on their behalf, but only if a full committee IRB review has assured that sufficient protections are in place. If the legally authorized representative has relationships to DHS or other relevant party, those relationships will be disclosed and assessed for potential conflict of interest by the relevant Human Rights Committee.
- All research proposals shall be presented to and approved by the Human Rights Committee of the facility at which the research is conducted.

Budget and Procurement:

State-based expenditures for research, including indirect costs associated with proposing, reviewing, conducting, monitoring, documenting, or reporting research related activities require the express written approval of the Division Administrator prior to research being approved or conducted at or with a facility. Funding from other sources, such as external grants, still require Division Administrator approval to the extent that they impact state or facility-specific resources. All procurement and contracting processes per Iowa Code and Iowa Administrative Rule must be followed.

Security and Privacy Requirements:

All research agreements and contracts where DHS data is involved for research purposes shall be coordinated with the DHS Information Security and Privacy Office (ISPO), as well as the Iowa Attorney General's Office. It is the responsibility of the Division Administrator to ensure that this coordination occurs prior to finalizing any contracts, agreements, or requests for proposals (RFPs) associated with research at or with a facility.

Commencement of Research

No research project, PI, collaborator, or confederate may begin collecting data or otherwise explore research questions with participants, including collecting pilot data, without the express written consent and authorization of the Division Administrator and the Department Director.

Cease and Desist

The Division Administrator and the Department Director may both, at any time, for any reason, and without prior notice, order the PI to stop research activities. Such requests shall be made in writing (letter or email) and will be in effect at the time/date upon which the notice is sent. Written notices shall also be sent to the college or university IRB that approved the research. Reasonable efforts will be made to communicate this notice in a timely and effective manner.

Publication of Results or Other Reports

The Department expressly reserves the right of final approval for any and all publications related to research conducted at, within, or involving facilities. This includes, but is not limited to: proposed manuscripts for submission to peer-reviewed scientific journals; proposals for submission to professional conferences; academic submissions (e.g., thesis and dissertations); books or book chapters; and internal or external publications or reports. Publications are expected to honor the dignity of the participants of the research and avoid furthering stigma or misunderstanding of persons with mental illness or disability. It is the expectation of the Department, Division, and Facility that any publications or reviews of the research conducted do not include reference to the name or location of the facility, research participants, or specific facility/division/department policies and procedures. Exceptions to this requirement may be requested by the PI and directed to the Division Administrator. Final decisions shall be noted in writing by the Division Administrator or Department Director, and are recommended to be made in consultation with the Iowa Attorney General's Office.

Record Keeping

The facility where the research is being conducted or whose population the research involves, as well as the MHDS Facilities Division Administrator shall retain all research-related documentation, such as the initial proposal, IRB materials, IRB approval, and the final paper/report/publication for at least five (5) years from the completion of the research project. The Division and Facility may retain research records and documentation for longer than five (5) years if desired.

Quality Assurance and Oversight

The Department, Division, and Facility each reserve the right to request a written or verbal status update for any and all research activities involving the facilities. Every attempt will be made to afford a reasonable amount of time for the PI(s) to respond to the request. Failures to respond or to address the information requested may result in a temporary or permanent suspension of approved research related activities.

Scientific Misconduct

Allegations or concerns regarding observed, suspected, or apparent scientific (research) misconduct shall be reported directly to the Division Administrator, who shall report it to the Department Director, as well as the college/university IRB that approved and is also monitoring the research project. DHS employees are encouraged to consult with the Division Administrator if they are unsure whether a suspected incident falls within the definition of scientific or research misconduct. The Division Administrator, Department Director, or college/university IRB may suspend the research while a formal investigation occurs. Notices of suspension shall be provided in writing (letter or email) and directed to the PI(s) and/or IRB as necessary. The Department and Division shall cooperate fully with the IRB in the investigation and response to allegations of scientific misconduct.

The Department is required to provide annual certification on scientific misconduct to the Office of Research Integrity (ORI) per the United States Public Health Services PHS regulation, Public Health Services (PHS) Policies on Research Misconduct at 42 CFR Part 93.301 if they have received or intend to apply for PHS funding. Any allegations of scientific misconduct that are received at the Facility, Division, and Department level shall be included in the annual Institutional Assurance and Annual Report. Failure to comply with this federal requirement will result in the Department being ineligible to apply for or receive PHS research funds.

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, may 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 1-C, *Confidentiality*.

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 advance 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 advance 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, Iowa Physician Orders for Scope of Treatment (IPOST). This form is available at https://idph.iowa.gov/ipost/form.
- 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 heath 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 Advance Directive

Facility written policies and procedures governing revocation of an advance 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 their 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:
  - All health care professionals prescribing clozapine, and pharmacies dispensing clozapine, are certified in the clozapine Risk Evaluation and Mitigation Strategy (REMS) program.
  - Patients are enrolled in the Clozapine REMS Program prior to receiving their first dose if the patient is initiated on Clozapine while in a DHS facility.
  - 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 reinstitution 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 60th 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 Disability Rights Iowa

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 Disability Rights Iowa (DRI) as it carries out its legal responsibilities.

DRI 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 DRI employees, facility written policies and procedures, shall:

- Permit DRI employees to arrive at the facility unannounced,
- Designate a position as the point of contact that DRI employees shall check in with upon arrival. The point of contact shall be responsible to:
  - Request a letter from DRI indicating the purpose of the visit.
  - Provide assistance to DRI employees in locating any individual to be interviewed.
  - Serve as the point position for all requests for information submitted by DRI employees.
  - Assure the superintendent is aware of the presence of DRI employees on campus.
  - Maintain a record of DRI'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 DRI employees' arrival on campus within two hours of being informed of their arrival.

Access to Individuals

Facility written policies and procedures shall assure that DRI 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 DRI 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 be reasonably 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, DRI 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, DRI 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
  - DRI 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 DRI 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 DRI, 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 DRI employee has access to an individual's record.

Copying Records

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

- When DRI 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: DRI shall not be charged for the labor time required to assemble material for copying.

- DRI 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.

- DRI 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 DRI 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 DRI 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:

  "Disability Rights Iowa 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 Disability Rights Iowa 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 DRI.
- 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 DRI.

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.
- 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 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.

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 residence and the county requests that the balance be used to reduce the county's liability, or
    - Has no county of residence 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 applicable 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 15th 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 15th 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 (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.)
- 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: 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.50, 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:
https://www.legis.iowa/gov/docs/code/249A.50.pdf

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 Citizens 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:
https://www.legis.iowa.gov/docs/code/70A.28.pdf

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 director and CCUSO.

Victim Notification Principles

Victims known to the 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 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 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.

Policy on Hepatitis C

It is the policy of the Department of Human Services to ensure individuals served in all state-operated facilities are diagnosed and treated for Hepatitis C Virus infection according to prevalent standards of medical practice.

Policy:
For the Department of Human Services (DHS) to establish guidelines regarding the identification and treatment of the Hepatitis C Virus (HCV) concerning individuals served in state facilities.

Superintendents shall assure state facility policies include the following:

- Protocol to determine the eligibility and timeline for HCV testing at the time of admission or following a significant exposure.
- Identification and implementation of an appropriate consent process for HCV testing.
- Interpretation of the initial test results by the primary medical providers, in consultation with gastrointestinal or infectious disease specialists, if needed.
- Identification of the requirements for an MDT review to discuss the implications of a positive HCV test, including:
  - Counseling to the individual and notification to the guardian (if applicable),
  - Review of infection control measures, and
  - Referral to medical specialist for further evaluation.
- Coordination between primary medical providers and specialists to implement the plan of treatment and medical follow-ups as recommended.

HCV Testing Guidelines

Testing shall be in accordance with the Centers for Disease Control and Prevention testing recommendations:

- Testing shall be initiated with anti-HCV test.
- For those with reactive test results, the anti-HCV test should be followed with an HCV RNA test.

Individuals for whom HCV testing is recommended:

- Adults born from 1945 through 1965 should be tested once (without prior ascertainment of HCV risk factors).

- Those at risk for acquiring HCV, including people who:
  - Currently inject drugs.
  - Ever injected drugs, including those who injected once or a few times many years ago.
  - Have certain medical conditions, including:
    - Receiving clotting factor concentrates produced before 1987
    - Ever being on long-term hemodialysis
    - Having persistently abnormal alanine aminotransferase levels (ALT)
    - Having HIV infection
  - Were prior recipients of transfusions or organ transplants, including:
    - Being notified that they received blood from a donor who later tested positive for HCV infection.
    - Receiving a transfusion of blood, blood components, or an organ transplant before July 1992.
- Those with the following recognized exposures:
  - Individuals served, and healthcare, emergency medical, or public safety workers after needle sticks, sharps, or mucosal exposures to HCV-positive blood
  - Children born to HCV-positive women

NOTE: For persons who might have been exposed to HCV within the past six months, testing for Hepatitis C Virus Ribonucleic Acid (HCV RNA) or follow-up testing for Hepatitis C Virus antibody is recommended. Antibodies for HCV may first be detected within 4 to 10 weeks after exposure, but may take significantly longer in some individuals.

Individuals for whom routine HCV testing is of uncertain need:

- Recipients of transplanted tissue (e.g., corneal, musculoskeletal, skin, ova, sperm)
- Intranasal cocaine and other non-injecting illegal drug users
- Persons with a history of tattooing or body piercing
- Persons with a history of multiple sex partners or sexually transmitted diseases
- Long-term steady sex partners of HCV-positive persons

Individuals for whom routine HCV testing is not recommended (unless they have risk factors for infection):

- Health-care, emergency medical, and public safety workers
- Pregnant women
- Household (nonsexual) contacts of HCV-positive persons
- General population

HCV Management Practices, Testing, Diagnosis and Treatment

Individuals identified as eligible for testing shall be tested within 72 hours (sooner if medically indicated) after admission or after a significant exposure.

State facilities under this policy will obtain appropriate consents.

Individuals identified as HCV positive shall be referred to a gastrointestinal or infectious disease specialist for further evaluation. Primary medical providers at the state facility will coordinate with the consultants to implement and monitor the treatment plan including all necessary medical follow-ups.

Once treatment options and recommendations are identified by a specialist in the field, the individual's multidisciplinary team will hold a meeting in a timely manner to discuss options and recommendations.

Affected individuals shall be provided education and counseling related to infection control, their current medical status, and treatment options. Education and interventions shall be aimed at reducing progression of liver disease and preventing transmission of HCV.

Affected individuals will be:

- Given the appropriate Consent/Refusal for Hepatitis C Advanced Treatment Recommendations forms as provided by their medical provider to read as appropriate,
- Given the opportunity to ask questions of a medical provider and facility staff, and
- Requested to sign agreeing or declining advanced treatment forms as provided by their medical provider when appropriate.

If an individual is unable to give consent, the legal guardian may authorize consent for the testing and treatment.

Policy on Deaths and Autopsies

Reporting Deaths

Facility written policies and procedures shall assure that all deaths are reported to the individual's next of kin, the Division, and otherwise as required by accreditation standards, policy, rule or by law.

The superintendent or the superintendent's designee shall be responsible for making all reports as specified in the facility's Employee Manual policy sections.

All superintendents or designees shall be responsible for making the following reports:

- Individual's next of kin report
- County medical examiner report
- State medical examiner report

Individual's Guardian or Next of Kin Report

Facility written policies and procedures shall specify which employees are responsible to assure that notice of the death of an individual is given to the individual's guardian and next of kin. Notice shall be given as follows:

- By telephone to the guardian and next of kin within one hour of knowledge of the death to:
  - Respond to questions,
  - Ask which funeral home is to be used,
  - Inform the guardian and the next of kin that the facility will be notifying the medical examiner of the death. Request verbal approval for the release of records in the event the medical examiner orders an autopsy and requests the records. Note: The guardian can consent to release of records only if they are the individual's named executor. If the guardian is not the executor, seek consent for release of records from the closest next of kin. (See Iowa Code 144C.5 for determining next of kin)
  - Obtain written consent for release of records from the executor or closest next of kin if the medical examiner requests the individual's records.

- Inform the guardian and next of kin of the right to request an autopsy, at the facility's expense, if the medical examiner does not order an autopsy.
- Determine whether further follow-up with next of kin will be needed.

Additional Information:

Facility written policy and procedures shall assure:

- Written notice is sent by certified mail to the decedent's nearest relative within three days of the date of death. The written notice shall include any forms or additional material the next of kin may need, such as how to obtain medical records, a death certificate, or other needed documents.
- When additional, disclosable information becomes available regarding the circumstances of the individual's death, the superintendent or designee, shall telephone or meet with the next of kin in person and share with them the additional information.

Seeking Next of Kin Authorization

Facility written policies and procedures shall assure that in seeking next of kin authorization:

- When the death is expected, the process shall start before the death and shall be done in person with the next of kin,
- When the next of kin is not available to meet in person, the request shall be done by phone, and if consent is to be given over the phone, the facility shall:
  - Have at least two employees witness the phone call,
  - Document the call and the consent and have all facility employees witnessing the call sign the documentation, if the documentation is:
    - Made by voice recording, signature shall be made by each witness stating name, job title, date, and time.
    - Made using electronic medical records system, signature shall be made by the witness using /S/ followed by typed name, job title, date and time.
  - Follow up the phone consent by sending a written consent for the next of kin to sign and return.

- The relationship of the next of kin member giving the authorization is clearly identified as well as the next of kin's order in the list of persons authorized to give consent,
- The next of kin shall be provided with the facility's rationale as to why an autopsy is requested,
- The next of kin's feeling about an autopsy shall be explored,
- The next of kin clearly understands this is the next of kin's decision unless required by the medical examiner,
- The next of kin understands that the autopsy will be at no cost to the next of kin, and
- The next of kin will be provided with a copy of the autopsy.

Next of Kin Requested Autopsy

Facility written policy and procedures shall assure that when the next of kin requests an autopsy, the next of kin is:

- Provided with information on how to request an autopsy
- Provided with needed support in the process, and
- Informed that the autopsy will be at the next of kin's expense (Iowa Code 222.12(3)).

Include the procedure for arranging an autopsy to be performed when requested by the next of kin that includes at a minimum:

- Identifying the pathologist to be used,
- Making arrangements for the pathologist to examine the body, and
- Getting the consent for the autopsy to the pathologist.

County and State Medical Examiner Report

Facility written policies and procedures shall specify which employees are responsible to assure that notice of the death of an individual is given to the medical examiner. Notice shall be given as follows:

- **Death occurring at the facility:**
  - A report of death occurring at the facility shall be made immediately upon knowledge of the death to the county medical examiner. The employee shall:
    - ◊ Call the county medical examiner directly, or
    - ◊ Call the local sheriff and have the dispatcher page the responding county medical examiner.

- **Death occurring outside the facility at a hospital located in Iowa, or other location in Iowa:**
  - The facility shall report the death to the county medical examiner for the county in which the death occurred immediately upon knowledge of the death even if there is information that someone else has reported the death to ensure independent compliance with the law.
- **Death occurring outside Iowa:**
  - Deaths occurring outside the state of Iowa shall be immediately reported to the State medical examiner to assure compliance with the law.
- **All medical examiner reports:**
  - The employee shall ask the county or state medical examiner if an autopsy should be performed with the goal of having one or two autopsies per year at the state resource centers.
  - All medical examiner notices shall be documented and include the name of the employee who gave the notice, the name and entity the notice was given to, the date and time notice was given, and if the medical examiner requested an autopsy be conducted.

Medical Examiner Preliminary Investigation

Facility policies and procedures shall assure that:

- Appropriate written consent for release of records is obtained. If consent is not obtained, request a subpoena from the Office of the State Medical Examiner;
- The information requested by the medical examiner is provided promptly once consent or subpoena is provided;
- All employees work cooperatively with the medical examiner;
- The information provided the medical examiner is documented, and
- Payment shall be promptly made to the medical examiner upon receipt of a signed itemized bill.

Notification of Reporting Responsibilities

Facility superintendents, or facility medical directors, shall provide written notification to all local hospitals and the University of Iowa Hospitals and Clinics, that if an individual served by the facility dies in their care by Iowa Code 331.802(3)(k) the death is a death of public interest and the hospital is required to inform the county medical examiner of the death.

This notice shall include that the facility will also notify the county medical examiner to ensure that the requirements of the law are met, but that facility reporting does not waive the hospital's responsibility to report.

Facility Autopsy Request

Facility policies and procedures shall provide for seeking an autopsy when an autopsy is not ordered by the medical examiner, the next of kin or executor has not obtained an autopsy, and:

- There is no clear cause of death, or
- The circumstances of the death suggest the findings of an autopsy might be useful, or
- It is believed that the information can be used in the facility's performance improvement activities.

Request Process

Facility written policies and procedures shall provide that if the facility wants to request an autopsy:

- The facility shall request that the medical examiner order an autopsy.
- If the medical examiner does not order the autopsy, the facility shall request that the next of kin authorize an autopsy.
- If both refuse to authorize an autopsy, the superintendent shall consult with the administrator or the administrator's designee as to whether additional steps shall be taken to seek an autopsy.
- If the individual's body has been donated in accordance with Iowa Code section 331.802(8) by will or at the direction of the spouse, parents, or adult children, to a medical school and this is known to the facility, the facility shall not seek an autopsy.

Include the procedure for arranging an autopsy to be performed when authorized by the next of kin that includes at a minimum:

- Identifying the pathologist to be used,
- Making arrangements for the pathologist to examine the body, and
- Getting the consent for the autopsy to the pathologist.

Autopsy Reports

Facility written policies and procedures shall assure that, when an autopsy report is received:

- A copy of the report is made available to the next of kin,
- A copy of the report is provided to the administrator, and
- A copy is placed in the deceased individual's facility record.

Training and implementation

Facility superintendents shall ensure that all medical staff, nursing supervisors, Administrative Officers of the Day, Duty Superintendents, Medical Officers of the Day, and other relevant staff are informed of, and trained on, these notification requirements and appropriate documentation of the training will be completed.

The Division Administrator, or designee, will verbally inform all facilities of this policy and training requirements.

Policy on Abuse and Incident Management

It is the policy of the Department of Human Services to provide services in a safe and human environment where abuse of any type shall not be tolerated. Individuals shall be free from abuse and protected from abuse. Where abuse is alleged, the allegation shall be thoroughly investigated while individuals are protected. If abuse is confirmed, corrective action shall be taken to prevent the abuse from reoccurring.

Abuse and Incident Management Principles

- The Department has Zero Tolerance for abuse. Individuals shall be provided treatment in a safe and humane environment, free from abuse, neglect, mistreatment or harm, and where abuse shall not be tolerated.
- A safe environment provides the basis to accomplish the Department's mission of providing quality treatment and rehabilitation services to enable individuals to fully achieve the individual's maximum potential.
- All employees, contractors, and volunteers have a responsibility to assure individual safety and protection from harm and therefore shall report all incidents timely.
- There are consequences for persons who commit abuse.
- Incidents directly involving the care, treatment, of an individual shall be identified and tracked for the purpose of scrutiny and investigation, prevention of future harm, and assuring the maximum safety and protection of the individuals served.
- In order to carry out these responsibilities effectively, employee, contractors, and volunteers shall be adequately trained to recognize abuse and other incidents and what to do to protect the individuals served.

Personnel Practices

Facility written policies and procedures shall assure that:

- Before beginning employment, volunteering, or contracting, all applicants for employment, reinstatement to employment, regular volunteering, or ongoing personal service contracts shall be screened for:
  - Employment history,
  - Criminal history,
  - Child abuse history,
  - Dependent adult abuse history,

- Inclusion on the federal list of excluded individuals and entities, and
- Inclusion on the Sex Offender Registry.

♦ Any person seeking employment or reinstatement to employment who has a record of founded child or dependent adult abuse or denial of critical care or has any conviction based on those offenses shall be denied employment unless:

- The applicant submits *Record Check Evaluation,* form 470-2310 (see 16-G-Appendix), for screening by the Department, and
- The Department determines that the applicant is employable.

♦ Any person seeking a personal services contract or seeking to volunteer regularly who has a record of a founded child, dependent adult abuse, or denial of critical care or has any conviction based on these offenses shall be denied the contract or the opportunity to volunteer.

♦ All personnel actions resulting from investigations shall follow state personnel policy and procedures.

♦ Any employee, volunteer, or contractor shall report within 24 hours or on the next scheduled working day any allegation or founding of abuse or being arrested for, charged with, or convicted of any felony or misdemeanor against the person arising from the person's actions outside the work place.

♦ Employees shall make the report to the employee's direct-line supervisor. Volunteers or contractors shall report to their institute contact person.

♦ When such a report is made, the employee, volunteer, or contractor shall complete form 470-2310, *Record Check Evaluation*, and the mental health institute shall submit the form for screening by the Department under Iowa Code section 218.13 to determine if the person continues to be employable.

♦ Facilities shall follow up on any information it received that indicates that an employee may have been arrested, charged, or a conviction for any felony or misdemeanor.

♦ Any employee, contractor, or volunteer who fails to report any allegation of abuse or arrest, charge, or conviction for any felony or misdemeanor against the person arising from the person's actions outside the work place within 24 hours or on the next scheduled working day shall be subject to sanctions, up to and including dismissal or termination of contract.

- Any employee, volunteer, or contractor who has been found to have contributed to adult or child abuse, to have committed adult or child abuse, to have been convicted of child or adult abuse, denial of critical care, or to have committed mistreatment 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 employees shall be done timely and shall be based on an evaluation of the type and severity of the incident based on the evidence in the incident report, prior personnel actions taken with the employee, and other components of just cause.

General Abuse and Incident Management Policies

Facility written policies and procedures shall assure that:

- No employee, contractor, or volunteer shall behave in an abusive or neglectful manner toward individuals. No employee, contractor, or volunteer shall violate the Iowa Code provisions related to:
  - Child abuse. (See Iowa Code section 232.68(2), and 441 IAC 175.21(232,235A).)
  - Abuse or neglect of dependent adults. (See Iowa Code section 235B.2(5), 441 IAC 176.1(235B), Iowa Code Chapter 235E.)
  - Sexual abuse. (See Iowa Code Chapter 709.)
- Employee, contractor, or volunteer actions that meet the Department's definition of abuse in this chapter will be in violation of this policy and are strictly prohibited.
- All employees, contractors, and volunteers who have regular contact with individuals shall be trained to:
  - Identify and report abuse and other incidents; and
  - Respond to incidents threatening the health and safety of individuals as defined by this policy.
- Employees, contractors, or volunteers who fail to report incidents as required; who give false, misleading, or incomplete information; or who otherwise do not participate in the investigation or review process as outlined shall be in violation of this policy and shall be subject to:
  - Discipline or termination of services, whichever is applicable; and
  - Where appropriate, criminal prosecution.

- Employees who retaliate against any individual, employee, contractor, or volunteer for that person's involvement in the reporting and investigation process as a reporter or witness or in any other capacity shall be in violation of this policy and shall be subject to discipline, and where appropriate, criminal prosecution.
- Individuals shall be encouraged and educated to assert the legal and civil rights they share with all United States citizens, including the right to a dignified, self-directed existence in a safe and humane environment, free from abuse or harm.
- All incidents involving the care, treatment, or rehabilitation of an individual that occur at a facility shall be identified and tracked for the purpose of scrutiny and investigation, in the interest of preventing future harm, and ultimately to assure maximum safety and protection of the individuals served.
- An electronic system that is uniform across all mental health institutes shall be developed and implemented to track reported incidents with the data listed in the performance improvement section of this policy.
- Incidents shall be monitored and evaluated to determine if any policy, procedure, training, or operational changes are needed to minimize the future risk to individuals.

Individual Safety

Facility written policies and procedures shall assure that:

- The health and safety needs of an individual involved in an abuse allegation or any other incident shall be an immediate priority.
- All employees, volunteers, and contractors shall take immediate steps to assure that an individual involved in an incident receives needed appropriate treatment and protection from further harm. Such actions shall include but are not limited to:
  - Providing first aid,
  - Calling for emergency medical services,
  - Removing the individual from an environment that threatens further harm,
  - Removing an aggressor from further contact with the individual,
  - Any other appropriate action, such as contacting the appropriate regulatory agencies, law enforcement, and/or upper management, including the facility superintendent and the division director within required timelines.

- Removing a caretaker from contact with the individual when the caretaker has allegedly abused the individual and maintaining the separation until the Department of Inspections and Appeals (DIA) or DHS (in cases involving children) determines an investigation will not be completed, or a DIA investigation has been completed and the abuse determination made.

♦ The supervisor responding to the incident shall document the health and safety needs that the individual had because of the incident and the actions take in response to those identified needs.

Abuse and Incident Investigation Principles

Facility written policies and procedures shall assure that:

♦ All alleged abuse and incidents are reported timely.

♦ All regulatory agencies, law enforcement agencies, supervisory staff, and parents/guardians are notified per specific facility policies based on federal and state requirement.

♦ Facility staff shall cooperate with law enforcement and regulatory agencies conducting separate investigations from the facilities when requested.

♦ All alleged abuse allegations and incidents are investigated timely and by qualified staff. Timely generally means the investigation is initiated as soon as possible and no later than 24 hours after receiving knowledge of an allegation report and concluded within 5 business days.

♦ All statements, interviews, physical evidence, pictures, diagrams, or maps shall be collected and will be considered in the final report of a thorough investigation.

♦ A final report shall include all findings and include recommendations for action both to safeguard all the individuals at risk during the investigation process; from time of the initial report, during the investigation, and after completion of the report.

Policy on Medical Cannabidiol (CBD)

Legal Reference: Iowa Code chapter 124(e) and Code of Federal Regulations Title 21, Chapter II, Part 1308 – Schedules of Controlled Substances

Medical Cannabidiol (CBD) use by individuals at state operated facilities is prohibited.

While CBD is legal for use in treating specific debilitating medical conditions in Iowa as per Iowa Code chapter 124E, CBD is still considered a Schedule 1 Controlled Substance unapproved by the United States (U.S.) Food and Drug Administration (FDA), and is therefore illegal under federal law.

CBD must be obtained at a dispensary and acquired, stored, and administered by the individual or their primary caregivers. There is no federal guidance establishing how state operated facilities can lawfully order, store, or administer this federally prohibited substance. Individuals in state operated facilities are encouraged to work with the facility medical staff to determine alternative treatment options.