

## CHAPTER 181

## DRUG ABUSE AUTHORITY

## S. F. 122

AN ACT to establish the Iowa drug abuse authority and define its powers and duties.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. NEW SECTION. **Definitions.** As used in this Act:

2 1. "Authority" means the Iowa drug abuse authority.

3 2. "Director" means the director of the authority.

4 3. "Advisory council" means the state advisory council on drug  
5 abuse within the authority.

6 4. "Drug abuse prevention function" means any program or activity  
7 relating to drug abuse education, training, treatment, rehabilitation,  
8 or research, and includes any such function even when performed by  
9 an organization or agency whose primary mission is not in the field  
10 of drug abuse or drug traffic prevention, or is unrelated to drugs.

11 5. "Drug program" means any drug abuse prevention function or  
12 any program to assist persons who are or have been involved in abuse  
13 of any controlled substance.

14 6. "Chemical substitutes and antagonists" means any substance, in-  
15 cluding but not limited to methadone or any other similar substance,  
16 which is used to detoxify from or provide a substitute for addiction  
17 to narcotic substances, or any substance which opposes, resists, or  
18 neutralizes the effects of narcotic substances, as defined in section two  
19 hundred four point one hundred one (204.101), subsection seventeen  
20 (17) of the Code.

21 7. "Controlled substances" has the same meaning as is assigned  
22 that term by section two hundred four point one hundred one  
23 (204.101), subsection six (6) of the Code.

1 SEC. 2. NEW SECTION. **Authority established.** There is estab-  
2 lished in the office of the governor the Iowa drug abuse authority, for  
3 the purpose of providing overall planning, policy-making, and imple-  
4 mentation of objectives and priorities identified in the comprehensive  
5 state drug abuse plan.

1 SEC. 3. NEW SECTION. **Director appointed.** The chief adminis-  
2 trative officer of the authority shall be the director, who shall be ap-  
3 pointed by the governor with the approval and confirmation of two-  
4 thirds of the members of the senate, and who shall serve at the pleas-  
5 ure of the governor. An appointment made to fill a vacancy while the  
6 general assembly is not in session shall be reported to the senate for  
7 confirmation within thirty days of its convening at its next regular  
8 session.

1 SEC. 4. NEW SECTION. **Director to employ personnel.** The direc-  
2 tor shall arrange for the employment of personnel as are necessary  
3 to staff the authority. All personnel shall be employed through the  
4 state merit system, except those in positions exempt therefrom under  
5 section nineteen A point three (19A.3) of the Code.

6 The director may employ a deputy director, who shall be exempt  
7 from the merit system and shall serve at the pleasure of the director.

1 SEC. 5. NEW SECTION. Powers and duties of authority. The au-  
2 thority shall:

3 1. Be responsible for the development and implementation, with  
4 advice of the advisory council, of a comprehensive long-range state  
5 plan to identify resources and provide services to combat abuse of con-  
6 trolled substances and to assist persons who are or have been involved  
7 in abuse of any controlled substance; in furtherance of this responsi-  
8 bility the authority shall coordinate a network of drug abuse preven-  
9 tion services in the state.

10 2. Review existing state statutes and proposed legislation pertain-  
11 ing to treatment or assistance, vocational training, education, or other  
12 rehabilitation services to persons who are or have been involved in  
13 abuse of any controlled substance, in order to determine whether the  
14 statutes or proposed legislation are consistent with the comprehensive  
15 state plan to combat drug abuse.

16 3. Review existing and proposed regulations, policies, programs  
17 and procedures of those operating agencies of the state and its politi-  
18 cal subdivisions which provide services to persons who are or have  
19 been involved in abuse of any controlled substance, to determine  
20 whether the regulations, policies, programs, and procedures are con-  
21 sistent with the comprehensive state plan to combat drug abuse and,  
22 where they are found inconsistent, advise and assist those agencies  
23 in effecting appropriate changes.

24 4. Undertake to coordinate and to eliminate duplication in drug  
25 abuse prevention functions by all departments and agencies of the  
26 state and its political subdivisions, and by federal departments and  
27 agencies operating within the state of Iowa, by consulting and work-  
28 ing in collaboration with the various planning bodies, local drug abuse  
29 programs and communities to encourage and promote effective use of  
30 facilities, resources, and funds in the development of integrated, com-  
31 prehensive local programs for the prevention of drug abuse.

32 5. Provide technical assistance, guidance, consultation, information,  
33 and other relevant services to community groups, local governments,  
34 district or regional bodies, and state agencies, with respect to the cre-  
35 ation and implementation of programs and procedures for effective  
36 drug abuse prevention.

37 6. Establish and apply criteria for evaluation of:

38 a. The effectiveness of drug abuse prevention functions conducted  
39 within the state.

40 b. The accuracy of information contained in and effectiveness of  
41 literature and audio-visual aids prepared to combat drug abuse.

42 7. Develop and maintain a centralized drug abuse data collection  
43 and dissemination system, consistent with the confidentiality safe-  
44 guards of state and federal law, and shall maintain a continuously  
45 updated record of research relevant to drug abuse which is in prog-  
46 ress or has been completed in the state.

47 8. Establish guidelines for the submission of grant applications and  
48 assist community groups, local governments, district or regional bodies  
49 and state agencies in the preparation and submission of grant applica-  
50 tions, all with the objective of maximizing utilization of available  
51 funds to combat drug abuse.

52 9. Adopt rules to implement this Act, in the manner prescribed by  
53 chapter seventeen A (17A) of the Code.

1     **SEC. 6. NEW SECTION. Powers of director.** The director may:  
2     1. Require that a written report, in reasonable detail, be submitted  
3 to him at any time by any agency of this state or of any of its politi-  
4 cal subdivisions in respect to any drug abuse prevention function, or  
5 program for the benefit of persons who are or have been involved in  
6 abuse of any controlled substance, which is being conducted by the  
7 agency.

8     2. Submit to the governor a written report of the pertinent facts  
9 at any time the director concludes that any agency of this state or  
10 of any of its political subdivisions is conducting any drug abuse pre-  
11 vention function, or program for the benefit of persons who are or  
12 have been involved in abuse of any controlled substance, in a manner  
13 not consistent with or which impairs achievement of the objectives of  
14 the state plan to combat drug abuse, and has failed to effect appro-  
15 priate changes in the function or program.

16     3. In the furtherance of the objectives of this Act and of the com-  
17 prehensive state plan to combat drug abuse:

18     a. Accept and employ voluntary and uncompensated services.

19     b. Accept and expend grants, gifts and legacies of money and with  
20 consent of the executive council pursuant to sections five hundred  
21 sixty-five point three (565.3) through five hundred sixty-five point  
22 five (565.5) of the Code, grants, gifts and legacies of other property.

1     **SEC. 7. NEW SECTION. State advisory council.** There is estab-  
2 lished within the authority a state advisory council to advise the direc-  
3 tor in administering this Act. The governor shall name the appoin-  
4 tive members of the advisory council, who shall serve at his pleas-  
5 ure, and shall designate the chairman of the advisory council. The  
6 director or his designee shall serve as the advisory council's secretary.  
7 The advisory council shall be entirely advisory in character and may  
8 not exercise administrative authority.

1     **SEC. 8. NEW SECTION. Advisory council membership.** The advis-  
2 ory council shall consist of members as follows:

3     1. Not more than eleven voting members shall be appointed by the  
4 governor to represent:

5     a. Public and private groups and agencies concerned with drug  
6 abuse prevention and control, including not less than four representa-  
7 tives of agencies or programs licensed under section twelve (12) of  
8 this Act.

9     b. Representatives of agencies or individuals whose work is not pri-  
10 marily concerned with drug abuse but does place them in frequent  
11 contact with persons who are or have been involved in abuse of con-  
12 trolled substances.

13     c. City and county government.

14     d. The criminal justice system, including corrections personnel.

15     e. The general public.

16     2. The following nonvoting members or their respective designees:

17     a. The commissioner of social services.

18     b. The superintendent of public instruction.

19     c. The commissioner of public safety.

20     d. The attorney general.

21     e. The director of office for planning and programming.

22     f. The executive director of the Iowa crime commission.

- 23 g. The commissioner of public health.  
 24 h. The secretary of the state board of pharmacy examiners.  
 25 i. The president of the Iowa medical society.  
 26 j. The president of the Iowa osteopathic society.  
 27 k. The president of the Iowa pharmaceutical association.  
 28 l. The president of the Iowa state education association.  
 29 m. The director of the Iowa mental health authority.  
 30 n. The associate superintendent of the vocational rehabilitation  
 31 education and services branch of the department of public instruction.  
 32 o. The director of the Iowa commission on alcoholism.

1 SEC. 9. NEW SECTION. **Frequency of meetings—expenses.** The  
 2 state advisory council shall meet at least quarterly, and may meet  
 3 more often, upon the call of the chairman. Advisory council members  
 4 shall serve without compensation, but shall be reimbursed for actual  
 5 and necessary expenses incurred by reason of their service upon the  
 6 advisory council.

1 SEC. 10. NEW SECTION. **District advisory councils.** The director  
 2 may, with advice of the advisory council, establish district drug abuse  
 3 advisory councils to perform the same function, with respect to efforts  
 4 within the designated district to achieve the objective of the compre-  
 5 hensive state plan to combat drug abuse, as is performed by the advis-  
 6 ory council with respect to the authority and the programs to which  
 7 the authority relates.

1 SEC. 11. NEW SECTION. **Coordination, consultation, review by au-**  
 2 **thority.**

3 1. Every department or agency of this state which operates, or ad-  
 4 ministers or subvents state or federal funds for, any drug abuse pre-  
 5 vention program shall annually, before the beginning of each fiscal  
 6 year, establish objectives and allocate funds for the program in co-  
 7 ordination and consultation with the authority.

8 2. Any department or agency of this state or of any of its political  
 9 subdivisions, or any private agency, group or individual operating a  
 10 drug abuse prevention program which proposes to submit to the fed-  
 11 eral government or to any department or agency of this state a re-  
 12 quest for a grant of federal or state funds or for other federal or state  
 13 assistance or approval for any drug program, shall submit the re-  
 14 quest to the authority for review and comment prior to formal submis-  
 15 sion to the federal or state department or agency to which the request  
 16 is directed.

1 SEC. 12. NEW SECTION. **Programs licensed.** Except as otherwise  
 2 provided, no person or program may, without first having obtained a  
 3 written license therefor from the authority, maintain or conduct any  
 4 chemical substitutes or antagonists program, residential program or  
 5 nonresidential outpatient program, the primary purpose of which is  
 6 the treatment and rehabilitation of drug dependent individuals.

1 SEC. 13. NEW SECTION. **Exceptions.** The licensing requirements  
 2 of this Act, except the requirements imposed by section twenty-one  
 3 (21) of this Act, shall not apply to any of the following:

4 1. Hospitals providing any service of care, treatment, counseling  
 5 or rehabilitation to drug dependent persons required on the effective

6 date of this Act by other provisions of law to be licensed.

7 2. Any practitioner of medicine and surgery or osteopathic medi-  
8 cine and surgery, in his private practice. However, no program shall  
9 be exempted from licensing by the authority by virtue of its utiliza-  
10 tion of the services of a medical practitioner in its operation.

11 3. Private institutions conducted by and for persons who adhere to  
12 the faith of any well recognized church or religious denomination for  
13 the purpose of providing care, treatment, counseling, or rehabilitation  
14 to drug dependent persons and who rely solely on prayer or other spir-  
15 itual means for healing in the practice of religion of such church or  
16 denomination.

17 4. Facilities, institutions, or programs which, in the discretion of  
18 the authority, provide services which are only informational or educa-  
19 tional in nature.

1 SEC. 14. NEW SECTION. **Licensing board.** There is created with-  
2 in the authority a drug treatment licensing board, of which the direc-  
3 tor shall be chairman. The drug treatment licensing board shall meet  
4 to consider all cases involving issuance, denial, suspension, or revoca-  
5 tion of a license. Upon approval of an application for licensing from  
6 the drug treatment licensing board, a license shall be issued. The  
7 board members, in addition to the director, shall be:

8 1. A representative of the state pharmacy examiners, designated by  
9 the pharmacy examiners.

10 2. A representative of the department of health, designated by the  
11 commissioner of public health.

12 3. A representative of the department of social services, designated  
13 by the commissioner of social services.

14 4. A representative of the division of rehabilitation and education  
15 services, department of public instruction, designated by the director  
16 of the division.

17 5. A private physician, appointed by the governor.

18 6. Four representatives of community-based drug treatment pro-  
19 grams, appointed by the governor from lists of nominees, numbering  
20 at least twice the number of positions to be filled, submitted by dis-  
21 trict advisory councils established pursuant to section ten (10) of this  
22 Act.

1 SEC. 15. NEW SECTION. **License renewal—fees.** Licenses shall  
2 expire one year from the date of issuance and shall be renewed upon  
3 timely application made in the same manner as for original issuance  
4 of a license unless notice of nonrenewal is given to the licensee at least  
5 thirty days prior to the expiration of the license. The authority shall  
6 charge a fee for licensing and renewal adequate to cover the cost of  
7 processing each application and conducting inspection and investiga-  
8 tions as required or deemed necessary to properly enforce this Act.  
9 Costs incurred by local agencies or bodies approved to assist the au-  
10 thority in administering this Act as permitted by section twenty-one  
11 (21), subsection four (4) of this Act may be reimbursed to the local  
12 agencies or bodies by the authority.

1 SEC. 16. NEW SECTION. **Inspection of licensees.** The authority  
2 shall at least annually inspect the facilities and review the procedures  
3 utilized by each licensed program. The examination and review may

4 include case record audits and interviews with staff and patients, con-  
5 sistent with the confidentiality safeguards of state and federal law.

1 **SEC. 17. NEW SECTION. Transfer of license or change of location**  
2 **prohibited.** No license issued under this Act may be transferred, and  
3 the location of the physical facilities occupied or utilized by any pro-  
4 gram licensed under this Act shall not be changed without the prior  
5 written consent of the authority.

1 **SEC. 18. NEW SECTION. License suspension or revocation.** Viola-  
2 tion of any of the requirements or restrictions of this Act or of any  
3 of the rules properly established pursuant to this Act is cause for sus-  
4 pension, revocation or refusal to renew a license. The director shall  
5 at the earliest time feasible notify a licensee whose license the author-  
6 ity is considering suspending or revoking and shall inform the licensee  
7 what changes must be made in his operation to avoid such action. The  
8 licensee shall be given a reasonable time for compliance, as determined  
9 by the director, after receiving such notice or a notice that the author-  
10 ity does not intend to renew the license. When the licensee believes  
11 he has achieved compliance, or if he considers the proposed suspension,  
12 revocation or refusal to renew unjustified, he may submit pertinent  
13 information to the director who shall expeditiously make a decision in  
14 the matter and notify the licensee of the decision.

1 **SEC. 19. NEW SECTION. Hearing before licensing board.** If a  
2 licensee under this Act makes a written request for a hearing within  
3 thirty days of suspension, revocation or refusal to renew his license,  
4 a hearing before the drug treatment licensing board shall be expedi-  
5 tiously arranged. If the role of a licensing board member is incon-  
6 sistent with any member's job role or function, or if any member feels  
7 he is unable for any reason to disinterestedly weigh the merits of the  
8 case before him, a substitute representative from the agency that  
9 member represents on the board shall be appointed by the director for  
10 the hearing on that case. The board shall, within thirty days after  
11 conclusion of the hearing, issue a written statement of its findings  
12 upholding or reversing the proposed suspension, revocation or refusal  
13 to renew a license. No action involving suspension, revocation or re-  
14 fusal to renew a license shall be taken by the licensing board unless a  
15 quorum of six of the ten members are present at the meeting. A copy  
16 of the decision shall be promptly transmitted to the affected licensee  
17 who may, if he is aggrieved by the decision, request a second hearing  
18 before the board in the manner provided by this section. If the sec-  
19 ond hearing is denied, or its outcome is unsatisfactory to the licensee,  
20 he may appeal to district court which may hear the matter de novo.

1 **SEC. 20. NEW SECTION. Reissuance or reinstatement.** After sus-  
2 pension, revocation or refusal to renew a license pursuant to this Act,  
3 the affected licensee shall not have his license reissued or reinstated  
4 within one year of the effective date of the suspension, revocation or  
5 expiration upon refusal to renew, unless by order of the drug treat-  
6 ment licensing board. After that time, proof of compliance with the  
7 requirements and restrictions of this Act and the rules established  
8 pursuant to this Act must be presented to the director prior to rein-  
9 statement or reissuance of a license.

1     **SEC. 21. NEW SECTION. Chemical substitutes and antagonists pro-**  
2 **grams.** The authority shall have exclusive power in this state to ap-  
3 prove and license chemical substitutes and antagonists programs, and  
4 monitor chemical substitutes and antagonists programs in this state  
5 to insure that the programs are operating within the rules estab-  
6 lished pursuant to this Act.

7     The authority may:

8     1. Continuously study and evaluate chemical substitutes and antag-  
9 onists programs in this state and annually report to the governor and  
10 the general assembly on the effectiveness and needs of the programs.

11     2. Provide advice, consultation, and technical assistance to chemical  
12 substitutes and antagonists programs.

13     3. In its discretion, approve local agencies or bodies to assist it in  
14 carrying out the provisions of this Act.

1     **SEC. 22. NEW SECTION. Rules to be established.** The rules estab-  
2 lished pursuant to section five (5), subsection nine (9) of this Act shall  
3 include rules for chemical substitutes and antagonists programs in the  
4 manner prescribed by chapter seventeen A (17A) of the Code. The  
5 rules shall have as their objective the assurance that these programs  
6 will provide a means by which the patient may be rehabilitated and  
7 eventually enabled to end his dependence on drugs, and during this  
8 process will be freed from the necessity to resort to illegal activities  
9 to support his dependence on drugs, and to this end the rules shall:

10     1. Establish guidelines for the eligibility of patients to be served by  
11 these programs.

12     2. Establish guidelines for operation of these programs which shall  
13 include permissible dosage levels, record keeping and reporting, uri-  
14 nalysis requirements and permissible take-home dosages of, and secu-  
15 rity against redistribution of, controlled substances used in these pro-  
16 grams.

17     3. Require that these programs provide a full range of comprehen-  
18 sive services to patients which shall include individual and group  
19 therapy, counseling, vocational guidance and job education counseling.

20     4. Establish a statewide identification system which shall be used  
21 by all these programs to prevent simultaneous registration of any  
22 patient in more than one program and to insure the proper adminis-  
23 tration of medication while protecting the patients rights to confiden-  
24 tiality pursuant to section twenty-three (23) of this Act; the author-  
25 ity may also participate in a similar national or interstate identifica-  
26 tion system if one is developed by the federal government or other-  
27 wise.

28     5. Provide for due notice to operators of these programs who may  
29 be required by the rules to make changes in the manner of operation  
30 of the programs.

1     **SEC. 23. NEW SECTION. Confidentiality of patient records.** Rec-  
2 ords of the identity, diagnosis, prognosis, or treatment of any patient  
3 which are maintained in connection with the performance of any drug  
4 abuse prevention function licensed under this Act shall be confidential  
5 and may be disclosed only for the purposes and under the circum-  
6 stances expressly authorized by this section.

7     1. The content of the record shall be disclosed to the patient at  
8 his request.

9 2. If the patient, with respect to whom any given record referred to  
10 above is maintained, gives his specific written consent the content of  
11 the record may be disclosed:

12 a. To medical personnel for the purpose of diagnosis or treatment  
13 of the patient.

14 b. To governmental personnel for the purpose of obtaining benefits  
15 to which the patient is entitled.

16 3. If the patient does not give his written consent, the content of  
17 the record may be disclosed only as follows:

18 a. To medical personnel to the extent necessary to meet a bona fide  
19 medical emergency.

20 b. To qualified personnel for the purpose of conducting scientific  
21 research, management, financial audits or program evaluation, but  
22 records so disclosed shall not identify, directly or indirectly, any indi-  
23 vidual patient or otherwise disclose patient identity in any manner.

24 4. The prohibitions of this section continue to apply to records con-  
25 cerning any individual who has been a patient, irrespective of whether  
26 or when he ceases to be a patient. The arrest and conviction records  
27 and the records of any charges pending against any person seeking  
28 admission to a chemical substitutes or antagonists program or other  
29 drug program shall be furnished to program directors by courts and  
30 law enforcement agencies upon request in writing by the program  
31 director provided such request is accompanied by a signed release from  
32 the person whose records are being requested, and all aspects of pa-  
33 tient record confidentiality are assured.

1 SEC. 24. NEW SECTION. **Termination of authority.** Effective June  
2 30, 1978 the authority and each of the positions in the authority shall  
3 be abolished and this Act shall be repealed. Not later than June 30,  
4 1977 the director shall submit to the governor and the general assem-  
5 bly a plan for the orderly assumption of the functions of the author-  
6 ity by existing state departments and agencies, or the assimilation of  
7 the authority into a single existing state agency or the continuation  
8 of the authority.

1 SEC. 25. Section two hundred four point five hundred four  
2 (204.504), subsection three (3), Code 1973, is amended to read as  
3 follows:

4 3. A practitioner engaged in medical practice or research *or the*  
5 *Iowa drug abuse authority or any program which is licensed by the*  
6 *authority* shall not be required to furnish the name or identity of a  
7 patient or research subject to the board or the department, nor shall  
8 the practitioner *or the authority or any program which is licensed by*  
9 *the authority* be compelled in any state or local civil, criminal, admin-  
10 istrative, legislative or other proceedings to furnish the name or iden-  
11 tity of an individual that the practitioner *or the authority or any of*  
12 *its licensed programs* is obligated to keep confidential.

Approved July 17, 1973.

This Act was passed by the G. A. before July 1, 1973.