

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 135.24, the Department of Public Health hereby amends Chapter 88, “Volunteer Health Care Provider Program,” Iowa Administrative Code.

These amendments provide clarification on surgery to be performed in a volunteer health care provider clinic, where surgery can be performed, who can perform the surgery, and the required follow-up for the surgery. The amendments also alphabetically organize the health care provider professions eligible to receive Volunteer Health Care Provider Program (VHCPP) protection. Definitions have been added to provide further clarification regarding the VHCPP.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 1, 2010, as **ARC 9245B**. Comments were received at a public hearing that was held on Tuesday, December 21, 2010. One commenter, in reference to Item 5, requested that the language pertaining to certified registered nurse anesthetists (CRNAs) be consistent with the privileging of the facility where the operation is performed and that, in Item 8 (now Item 7), the language pertaining to physicians be consistent with the privileging of the facility where the surgery is performed. No change was made in response to this comment as the Department determined that it is the facility’s responsibility to check for the credentialing required for the physician and CRNA. A suggestion to add major surgery to the language pertaining to podiatrists was also made. No change was made in response to this suggestion as the Department determined that this expansion of the VHCPP is for the specialty care physicians.

The following changes have been made since the publication of the Notice of Intended Action. Definitions of “major surgical procedure” and “outpatient surgical facility” were added in Item 1, and references to an outpatient surgical facility were added in Items 2 and 4 and updated in Items 5 and 7. The word “only” was added to the new sentence in subparagraph 88.5(1)“d”(18) in Item 7.

The Department has met with the Iowa Dental Board and has determined that additional discussion is needed before proceeding with the amendments pertaining to the Volunteer Health Care Provider Program and dentists. Therefore, the definitions of “major dental surgery” and “minor dental surgery” in Item 1 of the Notice and the proposed amendments to subparagraph 88.5(1)“d”(7) in Item 7 of the Notice that would have modified the services dentists may provide were not adopted. The language pertaining to dentists and the VHCPP that is currently in Chapter 88 will remain.

The State Board of Health adopted these amendments on May 11, 2011.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the normal effective date of these amendments should be waived and these amendments should be made effective upon filing as they confer a benefit on the public by enabling specialty health care providers to provide free services through the VHCPP.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 135.24.

These amendments became effective on May 11, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in rule **641—88.2(135)**:

“*Major surgical procedure*” means a surgical procedure not ordinarily performed in a private provider’s office, free clinic, or specialty health care provider office and includes the surgery performed in a hospital as defined in Iowa Code section 135B.1(3) or an outpatient surgical facility.

“*Minor surgical procedure*” means a surgical procedure ordinarily performed in a private provider’s office, free clinic, or specialty health care provider office.

“*Outpatient surgical facility*” means a facility defined in Iowa Code section 135.61(21).

ITEM 2. Amend rule **641—88.2(135)**, definitions of “Sponsor entity” and “Sponsor entity agreement,” as follows:

“*Sponsor entity*” or “*sponsor entity clinic*” means a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, specialty health care provider office, outpatient

surgical facility, or field dental clinic. Each sponsor entity has a fully executed sponsor entity agreement. The sponsor entity agreement shall allow an individual volunteer health care provider to deliver health care services to uninsured and underinsured persons as an agent of the state.

“Sponsor entity agreement” means a signed contract between the VHCPP and a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, specialty health care provider office, outpatient surgical facility, or field dental clinic allowing an individual volunteer health care provider to deliver free health care services through the VHCPP at the sponsor entity location.

ITEM 3. Amend paragraphs **88.3(2)“d”** and **“e”** as follows:

d. The protected clinic shall submit a list of the clinic board of directors and contact information for the board of directors, if applicable.

e. The If the protected clinic is a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, the protected clinic shall submit provide proof of IRC Section 501(c)(3) status to the VHCPP.

ITEM 4. Amend subrule 88.3(3) as follows:

88.3(3) Sponsor entity or sponsor entity clinic. As a condition of sponsoring individual volunteer health care providers in the VHCPP, a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, specialty health care provider office, outpatient surgical facility, or field dental clinic shall comply with subrules 88.4(1) through 88.4(5).

ITEM 5. Amend subparagraph **88.5(1)“d”(1)** as follows:

(1) Advanced registered nurse practitioners for: well-child examinations; annual adult examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; immunizations; and minor surgical procedures. Certified registered nurse anesthetists may provide anesthesia services for major surgical procedures only if the following conditions are satisfied:

1. The surgery is performed in a hospital as defined in Iowa Code section 135B.1(3) or an outpatient surgical facility;

2. The hospital or outpatient surgical facility at which the surgery is performed has executed a sponsor entity agreement;

3. The physician performing the surgery provides or assures the provision of adequate presurgical and postsurgical care, including any follow-up necessary to address postoperative complications; and

4. The physician performing the surgery is an individual specialty health care provider or part of a group of specialty health care providers which has registered with the department as a specialty health care provider office.

ITEM 6. Amend subparagraph **88.5(1)“d”(3)** as follows:

(3) Bachelor social workers for: psychosocial assessment and intervention through direct contact with clients; referral to other qualified resources for assistance; performance of social histories; problem identification; establishment of goals and monitoring of progress; interviewing techniques; counseling; social work administration; supervision; evaluation; interdisciplinary consultation and collaboration; ~~and research of service delivery, including development and implementation of organizational policies and procedures in program management.~~

ITEM 7. Amend subparagraphs **88.5(1)“d”(15)** to **(20)** as follows:

(15) Optometrists for: examinations; diagnosis and treatment of the human eye and adnexa; health education; and health maintenance.

~~(15)~~ (16) Pharmacists for: drug dispensing; patient counseling; health screenings and education; and immunizations.

~~(16)~~ (17) Physical therapists for: interpretation of performance, tests, and measurements; evaluation and treatment of human capabilities and impairments; use of physical agents, therapeutic exercises, and rehabilitative procedures to prevent, correct, minimize, or alleviate a physical impairment; establishment and modification of physical therapy program; treatment planning; and patient instruction/education.

~~(17)~~ (18) Physicians and physician assistants for: well-child examinations; annual adult examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; immunizations; and minor surgical procedures. Physicians may perform major surgical procedures only if the following conditions are satisfied:

1. The surgery is performed in a hospital as defined in Iowa Code section 135B.1(3) or an outpatient surgical facility;

2. The hospital or outpatient surgical facility at which the surgery is performed has executed a sponsor entity agreement;

3. The physician provides or assures the provision of adequate presurgical and postsurgical care, including any follow-up necessary to address postoperative complications; and

4. The physician performing the surgery is an individual specialty health care provider or part of a group of specialty health care providers which has registered with the department as a specialty health care provider office.

(19) Podiatrists for: examinations; diagnosis and treatment; health education; health maintenance; and minor surgical procedures.

~~(18)~~ (20) Psychologists for: counseling and the use of psychological remedial measures with persons with adjustment or emotional problems.

~~(19) Optometrists for: examinations; diagnosis and treatment of the human eye and adnexa; health education; and health maintenance.~~

~~(20) Podiatrists for: examinations; diagnosis and treatment; health education; health maintenance; and minor surgical procedures.~~

ITEM 8. Amend subrule 88.6(1) as follows:

88.6(1) The claim involves medical injury alleged to have been proximately caused by health care services which were identified and approved in the protection or sponsor agreement with the VHCPP and then only to the extent the health care services were provided by or under the direct supervision of the individual volunteer health care provider, including claims based on negligent delegation of health care, or the individual volunteer health care provider is named as a defendant solely because of the individual volunteer health care provider's participation in the protected clinic or sponsor entity clinic.

ITEM 9. Amend subrule 88.6(6) as follows:

88.6(6) The individual volunteer health care provider, protected clinic, or sponsor entity clinic is eligible and registered as provided in rule 641—88.3(135) or the care is provided by ~~an individual volunteer~~ a health care provider who holds current professional liability insurance coverage and an active unrestricted license to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, 154F, or 155A and has been approved by the VHCPP.

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