Regulatory Analysis

Notice of Intended Action to be published: 801—Chapter 6
"Fair Information Practices"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 21, and 22
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A, 21, and 22

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 8, 2025 3:30 p.m.	Video call link: meet.google.com/uhs-vqhf-rvz Or dial: 720.500.4559 Conference ID: 117344442

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Iowa Department of Veterans Affairs no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Mike Olson
1301 Summit Street
Marshalltown, Iowa 50158
Email: michael.olson@ivh.state.ia.us

Purpose and Summary

To allow the Department to receive requests for access to records as well as conform with current medical terminology, this proposed rulemaking updates contact information and a medical term.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

No costs are associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

No additional benefits or detriments are associated with this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are no quantitative impacts associated with this proposed rulemaking.

- **Qualitative description of impact:**

There are no qualitative impacts associated with this proposed rulemaking.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

No anticipated implementation or enforcement costs are associated with this proposed rulemaking.

- **Anticipated effect on State revenues:**

No anticipated effects on State revenues are associated with this proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Correctly identifying a medical diagnosis ensures that individuals with that diagnosis will benefit from the safeguards within this proposed rulemaking.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

There are no alternatives.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind 801—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
FAIR INFORMATION PRACTICES

The commission hereby adopts, with the following exceptions and amendments, the Uniform Administrative Rules pertaining to fair information practices that are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the Iowa general assembly's website. References to "the agency" within any uniform rule include the department or the commission as applicable. In lieu of the words "(designate office)" in any uniform rule, insert "the office of the commandant. This office is located at Camp Dodge, Building 3465, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824". In lieu of the words "(designate agency)" in any uniform rule, insert "Iowa commission of veterans affairs" or "Iowa department of veterans affairs", as applicable. In lieu of the words "(AGENCY NAME)" in any uniform rule, insert "IOWA COMMISSION OF VETERANS AFFAIRS" or "IOWA DEPARTMENT OF VETERANS AFFAIRS", as applicable.

801—6.1(17A,22) Definitions. The commission adopts the definitions in the Uniform Rules with the noted amendments and those additional definitions listed below.

"Agency." In lieu of the words "(official or body issuing these rules)", insert "Iowa commission of veterans affairs".

"Client" means a person who has applied for or receives services or assistance from the agency.

"Custodian" means the agency or person lawfully delegated authority by the agency to act for the agency in implementing Iowa Code chapter 22. For all commission and department records, including the Iowa Veterans Home records, the custodian is the commandant.

"Legal representative" means a person recognized by law as standing in the place of or representing the interests of another for one or more purposes. For example, guardians, conservators, attorneys, next-of-kin, executors, or administrators for a deceased person are legal representatives for certain purposes.

"Mental health information" means oral, written, or otherwise recorded information that indicates the identity of a person receiving professional services, as defined in Iowa Code section 228.1(9), and that relates to diagnosis, course, or treatment of the person's mental or emotional condition. Mental or emotional conditions include mental illness, intellectual disabilities, degenerative neurological conditions, and any other condition identified in professionally recognized diagnostic manuals for mental disorders.

"Substance abuse information" means information that indicates the identity, diagnosis, prognosis or treatment of any person in an alcohol or drug abuse program.

801—6.3(17A,22) Request for access to records.

6.3(1) *Location of record.* A request for access to a record pertaining to the department or the commission should be addressed to the Commandant, Camp Dodge, Building 3465, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824.

6.3(2) *Office hours.* In lieu of the words "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "8 a.m. to 4:30 p.m. daily excluding Saturdays, Sundays and holidays".

6.3(7) *Supervisory fee.* In lieu of the words "(specify time period)", insert "one-half hour".

801—6.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)", insert "the commission".

801—6.7(17A,22) Consent to disclosure by the subject of a confidential record. At the end of this rule, insert: "No confidential information about clients of the agency may be released without the client's consent, except as provided in rule 801—6.10(17A,22). Release of information includes:

1. Granting access to or allowing the copying of a record,
2. Providing information either in writing or orally, or
3. Acknowledging information to be true or false.

"**6.7(1)** *Forms.*

a. General. Agency forms are to be used for releases by the subject as noted below. However, information may be released with authorization on a form from another source providing that such meets the requirements of law.

b. Obtaining information from a third party. The Iowa Veterans Home is required to obtain information to establish eligibility, provide services and determine charges. Requests to third parties for this information involve release of confidential identifying information about clients. Consent to Release of Information, Form 475-0859, is used for releases by the subject.

c. Disclosure of information to a third party. At the request of the subject, the Iowa Veterans Home releases information to third parties. Form 475-0859, Consent to Release of Information, or Form 475-0700, Release of Condition Information, is used, depending on the nature of the authorization.

d. Mental health and substance abuse information. Mental health or substance abuse information can be released only by completion of the specific authorization section of Form 475-0859 or a similar form from another source that meets the requirements of law.

e. Photographs or videotapes. Form 475-1073, Authorization to Take and Use Photographs/Videotapes, is used for permission to use photographs or videotapes for the purposes specified on the form.

"**6.7(2)** *Exceptions to use of forms.*

a. Counsel. Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

b. Public official. A letter from the subject to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the agency shall be treated as an authorization to release information. The agency shall release sufficient information about the subject to the official to resolve the matter.

c. Medical emergency. Agency staff may authorize release of confidential information to medical personnel in a medical emergency if the subject is unable to give or withhold consent. As soon as possible after the release of information, the subject shall be advised of the release.

d. Abuse information. Consent to release information is not required to report suspected dependent adult abuse.

"**6.7(3)** *Consent by subject's legal representative.*

a. Exercise of right. The subject's rights under this rule may also be exercised by the subject's legal representative, except as provided in paragraph 6.7(3)*"b."*

b. Exceptions.

(1) Scope of authority. Legal representatives may act only within the scope of their authority. For example, court-appointed conservators and protective payees appointed by an agency shall have access to and authority to release the following information only:

1. Name and address of client.
2. Amounts of assistance or type of financial services received.
3. Information about the economic circumstances of the client.

(2) Substance abuse information. Only the subject can consent to the disclosure of substance abuse information, regardless of the subject's age or condition.

(3) Failure to act in good faith. If the agency has reason to believe that the legal representative is not acting in good faith in the best interests of the subject, the agency may refuse to release information on the authorization of the legal representative."

801—6.8(17A,22) Notice to suppliers of information. Replace "(Each agency should revise its forms to provide this information.)" with "The notice shall generally be given at the first contact with the agency and need not be repeated at every following contact. Where appropriate, the notice may be given to a person's legal representative. Notice may be withheld in an emergency. In general, the agency requests information to determine eligibility, to determine changes for services, to provide appropriate services or treatment, and to perform administrative functions. Information is routinely shared outside the agency when required by rules or law. Consequences of failure to provide information include ineligibility for services, denial of services, or provision of inadequate services."

801—6.9(17A,22) Release to subject. The agency shall release confidential records to the subject of the record, except as otherwise noted.

6.9(1) The agency need not release the following records to the subject:

a. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

b. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (More information can be found in Iowa Code section 22.7(5).)

d. The agency may withhold information as otherwise authorized by law.

6.9(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

801—6.10(17A,22) Disclosure without consent of the subject. Open records are routinely disclosed without consent of the subject. To the extent allowed by law, disclosure of confidential records may occur without consent of the subject or the subject's legal representative. The custodian of the record shall determine what constitutes legitimate need to use confidential records.

6.10(1) *Internal use.* Confidential information may be disclosed to employees and agents of the agency as needed for the performance of their duties. The custodian of the record shall determine what constitutes legitimate need to use confidential records. People affected by this rule include:

a. Field work or practicum students, participants of work placement programs and volunteers working under the direction of the agency.

b. Commission members.

c. Consultants to the agency.

d. Policy review and advisory committees.

6.10(2) *Medical emergency.* Confidential information may be disclosed in a medical emergency if the subject is unable to give or withhold consent in accordance with paragraph 6.7(2)*"c."*

6.10(3) *Audits.* Information concerning revenues and expenditures is released to staff of the state executive and legislative branch who are responsible for ensuring that public funds have been managed correctly. Information is also released to auditors from federal agencies that provide program funds.

6.10(4) *Accreditation and regulatory surveys.* Information is provided to staff of applicable accreditation, licensure and other applicable agencies in the course of surveys or investigations regarding compliance with regulations and standards.

6.10(5) *Release to court.* Information is released to the court as required by law.

6.10(6) *Research.* Information that does not identify individual clients may be disclosed for research purposes with consent of the custodian responsible for the record. Requests to do research involving records of the Iowa Veterans Home shall be approved by the Iowa Veterans Home Research Review Committee.

6.10(7) *Required by law.* Information is shared with other agencies without a contract or written agreement where state or federal law or regulations require it.

6.10(8) *Imminent harm.* Information may be released to an individual or the police, or both, pursuant to a showing of compelling circumstances affecting the health or safety of a client or any other individual. Notice of disclosure is transmitted to the last-known address of the subject.

6.10(9) *Law violation.* Disclosure of information indicating an apparent violation of the law will be released to appropriate enforcement authorities.

6.10(10) *Specific authorization.* Any disclosure specifically authorized by the statute under which the record was collected or maintained will be made in accordance with the statute.

801—6.11(17A,21,22) Availability of records.

6.11(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

6.11(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

b. Tax records made available to the agency. (Iowa Code section 422.20)

c. Records that are exempt from disclosure.

d. Minutes of closed meetings of a government body.

e. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets.

f. Those portions of agency staff manuals, instructions, or other statements issued that set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency.

g. Records that constitute attorney work product, attorney-client communications, or that are otherwise privileged. (Iowa Code section 622.10)

h. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of clients or former clients of the commission.

i. Circulation records of the Iowa Veterans Home library.

j. Any other records made confidential by law.

6.11(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute that authorizes limited or discretionary disclosure as provided in rule 801—6.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the record from inspection as provided in subrule 6.4(3).

This rule is intended to implement Iowa Code chapters 17A, 21 and 22.

801—6.12(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 801—6.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information, and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are as follows.

6.12(1) *Military graves registration.* These records are collected under the authority of Iowa Code section 35A.5(8). They are maintained in hard copy by the agency, on Iowa Form 582-1002, CPE-94252. Requests for these records should be referred to the commandant.

6.12(2) *World War I, World War II, Korea, Vietnam veterans bonus.* These records are collected under the authority of Iowa Code section 35A.5(4). They are maintained in hard copy by the agency. Requests for these records should be referred to the commandant.

6.12(3) *Iowa war orphans Act bonus applications.* These listings are award applications and bonus payments from the War Orphans Educational Fund and are collected in accordance with Iowa Code section 35A.5(4) and maintained in hard copy format. Requests for these records should be referred to the commandant.

6.12(4) *Iowa Korean War Memorial Fund.* This listing consolidates contributions of all funds received for the Iowa Korean War Memorial authorized by the governor's directive of August 1986. These records are maintained in hard copy format. Requests for these records should be referred to the commandant.

6.12(5) Reserved.

6.12(6) *DD Form 214, Notification of Separation from Service.* This listing provides information to the state on individuals separating from active military service in the armed forces. It is used routinely to establish entitlement by the veteran to county, state and federal benefits, such as hospitalization and educational assistance. Request for verification of service should be addressed to the commandant.

6.12(7) *Iowa Veterans Home client case records.* Iowa Veterans Home client records contain identifying information, demographic information, financial information, clinical assessment and care information and related documentation. Some of this information is maintained on microfilm. Automated data processing associated with Iowa Veterans Home client records include admission and discharge systems, billing systems, client banking system, and selected client data systems. Requests for these records should be referred to the commandant. Legal authority for collection of this information and applicable determinations regarding confidentiality are found in Iowa Code section 22.7 and chapters 35D, 222, 228, and 229. Requests for information from these records should be referred to the commandant.

6.12(8) *Personnel files.* The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11) and 22.7(18).

801—6.13(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems defined in rule 801—6.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information, as discussed in rule 801—6.7(17A,22). In addition, the records may contain information about individuals.

6.13(1) *Rulemaking.* Rulemaking records may contain information about individuals making written or oral comments or proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not stored in an automated data processing system.

6.13(2) *Iowa commission of veterans affairs meeting records.* Agendas, minutes, and materials deliberated by the commission are available from the commandant. Commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by personal identifier nor stored on an automated data processing system.

6.13(3) *Publications.* News releases, literature, and reports regarding the commission, the department, or the Iowa Veterans Home, newsletters from various veterans associations or from the federal government are available from the commandant. Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency committees. This information is not retrieved by individual identifier and is not currently stored on an automated data processing system.

6.13(4) *Other records.* All other records that are not exempted from disclosure by law are available from the commandant.

801—6.14(17A,22) Data processing system. Data processing systems used by this agency do not permit the comparison of personally identifiable information in one record system with personally identifiable information in another system.

801—6.15(17A,22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records that contain information about a person by that person's name or other personal identifier.

2. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

3. Govern the maintenance or disclosure of, notification of or access to, records in possession of the agency that are governed by regulations of another agency.

4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs unless otherwise provided by law or agreement.

5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges and applicable regulations of the agency.

These rules are intended to implement Iowa Code chapter 22.