

CHAPTER 175
FAIR INFORMATION PRACTICES AND PUBLIC RECORDS

641—175.1(17A,22) Definitions. For purposes of this chapter, the following definitions apply:

“*Agency*” or “*department*” means the Iowa department of public health.

“*Confidential record*” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the department is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“*Custodian*” means the department or a person lawfully delegated authority by the department to act for the department in implementing Iowa Code chapter 22.

“*Open record*” means a record other than a confidential record.

“*Personally identifiable information*” means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“*Record*” means the whole or a part of a “public record” as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the department.

“*Record system*” means any group of records under the control of the department from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

641—175.2(17A,22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records and to facilitate sound department determinations with respect to the maintenance of confidential records and the implementation of the fair information practices Act. The department is committed to the policies set forth in Iowa Code chapter 22, and department staff shall cooperate with members of the public in implementing the provisions of that chapter.

641—175.3(17A,22) Requests for access to records.

175.3(1) Location of record. A request for access to a record should be directed to the division where the record is maintained. If the location of the record is not known by the requester, the request shall be directed to the Iowa Department of Public Health, Public Information Officer, Lucas State Office Building, Des Moines, Iowa 50319-0075, Attention: Record Request. The department will forward the request to the appropriate person.

175.3(2) Office hours. Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

175.3(3) Request for access. Requests for access to open records may be made in writing, in person, by telephone, or by electronic means. A person requesting a record shall identify the particular record sought by name or description in order to facilitate the location of the record. A person requesting a record by mail, telephone, or by electronic means shall include the name, address, and telephone number of the person requesting the information in order to facilitate delivery of the record. A person shall not be required to give a reason for requesting an open record.

175.3(4) Response to requests. The custodian shall provide prompt access to an open record upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. The custodian may delay access to an open record for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order.

175.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from the department files. The custodian or a designee of the custodian shall supervise examination and copying of department records. Records shall be protected from damage and disorganization.

175.3(6) Copying. A reasonable number of copies of an open record may be made in the department's office. If photocopy equipment is not available in the department office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

175.3(7) Fees.

a. When charged. The department may charge a reasonable fee in connection with the examination or copying of records. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the department shall be prominently posted in department offices. Copies of records may be made by or for members of the public on department photocopy machines or from electronic storage systems at cost as determined and posted in department offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Search and supervisory fee. An hourly fee may be charged for actual department expenses in searching for and supervising the examination and copying of requested records. The fee shall be based upon the actual costs incurred. The department shall post the hourly fees to be charged in routine cases for search and supervision of records. Except as provided in Iowa Code section 144.46, no fee shall be charged if the records are not made available for inspection, or if the time required does not exceed one hour in duration, or if the time required for the search was the result of department error or record-keeping problems. Iowa Code section 144.46 specifically allows for fees for vital record searches when the record is not copied or is not found, and this Iowa Code section is implemented by 641—96.4(144).

d. Advance deposits.

(1) Fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of expenses to be incurred in fulfilling the request, and such estimated expenses shall be communicated to the requester prior to fulfillment of the request. When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require payment of the prior fee and advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

641—175.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to particular persons under certain limited circumstances if the person is legally entitled to the record. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 175.3(17A,22).

175.4(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

175.4(2) Requests. The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

175.4(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record,

the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose. The department is not required to provide notification or an opportunity to seek an injunction under this subrule and retains sole discretion as to whether to pursue such action.

175.4(4) *Requests denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a. The name and title or position of the custodian responsible for the denial; and
- b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial.

175.4(5) *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

641—175.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order to refuse to disclose that record to members of the public.

175.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

175.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the department by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

175.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the department does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

175.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record is filed or when the custodian receives a request for access to the record by a member of the public.

175.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made

available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

175.5(6) Request denied and opportunity to seek injunction. If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by a requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8 or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable ground to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

641—175.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into a record containing personally identifiable information pertaining to that person. However, a person who is a subject of such a record shall not be authorized to alter the original copy of that record or to expand the official record of any agency proceeding. A requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian or to the division in which the record is maintained. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by requester, and shall include the current address and telephone number of the requester or the requester's representative.

641—175.7(17A,22) Consent to disclosure by the subject of a confidential record. Except as otherwise provided by law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom they may be disclosed. The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. Appearance of counsel before the department on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the department to disclose records about that person to the person's attorney.

641—175.8(17A,22) Notice to suppliers of information. When the department requests a person to supply information about that person, the department may notify the person of the use that will be made of the information, which persons outside the department might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

641—175.9(17A,22) Disclosures without the consent of the subject.

175.9(1) The department shall routinely disclose open records without the consent of the subject.

175.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

- a.* For a routine use as defined in rule 175.10(17A,22) or in the notice for a particular record system.
- b.* To a recipient who has provided the department with advance written assurance that the record will be used solely as a statistical research or reporting record. The department shall not release confidential data or information pursuant to this chapter unless the department and the recipient have executed an agreement which includes the conditions under which the confidential data or information may be used and a restriction on the further disclosure of the data or information.
- c.* To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil, administrative, or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the department specifying the record desired and the law enforcement activity for which the record is sought.
- d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.
- e.* To the legislative services agency under Iowa Code section 2A.3.
- f.* Disclosures in the course of employee disciplinary proceedings.
- g.* In response to a court order or subpoena.
- h.* To the office of citizens' aide pursuant to Iowa Code section 2C.9.

641—175.10(17A,22) Routine use.

175.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject for a purpose which is compatible with the purpose for which the record was collected. "Routine use" includes disclosures required or authorized by statute or rule.

175.10(2) To the extent allowed by law, the following uses are considered routine uses of all department records:

- a.* Disclosure to those officers, employees, and agents of the department who have a need for the record in the performance of their duties.
- b.* Disclosure to employees of federal, state and local agencies and other researchers for purposes of bona fide research. The department shall not release data or information pursuant to this paragraph unless the department and the researcher have executed an agreement which includes the conditions under which the confidential data or information may be used and restrictions on further disclosure of the data or information.
- c.* Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.
- d.* Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the department.
- e.* Transfers of information within the department, to other state or federal agencies, or to local units of government as necessary to administer the program for which the information is collected or as necessary to administer a program within the other governmental agency. Confidential information transferred within the department or provided to other agencies pursuant to this paragraph shall continue to maintain its confidential status and shall not be rereleased by the receiving agency.
- f.* Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the department is operating a program lawfully.
- g.* Any disclosure specifically authorized by the statute or rule under which the record was collected or maintained.

641—175.11(17A,22) Consensual disclosure of confidential records.

175.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to department disclosure of confidential records as provided in rule 175.7(17A,22).

175.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the department may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

641—175.12(17A,22) Release to subject.

175.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 175.6(17A,22). However, the department need not release the following records to the subject:

a. The identity of a person providing information to the department 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.

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

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code.

d. As otherwise authorized by law.

175.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the department shall take reasonable steps to protect confidential information relating to another subject.

641—175.13(17A,22) Availability of records.

175.13(1) *General.* Department records are open for public inspection and copying subject to supervision unless otherwise provided by statute or rule.

175.13(2) *Confidential records.* The following records shall be withheld from public inspection. Records are listed by department division and include the legal authority for withholding the record from public inspection.

a. Division of acute disease prevention and emergency response.

(1) Records which identify a person infected with or exposed to a reportable disease or other disease or health condition collected pursuant to Iowa Code chapter 139A, and maintained as confidential pursuant to Iowa Code section 139A.3(2) "b" and Iowa Code section 22.7(16).

(2) Records which identify a business involved in a reportable disease or other disease or health condition investigation collected pursuant to Iowa Code chapter 139A, and maintained as confidential pursuant to Iowa Code section 139A.3(2) "c." The identity of a business may be disclosed pursuant to this authority only if the state epidemiologist or the director of the department determines such a release of information necessary for the protection of the health of the public.

(3) Records which identify a person infected with or exposed to a reportable sexually transmitted disease or infection collected pursuant to Iowa Code chapter 139A, and maintained as confidential pursuant to Iowa Code section 139A.30 and Iowa Code section 22.7(16).

(4) Records which identify a person infected with or exposed to HIV/AIDS collected pursuant to Iowa Code chapter 141A, and maintained as confidential pursuant to Iowa Code section 141A.9.

(5) Data and records received or developed by the trauma system evaluation and quality improvement committee, including patient and emergency medical care service program identifying information, collected pursuant to Iowa Code chapter 147A, and maintained as confidential pursuant to Iowa Code section 147A.25.

(6) Data collected by and furnished to the statewide trauma registry which identifies a patient or former patient collected pursuant to Iowa Code section 147A.26, and maintained as confidential pursuant to Iowa Code section 147A.26.

(7) All information in complaint and investigative files maintained by the bureau of emergency medical services collected pursuant to Iowa Code chapter 147A, and maintained as confidential pursuant to Iowa Code section 272C.6(4), except that the information may be released to the provider or the service once a disciplinary proceeding has been initiated by the filing of a notice of proposed action. A notice of proposed action and final agency action are public documents.

(8) Immunization information which identifies a patient maintained on the statewide immunization registry collected pursuant to Iowa Code section 22.7(2), and maintained as confidential pursuant to Iowa Code section 22.7(2) and 641—subrule 7.11(4). The department's rules regarding sharing of immunization information are contained at 641—7.12(22).

b. Division of administration and professional licensure.

(1) Vital records maintained pursuant to Iowa Code chapter 144, including records of births, deaths, fetal deaths, adoptions, marriages, divorces, annulments and related data and correspondence, and maintained as confidential pursuant to Iowa Code section 144.43.

(2) Licensing and disciplinary records of the professional licensing boards may be confidential in accordance with Iowa Code section 272C.6(4) and 645—10.13(17A,22).

c. Division of behavioral health.

(1) Records which identify a person named in a report to the central registry for brain or spinal cord injuries collected pursuant to Iowa Code section 135.22, and maintained as confidential pursuant to Iowa Code section 135.22 and 641—21.6(135).

(2) Information contained in a complaint regarding a licensed substance abuse program collected pursuant to Iowa Code chapter 125, and maintained as confidential pursuant to Iowa Code sections 22.7(2), 22.7(18), and 125.37. Investigative reports, written plans of corrective action, and all notices and orders issued by the board of health shall refer to clients and patients by number and shall not include any other client or patient identifying information. Investigative reports, written plans of corrective action, and all notices and orders issued by the board of health shall be available to the public as open records in accordance with 641—subrule 155.16(5).

(3) Records which identify the victim of a domestic abuse death collected or maintained by the Iowa domestic abuse death review team pursuant to Iowa Code section 135.110, and maintained as confidential pursuant to Iowa Code section 135.111.

d. Division of environmental health.

(1) Drafts of proposed regulations released to the department from the federal government which constitute essential information needed by the department to ensure compliance with federal regulations collected pursuant to Iowa Code chapter 136C, and maintained as confidential pursuant to Iowa Code section 22.9 and 641—subrule 38.7(2).

(2) Applications and documents submitted to the department pursuant to Iowa Code chapter 136C, which may be maintained as confidential pursuant to 641—subrule 39.4(24) if disclosure of their contents is not required in the public interest and would adversely affect the interest of a person concerned.

(3) Records which identify a person infected with or exposed to a reportable disease or other disease or health condition, including lead and other heavy metal poisonings, collected pursuant to Iowa Code chapter 139A, and maintained as confidential in accordance with Iowa Code section 139A.3(2) "b."

(4) Records which identify a business involved in a reportable disease or other disease or health condition investigation, including a lead or other heavy metal poisoning investigation, collected pursuant to Iowa Code chapter 139A, and maintained as confidential pursuant to Iowa Code section 139A.3(2) "c." The identity of a business may be disclosed pursuant to this authority only if the state epidemiologist or the director of the department determines such a release of information necessary for the protection of the health of the public or if the release is required by federal, state, or local law.

e. Division of health promotion and chronic disease prevention.

(1) All medical, health and nutrition information which identifies a WIC program participant collected pursuant to federal law and Iowa Code chapter 135, and maintained as confidential in accordance with 7 CFR 246, Iowa Code section 22.7(2), and 641—subrule 73.7(7).

(2) Records which identify the victim of a child death collected or maintained by the Iowa child death review team pursuant to Iowa Code section 135.43, and maintained as confidential pursuant to Iowa Code section 135.43.

(3) Records which identify a child subject to a newborn and infant hearing screening collected pursuant to Iowa Code section 135.131, and maintained as confidential pursuant to Iowa Code section 135.131 and 641—3.10(80GA,ch102).

(4) Records which identify a person named in a report to the central registry for congenital and inherited disorders collected pursuant to Iowa Code section 136A.7, and maintained as confidential in accordance with Iowa Code section 136A.7 and 641—subrule 4.3(7).

(5) Records which identify a person infected with or exposed to a reportable disease or other disease or health condition, including a congenital or inherited disorder, collected pursuant to Iowa Code chapter 139A, and maintained as confidential pursuant to Iowa Code section 139A.3(2)“b.”

f. Sections which govern all divisions.

(1) Records which contain medical information collected pursuant to Iowa Code chapters 135, 139A, and 147A, and maintained as confidential pursuant to Iowa Code section 22.7(2).

(2) Records collected from any person, hospital, or other organization related to the condition and treatment of any person to be used in the course of any study for the purpose of reducing morbidity or mortality collected pursuant to Iowa Code section 135.40, and maintained as confidential pursuant to Iowa Code sections 135.40, 135.41, and 135.42.

(3) Records concerning security procedures or emergency preparedness developed and maintained by the department or other federal or state agency for the protection of governmental employees, visitors to the department, persons in the care, custody, or under the control of the department, or property under the jurisdiction of the department, if disclosure could reasonably be expected to jeopardize such employees, visitors, or property. Pursuant to Iowa Code section 22.7(50), the department has adopted a policy which identifies all specific records or classes of records to which this protection applies.

175.13(3) Minutes of closed meetings of a government body shall be kept confidential in accordance with Iowa Code section 21.5.

175.13(4) Identifying details in final orders, decisions and opinions shall be kept confidential to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“e.”

175.13(5) Portions of department staff manuals, instructions or other statements issued shall be kept confidential when such documents set forth criteria or guidelines to be used by department 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:

- a. Enable law violators to avoid detection;
- b. Facilitate disregard of requirements imposed by law; or
- c. Give a clearly improper advantage to persons who are in an adverse position to the department.

175.13(6) Records which constitute attorney work product or attorney-client communications or which are otherwise privileged shall be kept confidential. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 1.503, Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

175.13(7) Records exempted from public inspection under Iowa Code section 22.7 or any other provision of law shall be kept confidential.

641—175.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the department by personal identifiers in record systems as defined in rule 175.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information and the means of storage of that information. A data processing system does not match, collate, or permit the comparison of personally

identifiable information in one record system with personally identifiable information in another record system unless so indicated. The record systems maintained by the department are as follows:

175.14(1) *Division of acute disease prevention and emergency response.*

a. Records of reportable diseases and other diseases and health conditions collected pursuant to Iowa Code chapter 139A. These records are stored on paper, electronically, or both, depending on the specific type of record. Except for statistical reports, these records are confidential as outlined in 175.13(2)“*a.*”

b. Records of reportable sexually transmitted diseases or infections collected pursuant to Iowa Code chapter 139A. These records are stored on paper, electronically, or both, depending on the specific type of record. Except for statistical reports, these records are confidential as outlined in 175.13(2)“*b.*”

c. Records of the veterinary public health program collected pursuant to Iowa Code chapter 139A. These records are stored on paper. Certain medical information in these records may be confidential as outlined in 175.13(2)“*a.*”

d. Records of the emergency medical services program collected pursuant to Iowa Code chapter 147A. These records are stored on paper, electronically, or both, depending on the specific type of record. Some of these records are confidential as outlined in 175.13(2)“*a.*”

e. Records of the AIDS drug reimbursement program collected for purposes of implementing a federal grant program authorized by HR 1827. These records are stored on paper. Certain patient records are confidential as outlined in 175.13(2)“*a.*”

f. Personnel records containing information about employees, families and dependents, and applicants for positions with the department. Some of this information is confidential under Iowa Code sections 22.7(11) and 22.7(18).

g. Records of the certificate of need program collected pursuant to Iowa Code sections 135.61 to 135.83. These records are stored on paper.

h. Annual hospital surveys collected pursuant to Iowa Code sections 135.74 and 135.75. These records are stored on paper and electronically.

175.14(2) *Division of administration and professional licensure.*

a. Vital records collected pursuant to Iowa Code chapter 144, including records of births, deaths, fetal deaths, adoptions, marriages, divorces, annulments and related data and correspondence. These records are stored on paper, on microfiche, and electronically. These records are confidential as noted in 175.13(2)“*b.*”

b. Licensing records of the professional licensing boards. These records are identified in rules filed by the individual licensing boards (see Professional Licensure Division, IAC 645). They contain information about individuals, some of which is confidential.

c. An electronic inventory of records maintained by the department, which indicates the type of information contained in the record, contact person for the record, how the record is stored, whether the record is confidential, and whether it contains personally identifiable information. This inventory is maintained by the information management bureau.

d. Fiscal records, including itemized vouchers collected from individuals pursuant to Iowa Code section 8A.514. These records are stored on paper and electronically.

175.14(3) *Division of behavioral health.*

a. Records of substance abuse programs of this division are identified in rules adopted by the board of health in 641—Chapter 155.

b. Records of the domestic abuse death review team collected pursuant to Iowa Code section 135.110. These records are stored on paper, electronically, or both. Except for statistical reports, these records are confidential as outlined in 175.13(2)“*c.*”

c. Records which identify a person named in a report to the central registry for brain or spinal cord injuries collected pursuant to Iowa Code section 135.22. These records are stored on paper, electronically, or both. Except for statistical reports, these records are maintained as confidential pursuant to Iowa Code section 135.22 and 641—21.6(135).

d. Records which identify brain injury service program recipients collected pursuant to Iowa Code section 135.22B. These records are stored on paper, electronically, or both.

175.14(4) *Division of environmental health.*

a. Records of the environmental health programs collected pursuant to Iowa Code section 135.11(1) and PL 96-510, Section 104(d)(1), 40 CFR 763 effective June 28, 1983, and 40 CFR 761 effective May 31, 1979, dealing with asbestos, PCB and other environmental health factors. These records are stored on paper, electronically, or both, depending on the specific type of record. Certain medical information in the work-related disease program file may be confidential as outlined in 175.13(2)“*d.*” Certain asbestos and PCB inspection records are collected under contract with the federal Environmental Protection Agency, and requests for such records will be referred to that agency.

b. Records of the radiological health program collected pursuant to Iowa Code chapters 136B and 136C. These records are stored on paper, electronically, or both, depending on the specific record. Certain of these records are confidential as outlined in 175.13(2)“*d.*”

c. Records of reportable diseases and other diseases and health conditions, including lead and other heavy metal poisonings, collected pursuant to Iowa Code chapter 139A. These records are stored on paper, electronically, or both, depending on the specific type of record. Except for statistical reports, these records are confidential as outlined in 175.13(2)“*a.*”

d. Records of the childhood lead poisoning prevention program collected pursuant to Iowa Code sections 135.100 to 135.105. These records are stored on paper, electronically, or both. Certain of these records are confidential as outlined in 175.13(2)“*d.*” Data processing systems will link certain client data in these programs with client data in the maternal and child health program, WIC program, and refugee health program.

175.14(5) *Division of health promotion and chronic disease prevention.*

a. Records of the maternal and child health programs collected pursuant to Iowa Code section 135.11(20). These records are stored on paper, electronically, or both, depending on the specific type of record. Data processing systems will link certain client data in these programs with client data in the WIC program.

b. Records of the nutrition and WIC (supplemental food program for women, infants and children) programs collected pursuant to Iowa Code section 135.11(1) and Chapter 17 of the federal Child Nutrition Act of 1966 as amended. These records are stored on paper, electronically, or both, depending on the specific type of record. Data processing systems will link certain client data in this program with client data in maternal and child health programs.

c. Records of the center for congenital and inherited disorders collected pursuant to Iowa Code chapter 136A. These records are stored on paper.

d. Records of the dental health programs collected pursuant to Iowa Code section 135.11(19), funded primarily by maternal and child health funds. These records are stored on paper or electronically, depending on the specific type of record.

e. Records of the newborn and infant hearing screening program collected pursuant to Iowa Code section 135.131. These records are stored on paper, electronically, or both, depending on the specific type of record. Information which identifies an individual patient is confidential as outlined in 175.13(2)“*e.*”

f. Refugee health program records collected pursuant to Iowa Code section 135.11(1) and Section 412(c)(3) of the federal Immigration and Naturalization Act. These records are stored on paper, electronically, or both, depending on the specific type of record. Certain medical information in these records is confidential as outlined in 175.13(2)“*f.*”

g. Records of the bureau of chronic disease prevention and management collected pursuant to Iowa Code section 135.11(1), including the Well-Integrated Screening and Evaluation for Women Across the Nation (WISEWOMAN) program and the Breast and Cervical Cancer Early Detection Program (BCCEDP). Certain medical information in these records is confidential as outlined in 175.13(2)“*f.*” The medical information from wellness programs and screening programs is stored on paper, electronically, or both, depending on the specific type of record. Data processing systems will link certain client data in these programs with client data in the University of Iowa’s health registries.

641—175.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 175.2(17A,22). These records are routinely

available to the public. However, the department's files of these records may contain confidential information as discussed in rule 175.13(17A,22). The records listed may contain information about individuals. All records are stored on paper unless otherwise noted.

175.15(1) Rule making. Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

175.15(2) Council and commission records. Agendas, minutes, and materials presented to the councils, committees and commissions listed below, by division, are available from the department, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4) or which are otherwise confidential by law. Council and commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3.

- a. Division of acute disease prevention and emergency response.
 - (1) EMS advisory council established in Iowa Code section 147A.2.
 - (2) System evaluation and quality improvement committee established in Iowa Code section 147A.25.
 - (3) Trauma system advisory council established in Iowa Code section 147A.24.
 - (4) State health facilities council established in Iowa Code section 135.61.
- b. Division of administration and professional licensure: professional licensing boards established in Iowa Code chapters 147 and 272C.
- c. Division of behavioral health.
 - (1) Advisory council on brain injuries established in Iowa Code section 135.22A.
 - (2) Domestic abuse death review team established in Iowa Code section 135.109.
 - (3) State substitute medical decision-making board established in Iowa Code section 135.28.
- d. Division of environmental health: technical advisory committee for radiation machines and radioactive materials established in Iowa Code section 136C.3(2).
- e. Division of health promotion and chronic disease prevention.
 - (1) Abuse education review panel established in Iowa Code section 135.11(27).
 - (2) Advisory committee to the center for rural health and primary care established in Iowa Code section 135.107.
 - (3) Committee on maternal and child health established in Iowa Code section 235C.1.
 - (4) Council on chemically exposed infants and children established in Iowa Code section 235C.1.
 - (5) Iowa child death review team established in Iowa Code section 135.43.
- f. Division of tobacco use prevention and control.
 - (1) Commission on tobacco use prevention and control established in Iowa Code section 142A.3(2).
 - (2) Commission on tobacco use prevention and control advisory council established in Iowa Code section 142A.3(9).
 - (3) Just Eliminate Lies executive body established in Iowa Code section 142A.9(2)“c.”
- g. Director's office.
 - (1) Interagency coordinating council established in Iowa Code section 691.6B.
 - (2) State board of health established in Iowa Code chapter 136.
 - (3) State medical examiner advisory council established in Iowa Code section 691.6C.
 - (4) Preventative health and health services block grant advisory committee.
 - (5) Other ad hoc and advisory committees as established by the director pursuant to Iowa Code section 135.11(26).

175.15(3) Publications. News releases, annual reports, project reports, and department newsletters are available from the public information office. Department news releases, project reports, and newsletters may contain information about individuals, including department staff or members of department councils or committees.

175.15(4) Statistical reports. Periodic reports of vital statistics records are available from the bureau of vital statistics.

175.15(5) *Appeal decisions and advisory opinions.* All final orders, decisions and opinions are open to the public except for information that is confidential according to rule 175.13(17A,22) or 175.14(17A,22). These records may contain information about individuals.

175.15(6) *Published materials.* The department uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

175.15(7) *Policy manuals.* Policy or program manuals for various programs may be obtained by contacting the program.

175.15(8) *All other records that are not exempted from disclosure by law.* Other records used by the department include correspondence files, surveys conducted by programs, information and data files, and records used for processing purposes internally. Some of these records may contain information about individuals. Correspondence files may contain confidential information protected by statutes cited in rule 175.13(17A,22).

641—175.16(17A,22) *Data processing systems.* Except where otherwise noted, data processing systems used by the department do not permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

641—175.17(17A,22) *Applicability.* This chapter does not:

1. Require the department to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which 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 the possession of the department which are governed by the regulations of another agency.
4. Apply to grantees, including local governments or subdivisions, that administer state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the department in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any individual or party subject 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 department.

These rules are intended to implement Iowa Code chapters 17A and 22.

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