

CHAPTER 88  
VOLUNTEER HEALTH CARE PROVIDER PROGRAM

**641—88.1(135) Purpose.** The volunteer health care provider program (VHCPP) is established to defend and indemnify eligible individual volunteer health care providers and protected clinics providing free health care services as provided in Iowa Code section 135.24 and these rules.

[ARC 8791B, IAB 6/2/10, effective 7/7/10]

**641—88.2(135) Definitions.** For the purpose of these rules, the following definitions shall apply:

*“Charitable organization”* means a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code.

*“Defend”* means that the office of the attorney general shall provide the individual volunteer health care provider and protected clinic with legal representation at no cost to the individual volunteer health care provider or protected clinic.

*“Department”* means the Iowa department of public health.

*“Field dental clinic”* means a dental clinic temporarily or periodically erected at a location where mobile dental equipment, instruments, or supplies, as necessary, are utilized to provide dental services.

*“Free clinic”* means a facility, other than a hospital or health care provider’s office, which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which has as its sole purpose the provision of health care services without charge to individuals who are otherwise unable to pay for the services.

*“Health care facility”* means a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with an intellectual disability.

*“Health care provider”* means an emergency medical care provider certified pursuant to Iowa Code chapter 147A; a physician licensed pursuant to Iowa Code chapter 148; a physical therapist licensed pursuant to Iowa Code chapter 148A; an occupational therapist licensed pursuant to Iowa Code chapter 148B; a physician assistant licensed pursuant to Iowa Code chapter 148C and practicing under the supervision of a physician; a podiatrist licensed pursuant to Iowa Code chapter 149; a chiropractor licensed pursuant to Iowa Code chapter 151; a respiratory therapist licensed pursuant to Iowa Code chapter 152B; an advanced registered nurse practitioner, a licensed practical nurse or a registered nurse licensed pursuant to Iowa Code chapter 152 or 152E; a dentist, dental assistant, or dental hygienist licensed or registered pursuant to Iowa Code chapter 153; an optometrist licensed pursuant to Iowa Code chapter 154; a psychologist licensed pursuant to Iowa Code chapter 154B; a bachelor social worker, a master social worker, or an independent social worker licensed pursuant to Iowa Code chapter 154C; a marital and family therapist or mental health counselor licensed pursuant to Iowa Code chapter 154D; a speech pathologist or audiologist licensed pursuant to Iowa Code chapter 154F; or a pharmacist licensed pursuant to Iowa Code chapter 155A.

*“Health care services”* means services received from a health care provider at a protected clinic or sponsor entity, as provided in Iowa Code section 135.24 and these rules, and approved in a protection agreement or sponsor entity agreement. The agreement covers “health care services” that are volunteer, uncompensated services. For those services to qualify as volunteer, uncompensated services under this chapter, the individual volunteer health care provider, health care provider, protected clinic, or sponsor entity must receive no compensation for any services provided under the agreement and must not bill or accept compensation from the person, or any public or private third-party payor, for the specific services provided.

*“Indemnify”* means that the state of Iowa shall pay all sums that the individual volunteer health care provider or protected clinic holding a protection agreement with the VHCPP is legally obligated to pay as damages because of any claim made against the individual volunteer health care provider or protected clinic which arises out of the provision of free health care services rendered or which should have been rendered by the individual volunteer health care provider or protected clinic.

*“Individual volunteer health care provider”* means any one of the following health care providers who has a fully executed protection agreement with the VHCPP: an emergency medical care provider

certified pursuant to Iowa Code chapter 147A; a physician licensed pursuant to Iowa Code chapter 148; a physical therapist licensed pursuant to Iowa Code chapter 148A; an occupational therapist licensed pursuant to Iowa Code chapter 148B; a physician assistant licensed pursuant to Iowa Code chapter 148C and practicing under the supervision of a physician; a podiatrist licensed pursuant to Iowa Code chapter 149; a chiropractor licensed pursuant to Iowa Code chapter 151; a respiratory therapist licensed pursuant to Iowa Code chapter 152B; an advanced registered nurse practitioner, a licensed practical nurse or a registered nurse licensed pursuant to Iowa Code chapter 152 or 152E; a dentist, dental assistant, or dental hygienist licensed or registered pursuant to Iowa Code chapter 153; an optometrist licensed pursuant to Iowa Code chapter 154; a psychologist licensed pursuant to Iowa Code chapter 154B; a bachelor social worker, a master social worker, or an independent social worker licensed pursuant to Iowa Code chapter 154C; a marital and family therapist or mental health counselor licensed pursuant to Iowa Code chapter 154D; a speech pathologist or audiologist licensed pursuant to Iowa Code chapter 154F; or a pharmacist licensed pursuant to Iowa Code chapter 155A.

*“License”* means a license, certification or registration issued to a person by a licensing authority which evidences the granting of authority to engage in a profession or occupation.

*“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).

*“Permanent site”* means a site at which free health care services will be provided on a continuous basis.

*“Protected clinic”* means field dental clinic, free clinic, or specialty health care provider office providing free care to the uninsured and underinsured. Each protected clinic has a signed protection agreement, which provides for defense and indemnification of the protected clinic. The protection agreement shall allow the protected clinic to deliver health care services to uninsured and underinsured persons as an agent of the state.

*“Protection agreement”* means a signed contract providing for defense and indemnification between an individual volunteer health care provider or protected clinic and the volunteer health care provider program (VHCPP). This agreement shall allow the individual health care provider or protected clinic to deliver health care services to uninsured and underinsured persons as an agent of the state. The agreement covers “health care services” that are volunteer, uncompensated services. For those services to qualify as volunteer, uncompensated services under this chapter, the individual volunteer health care provider, health care provider, and protected clinic must receive no compensation for any services provided under the agreement and must not bill or accept compensation from the person, or any public or private third-party payor, for the specific services provided by the individual volunteer health care provider covered by the agreement.

*“Specialty health care provider office”* means the private office or clinic of an individual specialty health care provider or a group of specialty health care providers but does not include a field dental clinic, a free clinic, or a hospital.

*“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.

“*Temporary site*” means a site at which free health care services will be provided for a short period of time not to exceed three days. “Temporary site” includes but is not limited to temporary health fairs, flu shot clinics, and temporary sites that provide back-to-school physicals.

“*Underinsured*” means that a person does not have adequate insurance, which is determined on cost-exposure to family income with at least one of three indicators: (1) out-of-pocket medical expenses equal to or greater than 10 percent of income; (2) out-of-pocket medical expenses equal to or greater than 5 percent of income if income is less than 200 percent of the federal poverty level; and (3) health plan deductibles equal to or greater than 5 percent of income.

“*Volunteer health care provider program*” or “*VHCPP*” means the volunteer health care provider program of the department.

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#### **641—88.3(135) Eligibility for the volunteer health care provider program.**

**88.3(1)** *Individual volunteer health care provider eligibility.* To be eligible for protection as an employee of the state under Iowa Code chapter 669 for a claim arising from covered health care services, an individual volunteer health care provider shall satisfy each of the following conditions at the time of the act or omission allegedly resulting in injury:

*a.* The individual volunteer health care provider shall hold an active unrestricted license, registration, or certification 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. The individual volunteer health care provider shall provide a sworn statement attesting that the license, registration, or certification to practice is free of restrictions. The statement shall describe any disciplinary action that has ever been taken against the individual volunteer health care provider by any professional licensing, registering, or certifying authority or health care facility, including any voluntary surrender of license, registration, or certification or other agreement involving the individual volunteer health care provider’s license, registration, or certification to practice or any restrictions on practice, suspension of privileges, or other sanctions. The statement shall also describe any malpractice suits that have been filed against the individual volunteer health care provider. The statement provided by a pharmacist shall also describe any disciplinary action that has ever been taken against any pharmacy in which the pharmacist has ever been owner, partner, or officer.

*b.* Application. The applicant shall submit the following information on forms provided by the VHCPP:

(1) The individual volunteer health care provider current licensure identification number and expiration date;

(2) The health care services to be voluntarily provided that meet all of the following requirements:

1. The services fall under the individual volunteer health care provider’s licensed scope of practice;

2. The services are covered health care services listed in paragraph 88.5(1)“d”; and

3. The individual volunteer health care provider applicant is willing to voluntarily provide the health care services to those persons who are uninsured and underinsured for the public health purpose of improved health, prevention of illness/injury, and disease management.

*c.* Agreement. The individual volunteer health care provider shall have a signed and current protection agreement with the VHCPP which identifies the covered health care services within the respective scope of practice and conditions of defense and indemnification as provided in rules 641—88.5(135) and 641—88.6(135).

(1) The protection agreement is only valid during the time that the individual volunteer health care provider maintains a current unrestricted license and only for voluntary services provided in conjunction with a sponsor entity or protected clinic which has its own valid VHCPP protection agreement in effect at the time of service provision.

(2) The protection agreement with the VHCPP shall provide that the individual volunteer health care provider shall:

1. Perform only those health care services identified and approved by the VHCPP;
2. Promptly notify the VHCPP of any changes in licensure status;
3. Maintain proper records of the health care services;
4. Make no representations concerning eligibility for the VHCPP or eligibility of services for indemnification by the state except as authorized by the department;
5. Cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;
6. Accept financial responsibility for personal expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the individual volunteer health care provider for the individual volunteer health care provider's expenses or time needed for the defense of the claim or suit;
7. Receive no direct monetary compensation of any kind for services provided in the VHCPP;
8. Comply with the protection agreement with the VHCPP concerning approved health care services.

**88.3(2) Protected clinic eligibility.** To be eligible for protection as a state agency under Iowa Code chapter 669 for a claim arising from the provision of covered health care services at a protected clinic, the protected clinic shall satisfy each of the following conditions at the time of the act or omission allegedly resulting in injury:

- a. The protected clinic shall comply with subrules 88.4(1) through 88.4(5).
- b. The protected clinic shall, upon request from the department, provide to the department a list of all health care providers who provided health care services at the protected clinic at the time of a claim made against the individual health care provider or protected clinic which arises out of the provision of free health care service rendered or which should have been rendered by the individual volunteer health care provider or protected clinic.
- c. The protected clinic shall only be covered under the VHCPP for the provision of covered health care services by a health care provider providing health care services at the protected clinic who either:
  - (1) Holds a current individual volunteer health care provider protection agreement with the VHCPP, or
  - (2) Holds current professional liability insurance coverage and an active unrestricted license, registration, or certification 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.
- 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. 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 provide proof of Section 501(c)(3) status to the VHCPP.
- f. A protected clinic may allow health care profession students to volunteer at the protected clinic provided that the following conditions are satisfied:
  - (1) The college, university, or other health care profession educational institution provides professional liability insurance which covers the students; and
  - (2) The protected clinic or the health care profession institution provides general liability and professional liability insurance which covers the students; and
  - (3) The students provide only those services or activities as are authorized by the education agreement, and such services and activities are provided under the on-site supervision of a health care provider.

**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).

[ARC 8791B, IAB 6/2/10, effective 7/7/10; ARC 9535B, IAB 6/1/11, effective 5/11/11; ARC 9536B, IAB 6/1/11, effective 5/11/11; ARC 9645B, IAB 8/10/11, effective 9/14/11; ARC 5015C, IAB 4/8/20, effective 5/13/20]

#### **641—88.4(135) Sponsor entity and protected clinic.**

**88.4(1)** Licensure. The sponsor entity or protected clinic shall be licensed to the extent required by law for the facility in question.

**88.4(2)** If the sponsor entity or protected clinic is a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, the sponsor entity or protected clinic shall provide proof of Section 501(c)(3) status to the VHCPP.

**88.4(3)** Application. The sponsor entity or protected clinic shall submit the following information on forms provided by the VHCPP:

- a. By category, the patient groups to be served;
- b. The health care services to be provided;
- c. The site where free health care services are to be provided;
- d. Classification of each site as a permanent site or temporary site;
- e. The services that will be provided to those persons who are uninsured and underinsured for the public health purpose of improved health, prevention of illness/injury, and disease management.

**88.4(4)** Agreement. A signed and current sponsor entity agreement or protected clinic agreement shall exist with the VHCPP which shall:

- a. Provide that the individual volunteer health care provider or health care provider within a protected clinic and the individual volunteer health care provider within a sponsor entity shall perform only those health care services identified and approved by the VHCPP;
- b. Identify by category the patient groups to be served;
- c. Identify the sites at which the free health care services will be provided;
- d. Identify as a permanent site or temporary site for the provision of free health care services through the VHCPP;
- e. Provide that the sponsor entity or protected clinic shall maintain proper records of health care services for a period of seven years from the date of service or, in the case of a minor, for a period of one year after the minor has reached the age of majority; and
- f. Provide that the sponsor entity agrees that only the individual volunteer health care provider or protected clinic covered under a current VHCPP protection agreement at the time of the service provision in a claim is afforded protection under Iowa Code section 135.24 and that the state assumes no obligation to the sponsor entity, its employees, officers, or agents. The sponsor entity or protected clinic shall submit a statement, which shall be submitted on forms provided by the VHCPP, attesting that the sponsor entity or protected clinic and its staff, employees and volunteers agree to:

(1) Cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;

(2) Accept financial responsibility for the sponsor entity's or protected clinic's expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the sponsor entity or protected clinic for expenses or time needed for the defense of the claim or suit;

(3) Receive no direct monetary compensation of any kind for health care services provided in the sponsor entity or protected clinic;

(4) Comply with the sponsor entity agreement or protected clinic agreement with the VHCPP concerning approved health care services.

**88.4(5)** General liability insurance. The sponsor entity or protected clinic shall submit proof of general liability insurance for the clinic site.

[ARC 8791B, IAB 6/2/10, effective 7/7/10; ARC 9536B, IAB 6/1/11, effective 5/11/11; ARC 9645B, IAB 8/10/11, effective 9/14/11; ARC 5015C, IAB 4/8/20, effective 5/13/20]

**641—88.5(135) Covered health care services.** An individual volunteer health care provider holding a current protection agreement with the VHCPP shall be afforded the protection of an employee of the state under Iowa Code chapter 669, and a protected clinic holding a current protection agreement with the VHCPP shall be afforded protection as an agency of the state under Iowa Code chapter 669, only for claims for injury alleged to have been proximately caused by an individual volunteer health care provider's provision of covered health care services or solely on the basis of the individual volunteer health care provider's participation in the sponsor entity or protected clinic.

**88.5(1)** Covered health care services are only those that are:

- a. Identified in the protection agreement with the VHCPP;
- b. In compliance with these rules;
- c. Provided by or under the direct supervision of the individual volunteer health care provider;
- d. Health care services of:
  - (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.
  - (2) Audiologists for: testing, measurement and evaluation related to hearing and hearing disorders and associated communication disorders for the purpose of nonmedically identifying, preventing, modifying or remediating such disorders and conditions including the determination and use of appropriate amplification; patient instruction/counseling; patient habilitation/rehabilitation; and referrals.
  - (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.
  - (4) Chiropractors for: examinations; diagnosis and treatment; health education; and health maintenance.
  - (5) Dental assistants for: intraoral services; extraoral services; infection control; radiography; and removal of plaque or stain by toothbrush, floss, or rubber cup coronal polish.
  - (6) Dental hygienists for: assessments and screenings; health education; health maintenance; and preventive services (cleaning, X-rays, sealants, fluoride treatments, fluoride varnish).
  - (7) Dentists for: dental examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; and minor surgical procedures.
  - (8) Emergency medical care providers for: airway/ventilation/oxygenation; assisted medications - patient's; cardiovascular/circulation; immobilization; IV initiation/maintenance/fluids; and medication administration - routes.
  - (9) Independent social workers for: psychosocial assessment, diagnosis, and treatment; performance of psychosocial histories; problem identification; evaluation of symptoms and behavior; assessment of psychosocial and behavioral strengths and weaknesses and effects of the environment on behavior; psychosocial therapy; differential treatment planning; and interdisciplinary consultation.
  - (10) Licensed practical nurses for: supportive or restorative care.
  - (11) Marital and family therapists for: marital and family therapy; and application of counseling techniques in the assessment and resolution of emotional conditions.

(12) Master social workers for: psychosocial assessment, diagnosis, and treatment; performance of psychosocial histories; problem identification; evaluation of symptoms and behavior; assessment of psychosocial and behavioral strengths and weaknesses and effects of the environment on behavior; psychosocial therapy; differential treatment planning; and interdisciplinary consultation.

(13) Mental health counselors for: mental health counseling; and counseling services involving assessment, referral and consultation.

(14) Occupational therapists for: evaluation and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorder, congenital or developmental disability or the aging process.

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

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

(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.

(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.

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

(21) Registered nurses for: well-child examinations; annual adult examinations; treatment of acute and chronic conditions; health education; health maintenance; and immunizations.

(22) Respiratory therapists for: diagnostic and therapeutic use of administration of medical gases, aerosols, and humidification, not including general anesthesia; pharmacologic agents relating to respiratory care procedures; bronchopulmonary hygiene; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of cardiopulmonary abnormalities; and pulmonary function testing.

(23) Speech pathologists for: testing, measurement and evaluation related to the development and disorders of speech, fluency, voice or language for the purpose of nonmedically preventing, ameliorating, modifying or remediating such disorders and conditions; patient instruction/counseling; patient habilitation/rehabilitation; and referrals.

**88.5(2)** Experimental procedures or procedures and treatments which lack sufficient evidence of clinical effectiveness are excluded from the VHCPP.

[ARC 8791B, IAB 6/2/10, effective 7/7/10; ARC 9535B, IAB 6/1/11, effective 5/11/11; ARC 4703C, IAB 10/9/19, effective 11/13/19]

**641—88.6(135) Defense and indemnification.** The state shall defend and indemnify an individual volunteer health care provider or a protected clinic for a claim arising from the VHCPP only to the extent provided by Iowa Code chapter 669 and Iowa Code section 135.24. Persons or entities other

than the participating individual volunteer health care provider or protected clinic are not considered state employees or state agencies under Iowa Code chapter 669. Defense and indemnification of the individual volunteer health care provider or a protected clinic under Iowa Code chapter 669 and Iowa Code section 135.24 shall occur only if all of the following requirements are met:

**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.

**88.6(2)** The claim arises from covered health care services that were performed at a site identified and approved in the protection agreement with the VHCPP.

**88.6(3)** The claim arises from covered health care services provided through a protected clinic or sponsor entity clinic identified and approved in the individual volunteer health care provider's protection agreement with the VHCPP and which meets the requirements of rule 641—88.3(135).

**88.6(4)** The individual volunteer health care provider, health care provider, protected clinic, or sponsor entity clinic that provided the health care services receives no direct monetary compensation of any kind and no promise to pay compensation for the health care services which allegedly resulted in medical injury.

**88.6(5)** The health care services are provided to a patient who is a member of a patient group identified in the sponsor entity or protected clinic protection agreement with the VHCPP.

**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 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.

[ARC 8791B, IAB 6/2/10, effective 7/7/10; ARC 9535B, IAB 6/1/11, effective 5/11/11; ARC 9536B, IAB 6/1/11, effective 5/11/11; ARC 9645B, IAB 8/10/11, effective 9/14/11; ARC 5015C, IAB 4/8/20, effective 5/13/20]

#### **641—88.7(135) Term of agreement.**

**88.7(1)** *Individual volunteer health care provider.* The protection agreement with the VHCPP shall expire five years from the date of execution. Individual volunteer health care providers may apply for renewal by filing an application at least 30 days prior to expiration of the protection agreement.

**88.7(2)** *Protected clinic.* The protection agreement with the VHCPP shall expire five years from the date of execution. The protected clinic may apply for renewal by filing an application at least 30 days prior to expiration of the protection agreement. It is anticipated that temporary sites may change over the five-year period. An updated list of temporary site location or service provision changes shall be provided to the department for review and acceptance at least one week prior to service provision at the temporary site. Location or service provision changes to permanent sites shall require a protection agreement amendment.

**88.7(3)** *Sponsor entity.* The sponsor entity agreement with the VHCPP shall expire five years from the date of execution. Sponsor entities may apply for renewal by filing an application at least 30 days prior to expiration of the sponsor entity agreement. It is anticipated that temporary sites may change over the five-year period. An updated list of temporary site location or service provision changes shall be provided to the department for review and acceptance at least one week prior to service provision at the temporary site. Location or service provision changes to permanent sites shall require a protection agreement amendment.

[ARC 8791B, IAB 6/2/10, effective 7/7/10; ARC 5015C, IAB 4/8/20, effective 5/13/20]

#### **641—88.8(135) Reporting requirements and duties.**

**88.8(1)** Upon obtaining knowledge or becoming aware of any injury allegedly arising out of the negligent rendering of, or the negligent failure to render, covered health care services under the VHCPP, a participating individual volunteer health care provider, protected clinic, or sponsor entity shall provide to



the VHCPP, as soon as practicable, written notice containing, to the extent obtainable, the circumstance of the alleged injury, the names and addresses of the injured, and any other relevant information.

**88.8(2)** Upon obtaining knowledge or becoming aware of an injury as defined in subrule 88.8(1), the participating protected clinic or sponsor entity shall promptly take all reasonable steps to prevent further or other injury from arising out of the same or similar incidents, situations or conditions.

**88.8(3)** A participating individual volunteer health care provider, protected clinic, or sponsor entity shall immediately notify the Iowa Department of Justice, Special Litigation Division, Hoover State Office Building, Des Moines, Iowa 50319, of service or receipt of an original notice, petition, suit or claim seeking damages from the individual volunteer health care provider, protected clinic or sponsor entity related to participation in the VHCPP.

[ARC 8791B, IAB 6/2/10, effective 7/7/10]

**641—88.9(135) Revocation of agreement.** The VHCPP may deny, suspend, revoke, or condition the agreement of an individual volunteer health care provider, protected clinic or sponsor entity for cause, including but not limited to:

1. Failure to comply with the protection agreement or sponsor entity agreement with the VHCPP.
2. Violation of state law governing the respective scope of practice or other law governing the health care services provided under the VHCPP.
3. Making false, misleading, or fraudulent statements in connection with the VHCPP, including determination of eligibility of the individual volunteer health care provider, protected clinic, or sponsor entity or handling of a claim against the individual volunteer health care provider, protected clinic, sponsor entity or the state.
4. Evidence of substance abuse or intoxication affecting the provision of health care services under the VHCPP.
5. Reasonable grounds to believe that the individual volunteer health care provider or health care provider may have provided incompetent or inadequate care to a patient under the VHCPP or is likely to do so.
6. Reasonable grounds to believe that the individual volunteer health care provider's, protected clinic's, or sponsor entity's participation in the VHCPP may expose the state to undue risk.
7. Failure to immediately notify the VHCPP of any disciplinary action brought against the individual volunteer health care provider by the applicable state licensing board.

[ARC 8791B, IAB 6/2/10, effective 7/7/10; ARC 9536B, IAB 6/1/11, effective 5/11/11; ARC 9645B, IAB 8/10/11, effective 9/14/11]

**641—88.10(135) Procedure for revocation of agreement.** A proceeding for revocation of an individual volunteer health care provider's protection agreement or a protected clinic's protection agreement or a sponsor entity's agreement for participation shall be conducted as a contested case proceeding pursuant to Iowa Code chapter 17A and 641—Chapter 173. Iowa Code section 17A.18 does not preclude emergency summary suspension of a protection agreement or a sponsor entity agreement. The VHCPP shall immediately notify the appropriate licensing board and the appropriate protected clinic or sponsor entity of revocation of an individual volunteer health care provider's protection agreement.

[ARC 8791B, IAB 6/2/10, effective 7/7/10]

**641—88.11(135) Effect of suspension or revocation.** If the VHCPP suspends or revokes an individual volunteer health care provider's protection agreement, sponsor entity protection agreement, or protected clinic's protection agreement, the action shall suspend or revoke future protection but shall not negate defense and indemnification coverage for covered acts or omissions which occurred during the effective dates of the protection agreement.

[ARC 8791B, IAB 6/2/10, effective 7/7/10; ARC 5015C, IAB 4/8/20, effective 5/13/20]

**641—88.12(135) Protection denied.**

**88.12(1) Protection denied—appeal procedure.** An applicant who has been denied protection by the VHCPP may appeal the denial and request a hearing on the issues related to the denial by serving a notice

of the appeal and request for hearing to the Director, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075, in writing, not more than 30 days following the date of the mailing of the notification of protection denial to the applicant or not more than 30 days following the date upon which the applicant was served notice if notification was made in the manner of service of an original notice. The request for hearing shall specifically delineate the facts to be contested and determined at the hearing.

**88.12(2) Protection denied—hearing.** If an applicant who has been denied protection by the VHCPP appeals the protection denial and requests a hearing pursuant to subrule 88.12(1), the hearing and subsequent procedures shall be conducted pursuant to Iowa Code chapter 17A and 641—Chapter 173.

[ARC 8791B, IAB 6/2/10, effective 7/7/10]

**641—88.13(135) Board notice of disciplinary action.** The applicable state licensing board shall notify the VHCPP of the initiation of a contested case against a protected individual volunteer health care provider or the imposition of disciplinary action, including providing copies of any contested case decision or settlement agreement with the protected individual volunteer health care provider upon request of the VHCPP.

[ARC 8791B, IAB 6/2/10, effective 7/7/10]

**641—88.14(135) Effect of eligibility protection.** A fully executed protection agreement of an individual volunteer health care provider or protected clinic as eligible for participation in the VHCPP by the applicable state licensing board and the department is solely a determination that the state will defend and indemnify the individual volunteer health care provider or the protected clinic to the extent provided by Iowa Code section 135.24 and these rules. The protection is not an approval or indication of ability or competence and may not be represented as such. The protected clinic or sponsor entity through which the individual volunteer health care provider provides free health care services shall retain responsibility for determining that health care personnel are competent and capable of adequately performing the health care services to be provided.

[ARC 8791B, IAB 6/2/10, effective 7/7/10]

**641—88.15(135) Reporting by a protected clinic or sponsor entity.** A reporting form will be provided by the VHCPP to the participating protected clinic or sponsor entity at the time the protected clinic or sponsor entity agreement is approved by the VHCPP. Within 60 days following each calendar quarter, the protected clinic or sponsor entity shall provide a report to the VHCPP. At a minimum, the report shall include the number of clinic patients receiving free health care services and patient demographics by age, ethnicity, and insurance status.

[ARC 8791B, IAB 6/2/10, effective 7/7/10]

These rules are intended to implement Iowa Code section 135.24.

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