CHAPTER 1
TORT CLAIMS

[Prior to 5/4/88, see Appeal Board, State[60] Ch 1]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

543—1.1(25A) Definitions. As used in these rules, *"state agency," "employee of the state," "claim"* and *"award"* bear the definitions ascribed to them in Iowa Code section 25A.2.

"Board" means *"state approved board"* as defined in section 23.1.

"Executive secretary" means executive secretary of the state appeal board.

543—1.2(25A) Meetings of board. The board shall meet at a time and place fixed by the chairman or a majority of the board.

1.2(1) *Orders of board.* The board shall be considered in continuous session for the purpose of entering orders, issuing determinations and making awards.

1.2(2) *Quorum.* A majority of the membership of the board shall constitute a quorum for the transaction of all business. But the compromise, settlement or allowance of any claim in an amount larger than $5,000 shall require the approval of all members of the board and of the district court of Polk County.

1.2(3) *Executive secretary.* The director of the department of management shall appoint an employee of the office to serve as executive secretary of the board.

543—1.3(25A) Form of claims. All claims should be typewritten, but claims printed by hand will be accepted if legible.

1.3(1) *Place of filing.* Claims shall be filed in triplicate with the Department of Management, State Capitol, Des Moines, Iowa 50319.

1.3(2) *Verification.* Claims shall be verified.

1.3(3) *Names and signatures.* A claim shall state thereon the name, address, telephone number, and age of the person making the claim and the name, address and telephone number of the attorney, if any, preparing the claim, and their signatures.

1.3(4) *Designation by number.* The executive secretary shall assign a number to each claim. Thereafter it may be referred to by such a number.

543—1.4(25A) Content. All claims shall set forth information as follows:

1.4(1) *Type of claim.* A claim shall state whether it is against an employee or the state. If the claim is against an employee the name of the employee and the department where employed shall be stated. A separate claim shall be filed for each type by each claimant.

1.4(2) *Description of accident.* State, in detail, all known facts and circumstances attending the damage or injury, identifying persons and property involved and the cause thereof.

1.4(3) *In connection with personal injuries or death.*

a. A detailed description of the nature, extent and duration of any and all injuries.

(1) The names and addresses of any and all physicians, surgeons, dentists or other medical personnel providing treatment or services.

(2) The dates and places of the treatments or services.

(3) The date of the final treatment or service and the name of the physician or other person providing same.

(4) If treatment or services are continuing, the name and address of each physician or other person rendering said treatment or service, and the nature of the treatment or service.

b. The name and address of any hospital in which claimant is or was confined and the dates of admission and discharge.

c. The name and address of any and all persons who have taken the X-rays of claimant, the dates of such X-rays and a statement as to what the X-rays purportedly established.

d. A statement as to any preexisting injury, illness or condition, the nature of such preexisting injury, illness or condition, and the name and present address of each physician or other person who has rendered or who is rendering treatment for such disability.

e. If employed at the time of the injury or death, the name and address of the employer, the position or job held and nature of the work performed, the average weekly wage or salary for the year immediately past, the period of time lost from employment (dates), and the sum of wages or salary claimed to have been lost, if any, by reason of injuries or death.

f. If other loss of income, profit or earnings is claimed, the amount of such loss or losses and how computed, the source of such loss, the date of deprivation thereof, the period of time and whether it is continuing.

g. Name and address of present employer, if claimant has returned to work, the position or job held, the nature of the work being performed and present weekly wages, earnings, income or profits.

h. Itemization in detail of any and all moneys expended or expenses incurred in connection with said claim.

i. Names and addresses of all persons who have personal knowledge of any facts relating to said claim.

1.4(4) *In connection with property damage or loss.*

a. Motor vehicle.

(1) Make, model, year.

(2) Date of purchase and purchase price.

(3) Cost estimates for repairs or actual costs thereof, with copies of estimates or bills.

(4) Specific part or parts allegedly damaged.

(5) Names and addresses of any and all persons having personal knowledge of any facts relating to the claim.

b. Other property.

(1) Nature and description of such other property or items of property separately listed.

(2) Method by which such property was acquired. If purchased, then the name of the person or place from which purchased, the price, date and usage made of the property.

(3) Depreciated value at date of damage or loss.

(4) Costs estimates for repairs or actual costs thereof with copies of cost estimates made or of bills paid.

(5) Names and addresses of any and all persons having personal knowledge of any facts relating to the claim.

1.4(5) *Forms.* Claims may be in any form, but shall contain the information required by rules 1.3(25A) and 1.4(25A). Printed forms can be obtained from the secretary of the state appeal board.

543—1.5(25A) Amount of claim. All claims shall state the amount of compensation requested from the state appeal board.

543—1.6(25A) Attorney general. The executive secretary shall deliver or cause delivery of two copies of each claim to the special assistant attorney general assigned to claims.

543—1.7(25A) Investigation. Upon receipt of said copy, the special assistant attorney general shall investigate the claim. The special assistant attorney general shall ex officio be empowered to administer oaths or may take testimony in the form of affidavits, depositions or oral or written interrogatories or otherwise. The special assistant attorney general may compel the attendance of witnesses and certify to any district court for contempt.

543—1.8(25A) Notification. The special assistant attorney general shall notify the claimant or the claimant's attorney, in writing, of the board's determination and of the amount of the award, if any.

543—1.9(25A) Release or covenant not to sue. The claimant shall be required to execute a release of the claim or a covenant not to sue in consideration of the amount of the award fixed by the board.

543—1.10(25A) Acceptance. Return of the release or covenant not to sue properly executed by the claimant or the claimant's attorney shall constitute acceptance of the award in full settlement of the claim.

543—1.11(25A) Warrant. If the board determines the claimant's attorney's fees to be reasonable and the release or covenant not to sue properly executed the director of the department of management shall cause the issuance of a warrant in the amount of the award, payable to claimant and to the claimant's attorney.

543—1.12(25A) Withdrawal. Withdrawal of claims shall be by notice in writing addressed to the State Appeal Board, Office of the Department of Management, Des Moines, Iowa 50319.

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