

CHAPTER 28
POLICIES FOR ALL INSTITUTIONS

[Prior to 7/1/83, Social Services [770] Ch 28]

[Prior to 2/11/87, Human Services [498]]

441—28.1(218) Definitions.

“*Administrator*” means the administrator of the division of mental health, mental retardation, and developmental disabilities within the Iowa department of human services.

“*Director*” means the director of the Iowa department of human services.

“*Superintendent*” means the superintendent of any of the four mental health institutes and the two state hospital-schools.

441—28.2(218) Voluntary admissions to mental health institute.

28.2(1) Any person who has symptoms of mental illness may apply for voluntary admission on Form MH-1101-0, Application for Voluntary Admission at a Mental Health Institute.

28.2(2) A parent or guardian of a minor may make application for voluntary admission on Form MH-1102-0, Application for Voluntary Admission for Patients Under the Age of Eighteen. When a minor objects to the admission and the chief medical officer of the mental health institute determines the admission appropriate, the parent or guardian shall petition the juvenile court for approval of admission prior to admission.

28.2(3) When the person making application for voluntary admission to the mental health institute or those responsible for the person are unable to pay costs of care, application for admission shall be made to any clerk of the district court on Form MH-1103-0, Application for Authorization for Voluntary Admission to a Public Hospital, before application for admission is made to the mental health institute.

Those persons requesting voluntary admission, without going through the county, shall be required to pay, in advance, the cost of hospitalization. This cost shall be computed at 30 times the last per diem rate and shall be collected weekly in advance upon admission. The weekly amount due shall be determined by dividing the monthly rate by 4.3.

28.2(4) The rates for cost of hospitalization, established by the director, shall be available by contacting the business manager of the mental health institute which serves that particular district in which the county of residence is located.

28.2(5) Any person requesting drug treatment shall complete Form MH-1104-3, Application for Voluntary Admission—Drug Treatment at the Mental Health Institute.

28.2(6) A parent or guardian of a minor or a minor on the minor’s own behalf, may make application for voluntary admission for drug treatment on Form MH-1105-3, Application for Voluntary Admission—Drug Treatment for Patients Under Eighteen Years of Age at the Mental Health Institute.

28.2(7) Any person requesting treatment for alcoholism shall complete Form MH-1106-2, Application for Voluntary Admission—Treatment of Alcoholism at the Mental Health Institute.

28.2(8) A physician, spouse, guardian, relative or any other responsible person wishing to make application for the emergency admission of a person for treatment of substance abuse and whose admission is necessary because the intoxicated person has threatened, attempted or inflicted physical harm to self or another shall make application on Form MH-1109-0, Application for Emergency Commitment of a Substance Abuser.

28.2(9) A person wishing to receive voluntary outpatient or day treatment shall make application on Form MH-1110-0, Application as an Outpatient/Day Patient.

28.2(10) No inpatient or outpatient either on a voluntary or involuntary basis shall be provided treatment other than what is necessary to preserve life or protect others from physical injury unless:

- a. The person has given consent by signing Form MH-2101-0, Consent to Treatment;
- b. A court has ordered treatment; or
- c. The next of kin of an involuntary patient has given consent by signing Form MH-2101-0, Consent to Treatment.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

441—28.3(218) Admission to hospital-schools.

28.3(1) Applications for the care, treatment, or evaluation of a person by a hospital-school shall be made by the board of supervisors of either the county of legal settlement or the county of residence of the person for whom application is made. The application shall be made using Form MR-1101, Application for Services to State Hospital-School. The application shall be accompanied by completed Form MR-1301, Physicians Report; Form MR-1401, Consent and Agreement Authorization; a full-length picture of the person for whom application is made; a complete social history using Form MR-1302, Social Case History Outline; and other information specifically requested in writing by the hospital-school.

28.3(2) When the application is for a readmission, the hospital-school may waive the resubmittal of any information already in the files other than Form MR-1101, Application for Services to State Hospital-School.

28.3(3) Upon receipt of an application, the hospital-school may admit a person on a temporary basis for either a preadmission diagnostic evaluation to determine whether the person would be appropriate to admit to the regular program or a diagnostic evaluation to assist in planning for community-based services or respite care.

28.3(4) Upon receipt of an application, the hospital-school may provide a person with outpatient evaluation treatment, training, or habilitation services.

28.3(5) Eligibility for admission shall be determined by:

- a. A preadmission diagnostic evaluation,
- b. An established diagnosis of mental retardation,
- c. The availability of an appropriate program, and
- d. The availability of space at the institution.

28.3(6) Express written consent of the individual or parent, guardian, or other person responsible shall be secured before admission.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

441—28.4(229) Patients' rights for the mentally ill.

28.4(1) The recipient of mental health services shall have the right to every consideration of privacy and individuality.

28.4(2) In order to preserve the patients' self-respect and dignity, to ensure optimum care and treatment, and to guarantee constitutional and civil rights, the patient shall have the following rights:

- a. The patient has the right to be evaluated promptly following admission and shall receive emergency service appropriate to the patient's needs.
- b. The patient shall have the right to be informed as to treatment plans and hospital rules and regulations applying to individual conduct as a patient.
- c. The patient shall be provided with complete and current information concerning patient diagnosis, treatment and progress in terms and language understandable to the patient. When it is not feasible to give this information directly to the patient, the information shall be made available to an immediate family member, guardian or person in charge on behalf of the patient.

28.4(3) An individualized written plan of services shall be developed for each patient. The plan shall be kept current and will be modified when indicated.

28.4(4) The patient shall have the right to receive prompt and adequate treatment of physical and psychological ailments.

28.4(5) The patient has the right not to receive treatment procedures such as surgery, electro-convulsive therapy, or unusual treatment procedures, without the patient's expressed, informed consent or that of next of kin or legally constituted guardian. Any unusual treatment shall be fully explained to the patient in language the patient can reasonably be expected to understand.

28.4(6) The patient shall have the right to the least restrictive conditions necessary to achieve the purposes of treatment. The patient shall be free from restraint or seclusion, except when necessary to prevent harm to the patient, harm to others, or damage to property.

28.4(7) The patient shall have the right to be free from unnecessary or excessive medication or treatment intervention.

28.4(8) Medical records, ward charts and information regarding the evaluation, diagnosis, care and treatment shall be considered private and confidential.

28.4(9) The voluntary mentally ill patient shall be entitled to obtain discharge by submitting a written notice to the superintendent or chief medical officer. The patient may be discharged immediately, on request, except when the superintendent or chief medical officer intends to institute judicial procedures.

28.4(10) An individual posthospitalization plan shall be developed for each patient.

28.4(11) When the patient is assigned to industrial therapy, the specific assignment shall be an integrated part of the treatment plan and the patient shall be appropriately supervised. The patient shall be compensated in accordance with federal and state laws for any work assignment.

28.4(12) The patient shall retain all the rights of full citizenship except as may be specifically limited by the constitution or statute.

28.4(13) The patient, next of kin, or the legal guardian shall have the right to be advised of the provisions of the law pertaining to admissions and discharge.

28.4(14) The patient shall have the right to file application for a writ of habeas corpus and the right to petition the court for release.

28.4(15) The patient has the right to an attorney of choice and to judicial review of the hospitalization. When the patient does not have an attorney, legal counsel shall be obtained through public resources available for legal assistance. The patient has the right to consult privately with counsel at any reasonable time.

28.4(16) The patient has the right to wear personal clothing, and keep and use a reasonable amount of money as appropriate to the treatment program. The hospital shall make provision for the laundering of patient clothing and will provide a reasonable amount of storage space for clothing and personal storage.

28.4(17) When the patient does not have personal clothing or resources to purchase clothing, the institution shall furnish clothing which is clean, neat, and seasonally suitable.

28.4(18) The patient shall be entitled to a safe, sanitary, and humane living environment which affords comfort, promotes dignity, and ensures privacy as is appropriate to the patients' treatment plans.

28.4(19) The patient shall have the right to the opportunity for educational, vocational, rehabilitational, and recreational programs as compatible with the patient's needs.

28.4(20) The patient shall have access to current informational and recreational media, e.g., newspapers, television, or periodicals, in keeping with the patient's treatment program.

28.4(21) The patient has the right to religious worship of the patient's choice in accordance with individual treatment programs. Pastoral counseling shall be available if desired.

28.4(22) The patient shall have the right to unimpeded, private, and uncensored communication with others by mail and telephone and with persons of the patient's choice except when therapeutic or security reasons dictate otherwise. Any limitations or restrictions imposed shall be approved by the superintendent or designee, and the reasons noted shall be made a part of the patient's record.

28.4(23) The patient or representative shall be advised of these rights at the time of hospitalization.

28.4(24) These patient rights shall be publicly posted in each institution.

441—28.5(218) Photographing and recording of patients and use of cameras.

28.5(1) Use of cameras and recorders shall be allowed within the institution only with the prior authorization of the superintendent or designee. Permission to photograph and record shall be granted for one specific use, and the authorization shall not extend to any other use.

28.5(2) Photographs and recordings of a voluntary patient of legal age shall be taken for publication only with a signed release from the patient.

28.5(3) Photographs and recordings of a patient who is a minor, committed mental patient, mentally retarded, or ward of the state shall be taken for publication only with a signed release from the parent or legal guardian.

28.5(4) Every effort shall be made to preserve the inherent dignity of the patient and to preclude exploitation or embarrassment of the patients or the family of the patients.

28.5(5) Pictures and recordings of patients are not to be altered to prevent identification in any manner that would tend to perpetuate the stigma attached to the public image of mental illness or mental retardation.

441—28.6(218) Interviews and statements.

28.6(1) Releases to the news media shall be the responsibility of the superintendent. Authority for dissemination and release of information shall be designated to other persons at the discretion of the superintendent.

28.6(2) Interviews of patients by the news media or other outside persons or groups shall be permitted only with the consent of the patient or the patient's legal guardian. When a request without known prior consent is received, the superintendent or designee shall not acknowledge the presence or nonpresence of a person as a patient. If the patient is in the hospital, the superintendent or designee shall make the patient aware of the request. Notice to the patient shall be documented in the patient's record. The patient shall be free to decide whether or not an interview is granted.

This rule is intended to implement Iowa Code section 218.4.

441—28.7(218) Use of grounds, facilities, or equipment.

28.7(1) The superintendent or designee may grant permission for temporary use of assembly halls, auditoriums, meeting rooms, or institutional grounds to an organization or group of citizens when the facility is available and is not needed for regular scheduled departmental services.

28.7(2) Members of outside organizations permitted to a facility shall observe the same rules as visitors to the institution.

441—28.8(218) Tours of institution. Groups or individuals shall be permitted to tour the institution only with approval of the superintendent or designee.

441—28.9(218) Donations. Donations of money, clothing, books, games, recreational equipment or other gifts shall be made directly to the superintendent or designee. The superintendent or designee shall evaluate the donation in terms of the nature of the contribution to the hospital program. The superintendent or designee shall be responsible for accepting the donation and reporting the gift to the administrator, division of mental health, mental retardation, and developmental disabilities. All monetary gifts shall be acknowledged in writing to the donor.

441—28.10(218) Residents' rights for the mentally retarded.

28.10(1) The recipient of mental retardation services shall be treated with consideration, respect, and full recognition of the recipient's dignity and individuality.

28.10(2) In order to preserve each resident's self-respect and dignity, to ensure optimum care and treatment, and to prevent physical and psychological abuse, the resident shall be afforded the following considerations:

a. The resident shall be evaluated promptly following admission and shall receive emergency services appropriate to the person's needs.

b. The resident may participate in the development of treatment plans and shall be advised of hospital rules and regulations applying to individual conduct as a resident.

c. The resident shall be provided with current information concerning diagnosis, treatment and progress in terms and language understandable to the resident. When it is not feasible to give this information directly to the resident the information shall be made available to an immediate family member, guardian, or person in charge on behalf of the resident.

28.10(3) Each resident and the parent or guardian may participate in the planning and decision making with regard to the resident and be informed in writing of progress at reasonable intervals. Whenever possible, the resident shall be given the opportunity to decide which of several appropriate alternative services to receive.

28.10(4) An individual written plan of services shall be developed for each resident. The plan shall be implemented through prompt treatment of identified ailments, shall be kept current, and shall be modified when indicated.

28.10(5) The resident shall not receive unusual treatment procedures such as surgery, electroconvulsive therapy or aversive therapy without the resident's expressed, informed consent or that of the legally constituted guardian. Any unusual treatment shall be fully explained to the resident in language that the resident can reasonably be expected to understand.

28.10(6) The resident shall have the least restrictive conditions necessary to achieve the purposes of treatment. The resident shall be free from restraint or seclusion except when necessary to prevent harm to the resident or others or damage to property, or when utilized as a treatment method in which case the procedures in subrule 28.4(5) will apply.

28.10(7) The resident shall be free from unnecessary or excessive medication or treatment intervention.

28.10(8) Medical records, ward charts and information regarding the evaluation, diagnosis, care and treatment shall be considered private and confidential.

28.10(9) An individual postinstitutional plan shall be developed for each resident when release becomes an immediate goal.

28.10(10) When the resident is assigned to industrial therapy, the specific assignment shall be an integrated part of the treatment plan and the resident shall be appropriately supervised. The resident shall be compensated in accordance with federal and state laws for any work assignment.

28.10(11) The resident shall retain all the rights of full citizenship except as may be specifically limited by the constitution, statute, or court order.

28.10(12) The resident, parent, or legal guardian shall be advised of the provision of the law pertaining to admissions and discharge.

28.10(13) The resident may file application for a writ of habeas corpus and petition the court for release.

28.10(14) The resident may wear personal clothing and keep and use a reasonable amount of money as appropriate to the treatment program. The institution shall make provision for the laundering of the resident's clothing and will provide a reasonable amount of storage space for clothing and personal property.

28.10(15) When the resident does not have personal clothing or resources to purchase clothing, the institution shall furnish clothing which is clean, neat and seasonally suitable.

28.10(16) The resident shall have the opportunity for educational, vocational, rehabilitational and recreational programs as compatible with the resident's needs.

28.10(17) The resident shall have access to current informational recreational media, e.g., newspapers, television, or periodicals in keeping with the resident's treatment program.

28.10(18) The resident may participate in religious worship of personal choice in accordance with individual treatment program. Pastoral counseling shall be available when desired.

28.10(19) The resident shall be accorded privacy and uncensored communication with others by mail and telephone and with persons of the resident's choice except when therapeutic or security reasons dictate otherwise. Any limitations or restrictions imposed shall be approved by the superintendent or designee and the reasons noted shall be made a part of the resident's record.

28.10(20) The resident or any person acting on behalf of the resident may submit to the appropriate human rights committee in the institution or other appropriate authority for investigation and appropriate action complaints or grievances against any person, group of persons, organization, or business regarding infringement of the benefits of the mentally retarded person and delivery of the mental retardation services.

28.10(21) The rules for mentally retarded residents shall be publicly posted in each facility.

28.10(22) All rights and responsibilities of the resident shall devolve to the resident's guardian, next of kin, or sponsoring agency when:

a. A resident is adjudicated incompetent in accordance with state law.

b. A resident's physician has documented in the resident's record the specific impairment that has rendered the resident incapable of understanding the rights for the mentally retarded.

441—28.11(218) Catchment areas.

28.11(1) The catchment areas for the four mental health institutes shall be made up of the following counties:

a. Cherokee:

Buena Vista	Franklin	Marshall	Sioux
Calhoun	Hamilton	Monona	Story
Cerro Gordo	Hancock	O'Brien	Webster
Cherokee	Hardin	Osceola	Winnebago
Clay	Humboldt	Palo Alto	Woodbury
Crawford	Ida	Plymouth	Worth
Dickinson	Kossuth	Pocahontas	Wright
Emmet	Lyon	Sac	

b. Clarinda:

Adair	Dallas	Mills	Taylor
Adams	Decatur	Montgomery	Union
Audubon	Fremont	Page	Warren
Boone	Greene	Polk	Wayne
Carroll	Guthrie	Pottawattamie	
Cass	Harrison	Ringgold	
Clarke	Madison	Shelby	

c. Independence:

Allamakee	Butler	Fayette	Jones
Benton	Chickasaw	Floyd	Linn
Black Hawk	Clayton	Grundy	Mitchell
Bremer	Delaware	Howard	Tama
Buchanan	Dubuque	Jackson	Winneshiek

d. Mt. Pleasant:

Appanoose	Iowa	Louisa	Poweshiek
Cedar	Jasper	Lucas	Scott
Clinton	Jefferson	Mahaska	Van Buren
Davis	Johnson	Marion	Wapello
Des Moines	Keokuk	Monroe	Washington
Henry	Lee	Muscatine	

28.11(2) The catchment areas for the two state hospital-schools shall be made up of the following counties:

a. Glenwood:

Adair	Decatur	Lee	Pottawattamie
Adams	Des Moines	Linn	Ringgold
Appanoose	Fremont	Louisa	Sac

Audubon	Greene	Lucas	Scott
Benton	Guthrie	Lyon	Shelby
Carroll	Harrison	Mahaska	Sioux
Cass	Henry	Mills	Taylor
Cedar	Ida	Monona	Union
Cherokee	Iowa	Monroe	Van Buren
Clarke	Jefferson	Montgomery	Wapello
Clinton	Johnson	Muscatine	Washington
Crawford	Jones	Page	Wayne
Davis	Keokuk	Plymouth	Woodbury

b. Woodward:

Allamakee	Dallas	Howard	Pocahontas
Black Hawk	Delaware	Humboldt	Polk
Boone	Dickinson	Jackson	Poweshiek
Bremer	Dubuque	Jasper	Story
Buchanan	Emmet	Kossuth	Tama
Buena Vista	Fayette	Madison	Warren
Butler	Floyd	Marion	Webster
Calhoun	Franklin	Marshall	Winnebago
Cerro Gordo	Grundy	Mitchell	Winneshiek
Chickasaw	Hamilton	O'Brien	Worth
Clay	Hancock	Osceola	Wright
Clayton	Hardin	Palo Alto	

28.11(3) Application for voluntary admission to an institution shall be made to the institution in the catchment area within which the person for whom admission is sought is residing.

28.11(4) Court commitment of a person shall be made to the institution within the catchment area within which the court is located.

28.11(5) The administrator shall give consideration to granting exceptions to the established catchment areas when requested by the person seeking a voluntary admission or the committing court. The administrator's decision shall be made within 48 hours of receipt of the request. The decision shall be based on the clinical needs of the patient, the availability of appropriate program services, available bed space within the program at the requested institution and the consent of the superintendents of both institutions involved.

28.11(6) For the purpose of treating a minor from the Clarinda catchment area who requires admission or commitment to a mental health institute adolescent or children's treatment program, the Clarinda catchment area is deemed to be a part of the Cherokee catchment area. For a minor in the Mt. Pleasant catchment area, the Mt. Pleasant catchment area is deemed to be a part of the Independence catchment area.

This rule is intended to implement Iowa Code section 218.4.

441—28.12(217) Release of confidential information.

28.12(1) Information defined by statute as confidential concerning current or former patients or residents of the mental health institutes or hospital-schools shall not be released to a person, agency or organization that is not authorized by law to have access to the information unless the patient or resident authorizes the release. Authorization shall be given by using Form 470-3951, Authorization to Obtain or Release Health Care Information.

28.12(2) Persons admitted or committed to a mental health institute or a hospital-school and who are not able to pay their own way in full shall authorize the department to obtain information necessary to establish whether they have legal settlement in Iowa or in another state. Authorization shall be given using Form MH-2203-0, Authorization to Release Information for Settlement.

This rule is intended to implement Iowa Code section 217.30.

441—28.13(218) Applying county institutional credit balances.

28.13(1) *Definition of credit balance.* A county institutional credit balance occurs when a county has paid a debt from a state institution or an institutional program and it is later determined that all or part of the debt was not the county's responsibility. Only when an institutional debit balance has been paid by a county and all or part of the paid debit has been determined not to be the responsibility of the county can the resulting county credit be used to reduce existing or future institutional debit balances.

28.13(2) *Order of application.* County institutional credits shall be applied in the following order until all credits are exhausted or refunded:

a. A credit shall first be applied to the patient's or resident's account at the same institution that generated the credit.

b. If any credit remains after application to the patient's or resident's account, the remaining credit shall be applied to any outstanding charges at the same institution that generated the credit.

c. Any remaining credit, after application to the patient's or resident's account and to the same institution that generated the credit, shall be applied to an outstanding balance at another state institution. If a credit generated by an institution or institutional program under net budgeting is to be applied to an institution or institutional program not under net budgeting, then a transfer of funds shall be made from the applicable institutional fund or institutional program under net budgeting to the state general fund. If a credit generated by an institution that is not under net budgeting is to be applied to an institution or institutional program under net budgeting, then a transfer will be made from the state general fund to the applicable net budgeting institutional fund. If a credit generated by an institution or institutional program under net budgeting is to be applied to another institution or institutional program under net budgeting, then the transfer of funds between the applicable net budgeting funds or programs shall be made through an accounting journal entry.

d. If any credit remains after applying credits as stated in paragraphs "a" to "c," the county with the remaining credit may seek a refund by filing a claim to the state appeal board pursuant to 543—Chapter 3, or the county may allow the credit to remain outstanding until such time as the county has an additional state institution or an institutional program debt.

This rule is intended to implement Iowa Code section 218.78.

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