

641—88.3(135) Eligibility for defense and indemnification coverage.

88.3(1) *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, a 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 applicant shall hold an active unrestricted license, registration, or certification to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 150, 150A, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, or 155A. The applicant 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 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 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 health care provider. The statement provided by a pharmacist volunteer health care provider 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.

(1) Every physician and dentist shall authorize the release of information allowing certified statements to be sent to the board of medical examiners or board of dental examiners from the National Practitioner Data Bank, the Federation of State Medical Boards Disciplinary Data Bank, or State Dental Boards Disciplinary Data Bank, as appropriate, setting forth any malpractice judgment or award or disciplinary action involving the physician or dentist.

(2) Every physical therapist, occupational therapist, physician assistant, podiatrist, chiropractor, respiratory therapist, licensed practical nurse, registered nurse, advanced registered nurse practitioner, optometrist, psychologist, bachelor social worker, master social worker, independent social worker, marriage and family therapist, and mental health counselor shall request certified statements directly from the National Practitioner Data Bank—Health Care Integrity and Protection Data Bank setting forth any malpractice judgment or award or disciplinary action involving the requester, shall pay the cost for such certified statements and shall submit such certified statements as part of the VHCPP application. Every chiropractor shall also authorize the release of information allowing certified statements to be sent to the board of chiropractic examiners from the Chiropractic Information Network/Board Action Databank (CINBAD) setting forth any malpractice judgment or award or disciplinary action involving the chiropractor.

(3) Every pharmacist shall authorize the release of information allowing certified statements to be sent to the board of pharmacy examiners from the National Association of Boards of Pharmacy setting forth any disciplinary action involving the pharmacist or any pharmacy in which the pharmacist has ever been owner, partner, or officer, and the pharmacist shall pay the cost for such certified statements. Every pharmacist shall also authorize the release of information from the pharmacist's malpractice insurance carrier to be sent to the board of pharmacy examiners, and the pharmacist shall pay the cost for such release. Information released from the pharmacist's malpractice insurance carrier shall include either the history and details of all claims that have been filed on behalf of the pharmacist or any pharmacy in which the pharmacist has ever been owner, partner, or officer, or confirmation that there have been no claims.

(4) Every emergency medical care provider shall authorize the release of information allowing information to be sent from the bureau of emergency medical services to the Iowa department of public health volunteer health care provider program setting forth any malpractice judgment or award or disciplinary action involving the requester, and shall authorize the release of information allowing such information to be shared with the bureau of emergency medical services by licensing entities within and outside Iowa.

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

(1) The patients to be served;

- (2) The health care services to be provided;
- (3) The site where health care services are to be provided;
- (4) The days and maximum number of hours when the free health care services will be provided each month at each site;
- (5) A public health purpose that shall be served by the provision of free health care services to the patients in question.

c. The applicant shall submit a certified statement, which shall be submitted on forms provided by the VHCPP, attesting that the volunteer health care provider agrees 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 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 volunteer health care provider for the volunteer health care provider's expenses or time needed for the defense of the claim or suit.

(3) Receive no direct monetary compensation of any kind for services provided in the VHCPP program.

(4) Comply with the eligibility agreement with the VHCPP concerning approved health care services and programs.

d. The applicant shall have a signed and current eligibility 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 88.5(135) and 88.6(135). The eligibility agreement shall:

(1) Provide that the volunteer health care provider shall perform only those health care services identified and approved by the VHCPP;

(2) Identify the sponsor program, approved by the VHCPP through an application process, through which the health care services will be provided;

(3) Identify by category the patient groups to be served and the need for provision of free health care services;

(4) Identify the sites at which the free health care services will be provided;

(5) Identify the maximum amount of time the free health care services will be provided at the identified sites by the volunteer health care provider each month;

(6) Provide that the volunteer health care provider shall maintain proper records of the health care services; and

(7) Provide that the volunteer health care provider shall make no representations concerning eligibility for the VHCPP or eligibility of services for indemnification by the state except as authorized by the department.

88.3(2) Free 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 the free clinic, a free clinic shall satisfy each of the following conditions at the time of the act or omission allegedly resulting in injury:

a. The free clinic shall comply with subrules 88.4(1) through 88.4(6).

b. The free clinic shall provide a list of all health care providers who provide health care services at the clinic.

c. The free clinic shall submit proof that each health care professional providing health care services at the free clinic either:

(1) Holds a current eligibility 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, 150, 150A, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, or 155A.

- d.* The free clinic shall submit a list of the clinic board of directors and contact information for the board of directors.
- e.* The free clinic shall submit proof of Section 501(c)(3) status.