

**641—155.16 (125,135) Complaints and investigations.**

**155.16(1) *Complaints.*** Any person may file a complaint with the department against any program licensed pursuant to this chapter. The complaint shall be made in writing and shall be e-mailed, mailed or delivered to the health facility officer at the Division of Behavioral Health, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. The complaint shall include the name and address of the complainant, the name of the program, and a concise statement of the allegations against the program, including the specific alleged violations of Iowa Code chapter 125 or this chapter, if known. A complaint may also be initiated upon the committee's own motion or by the department when an emergency exists that is deemed to endanger the health, safety or welfare of a patient, potential patient, concerned person, visitor, staff or the public, pursuant to evidence received by the department. Timely filing of complaints is required to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

**155.16(2) *Evaluation and investigation.*** Upon receipt of a complaint, the division shall make a preliminary review of the allegations contained in the complaint. The division may request that the complainant submit the complaint to the program's grievance process. Unless the division concludes that the complaint is intended solely to harass a program or lacks a reasonable basis, or is more reasonably addressed through the program's grievance process, the department shall conduct an investigation of the program that is the subject of the complaint as soon as is practicable. The program that is the subject of the complaint shall be given an opportunity to informally respond to the allegations contained in the complaint either in writing or through a personal interview or conference with department staff.

**155.16(3) *Investigative report.*** Within 30 days after completion of the investigation, the division shall prepare a written investigative report and shall submit the report to the executive director of the program, the chairperson of the governing body of the program, and the committee. This report shall include the nature of the complaint and shall indicate if the complaint allegations were substantiated, unsubstantiated, or undetermined; the basis for the finding; the specific statutes or rules at issue; a response from the program, if received; and a recommendation for action.

**155.16(4) *Review of investigations.*** The committee shall review the investigative report at its next regularly scheduled meeting and shall determine appropriate action.

*a. Closure.* If the committee determines that the allegations contained in the complaint are unsubstantiated, the committee shall close the case and the division shall promptly notify the complainant and the program by letter.

*b. Referral for further investigation.* If the committee determines that the complaint warrants further investigation, the committee shall refer the complaint to the department for further investigation.

*c. Written corrective action plan.* If the committee determines that the allegations contained in the complaint are substantiated and corrective action is warranted, the committee may require the program to submit and comply with a written corrective action plan. A program shall submit a written corrective action plan to the division within 20 business days after receiving a request for such plan. The written corrective action plan shall include a plan for correcting areas of noncompliance as required by the committee and a time frame within which such plan shall be implemented. The plan is subject to department approval. Requiring a written corrective action plan is not formal disciplinary action. Failure to submit or comply with a written corrective action plan may result in formal disciplinary action against the program.

*d. Disciplinary action.* If the committee determines that the allegations contained in the complaint are substantiated and disciplinary action is warranted, the committee may proceed with such action in accordance with rule 641—155.11(125,135).

**155.16(5) *Confidential information and public information.*** Information contained in a complaint may be confidential pursuant to Iowa Code section 22.7(2), 22.7(18), or 125.37 or any other provision of state or federal law. Investigative reports, written corrective action plans, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall refer to patients by number and shall not include patient identifying information. Investigative reports, written corrective action plans, and all notices and

orders issued pursuant to rule 641—155.11(125,135) shall be available to the public as open records pursuant to Iowa Code chapter 22.

[**ARC 1926C**, IAB 4/1/15, effective 5/6/15]