

641—85.6(135) Panel appointment and procedures.

85.6(1) When an application is filed, the chairperson shall appoint a panel to handle the case and designate a panel chairperson. The panel shall consist of at least three members with at least one from each category listed in rule 85.3(135). A person shall not participate on a panel for a case when that person has a conflict of interest. The panel may include the entire local board.

85.6(2) Upon appointment of the panel, the board chairperson or designee shall provide a copy of the application to each panel member accompanied by a notice of the time, place and date of the panel hearing on the application. The notice of the hearing shall also be provided to the patient, the person who filed the application, and any other interested party, if known. The notice shall inform the recipients of the procedures of the panel, including the opportunity for the recipient to be present and to be heard. The notice shall be given no less than 24 hours prior to the scheduled time for the hearing.

85.6(3) The general procedures of the hearing are as follows:

a. The panel shall be empowered to administer oaths and take testimony from any person who might assist the panel in making its decision. It shall also be empowered to conduct its proceeding via telephone conference calls in appropriate cases, unless someone objects and requests a face-to-face hearing.

b. A record of the deliberations and proceedings of the panel shall be made and retained for ten years. Such record shall include any information, record, assessment or consultation submitted to or considered by the panel.

c. The panel and each member of the local board shall maintain the confidentiality of records as required by Iowa Code chapters 22, 141, and 228 and 42 Code of Federal Regulations Part 2 or any other applicable confidentiality law provision.

d. The patient shall have the right to be present at the hearing and the right to express feelings to the panel orally or in writing and the right to designate someone to represent the patient before the panel.

e. If at any time during the pendency or prior to initiation of treatment, an attorney-in-fact, guardian, spouse, adult child, parent or an adult sibling is reasonably available, willing and able to consent to or refuse such care on the patient's behalf, objects to the panel acting upon the application, the proceedings regarding such patient shall cease. A record of any such person's objection shall be included as part of the record as provided for by this section.

f. The panel shall issue its written decision within 24 hours after the conclusion of the hearing. The decision shall state when the decision shall become effective and shall include a statement describing the right of appeal. The written decision shall be issued to the necessary persons, including the patient.

g. If the decision is hand-delivered, it shall not be effective sooner than 24 hours after the written decision is delivered to the patient or the person designated by the patient in 85.6(3) "e." If the decision is sent by certified mail, return receipt requested, it shall not be effective sooner than 48 hours after it is mailed. The date, time, and method of delivery of the decision to the patient shall be noted in the record.

h. A panel determination that a patient is in need of surrogate decision making for the proposed medical care shall not be valid for any future medical care and shall not be construed or deemed valid for any other purpose or for any other future medical care unless the determination explicitly applies to related or continuing treatment necessitated by the original treatment. No panel determination shall be valid after 60 days from its effective date unless the determination explicitly states otherwise.

i. All information, records, assessments or consultations submitted to or considered by the panel or board and the panel and board deliberations are confidential as required by Iowa Code chapters 22, 141, and 228 and 42 Code of Federal Regulations Part 2 or any other applicable confidentiality law provision.