

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 64, “Intermediate Care Facilities for the Mentally Retarded,” Iowa Administrative Code.

The proposed amendments strike the terms “mental retardation” and “mentally retarded” from the Department’s administrative rules and replace them with the terms “intellectually disabled” and “intellectual disabilities,” as appropriate. The proposed amendments make corresponding changes in the Department’s administrative rules to implement sections 11 through 18 of 2012 Iowa Acts, chapter 1019.

The Department does not believe that the proposed amendments impose any financial hardships on any regulated entity, body, or individual. Rather, the proposed amendments simply make corrective changes regarding individuals with intellectual disabilities.

The Board of Health reviewed the proposed amendments at its January 9, 2013, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 26, 2013. Such written material should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2012 Iowa Acts, chapter 1019.

The following amendments are proposed.

ITEM 1. Amend **481—Chapter 64**, title, as follows:

**INTERMEDIATE CARE FACILITIES FOR THE  
MENTALLY RETARDED INTELLECTUALLY DISABLED**

ITEM 2. Amend rule 481—64.2(135C), introductory paragraph, as follows:

**481—64.2(135C) Variances.** Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual intermediate care facility for the ~~mentally retarded~~ intellectually disabled. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

ITEM 3. Amend subrule 64.3(1), introductory paragraph, as follows:

**64.3(1)** Initial application. In order to obtain an initial intermediate care facility for the ~~mentally retarded~~ intellectually disabled license for an intermediate care facility for the ~~mentally retarded~~ intellectually disabled which is currently licensed, the applicant must:

ITEM 4. Amend paragraphs **64.3(1)“d”** and **“e”** as follows:

*d.* Submit a photograph of the front and side elevation of the intermediate care facility for the ~~mentally retarded~~ intellectually disabled;

*e.* Submit the statutory fee for an intermediate care facility for the ~~mentally retarded~~ intellectually disabled license;

ITEM 5. Amend subrule 64.3(2), introductory paragraph, as follows:

**64.3(2)** In order to obtain an initial intermediate care facility for the ~~mentally-retarded~~ intellectually disabled license for a facility not currently licensed as an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled, the applicant must:

ITEM 6. Amend paragraphs **64.3(2)**“d,” “e” and “f” as follows:

d. Submit a floor plan of each floor of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which the rooms will be put and window and door locations;

e. Submit a photograph of the front and side elevation of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled;

f. Submit the statutory fee for an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled;

ITEM 7. Amend subrule 64.3(3), introductory paragraph, as follows:

**64.3(3)** Renewal application. In order to obtain a renewal of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled license, the applicant must:

ITEM 8. Amend paragraphs **64.3(3)**“a” and “b” as follows:

a. Submit the completed application form 30 days prior to annual license renewal date of intermediate care facility for the ~~mentally-retarded~~ intellectually disabled license;

b. Submit the statutory license fee for an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled with the application for renewal;

ITEM 9. Amend subrule 64.4(3) as follows:

**64.4(3)** The posted license shall accurately reflect the current status of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled. (III)

ITEM 10. Amend subrule 64.4(6) as follows:

**64.4(6)** The facility shall have in effect a transfer agreement with one or more hospitals sufficiently close to the facility to make feasible the transfer between them of residents and their records. (III) Any facility which does not have such an agreement in effect but has attempted in good faith to enter into such an agreement with a hospital shall be considered to have such an agreement so long as it is in the public interest and essential to ensuring intermediate care facility for the ~~mentally-retarded~~ intellectually disabled services for eligible persons in the community.

ITEM 11. Amend rule 481—64.5(135C) as follows:

**481—64.5(135C) Notifications required by the department.** The department shall be notified:

**64.5(1)** Within 48 hours, by letter, any reduction or loss of direct care professional or dietary staff lasting more than seven days which places the staffing ratio of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

**64.5(2)** Of any proposed change in the intermediate care facility for the ~~mentally-retarded~~'s intellectually disabled's functional operation or addition or deletion of required services; (III)

**64.5(3)** Thirty days before addition, alteration, or new construction is begun in the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled, or on the premises; (III)

**64.5(4)** Thirty days in advance of closure of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled; (III)

**64.5(5)** Within two weeks of any change in administrator; (III)

**64.5(6)** When any change in the category of license is sought; (III)

**64.5(7)** Prior to the purchase, transfer, assignment, or lease of an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled, the licensee shall:

a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed; (III)

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's intermediate care facility for the ~~mentally retarded~~ intellectually disabled to the named prospective purchaser, transferee, assignee, or lessee. (III)

**64.5(8)** Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of an intermediate care facility for the ~~mentally retarded~~ intellectually disabled, the department shall, upon request, send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

ITEM 12. Amend rule 481—64.59(135C) as follows:

**481—64.59(135C) County care facilities.** In addition to Chapter 64 licensing rules, county care facilities licensed as intermediate care facilities for the ~~mentally retarded~~ intellectually disabled must also comply with department of human services rules, 441—Chapter 37. Violation of any standard established by the department of human services is a Class II violation pursuant to 481—56.2(135C).