

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby rescinds Chapter 61, “Minimum Physical Standards for Nursing Facilities,” Iowa Administrative Code, and adopts new Chapter 61 with the same title.

The rule making rescinds the current Chapter 61 and replaces it with a new Chapter 61, which incorporates by reference generally accepted design and construction standards for the construction and renovation of nursing facilities. The Department requested the assistance of the Building Code Bureau of the State Fire Marshal’s office to review the rules pertaining to minimum physical standards for nursing facilities. A full review of the rules has not been conducted for nearly 20 years, during which time most national building codes and standards have been significantly revised.

During the review process, the Building Code Bureau compared the provisions of existing Chapter 61 against the national building codes and standards and determined that many of the provisions were outdated, unenforceable, or irrelevant.

The new Chapter 61 incorporates the following building codes and standards:

- Life Safety Code, 2000 edition.
- Iowa State Building Code—General Provisions, 661—Chapter 301.
- Guidelines for Design and Construction of Health Care Facilities, 2010 edition, published by the Facilities Guidelines Institute.

Facilities Guidelines Institute.

Additionally, the new Chapter 61 incorporates references to the FDA Food Code, adopted pursuant to Iowa Code section 137F.2, and updates requirements pertaining to physical standards dealing with food preparation and service areas. Consideration is given to existing nursing facilities, which are deemed to be in compliance if they were in compliance with prior versions of Chapter 61 at the time of their construction or renovation.

Essentially, the rule making omits from new Chapter 61 all design and construction standards contained within the administrative rules of the Department of Public Safety, State Building Code Bureau. The new Chapter 61, therefore, focuses on those physical standards directly related to the care of nursing home residents, including the preparation of foods and the maintenance of specialized units or rooms.

The Department does not believe that the adopted amendments pose a financial hardship on any regulated entity or individual. Rather, adoption of the amendments eliminates redundant language from the Iowa Administrative Code and references minimum physical standards to national standards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 12, 2012, as **ARC 0514C**. Comments were received from the Iowa Health Care Association, LeadingAge Iowa, and one member of the public. After consideration of the comments and discussion with the Department of Public Safety, State Building Code Bureau, the following changes were made:

1. The requirement that final plan approval and final occupancy be given by the State Fire Marshal’s office has been moved to new subrule 61.2(7) and new paragraphs 61.6(1)“d” and 61.6(2)“c.”

2. Proposed subrule 61.2(6) has been changed to add a reference to the 2000 Life Safety Code, which allows conversion of a nursing home to a hospital and a hospital to a nursing home without considering it a change of occupancy.

3. Proposed paragraph 61.5(1)“c” has been changed to clarify when an existing building must meet requirements for new construction. The proposed language used the total cost for renovation to make the determination; the adopted language requires the portion of the building that is part of the project to meet requirements for new construction if the project includes changes to structural and life safety components of the building or changes for accessibility of persons with disabilities.

4. The lighting table in proposed subrule 61.6(6) has not been adopted and has been replaced by a reference to the lighting requirements found in Table 4.1-3 of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, published by the Facilities Guidelines Institute.

5. Proposed subrule 61.6(7) has been changed to clarify that an exit door alarm system must be installed on all exterior doors.

6. Proposed subrules 61.7(1), 61.7(2) and 61.7(3), which addressed the locations of the head of the bed in each resident bedroom, soap holders and showerheads, respectively, have not been adopted. Proposed subrule 61.7(4) has been divided and renumbered as subrules 61.7(1) and 61.7(2).

7. Proposed paragraphs 61.7(4)“k” and “l,” which addressed exterior windows of a seclusion room, have not been adopted. Consequently, proposed paragraphs 61.7(4)“m” to “p” have been relettered as 61.7(2)“k” to “n.”

8. Relettered paragraph 61.7(2)“k” has been changed to clarify that the exhaust ventilation system must discharge to the outside of the building.

Proposed rules 481—61.2(135C) and 481—61.6(135C) were amended to clarify when projects may be deemed to be in compliance with the state building code. One commenter asked if the local jurisdiction’s building code must be equivalent to or more restrictive than the state building code. Subrule 61.2(2) and paragraph 61.6(1)“b” provide that the project will be deemed in compliance with the state building code under the circumstances set forth in that subrule and paragraph; this is true regardless of whether the local jurisdiction’s building code is less restrictive or more restrictive than the state building code.

One commenter asked whether stairs will be permitted outside a unit or facility for persons with chronic confusion or a dementing illness (CCDI) or freestanding CCDI facility where doors discharge to the outside. Subrule 61.9(4) states “there shall be no steps inside the CCDI unit or freestanding CCDI facility.” The subrule does not prohibit stairs outside a CCDI unit or freestanding CCDI facility where doors discharge to the outside.

The State Board of Health reviewed the rules at the Board’s November 14, 2012, meeting, and approved them at the Board’s May 8, 2013, meeting.

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

These rules are intended to implement Iowa Code section 135C.14.

These rules shall become effective July 3, 2013.

The following amendment is adopted.

Rescind 481—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61
MINIMUM PHYSICAL STANDARDS FOR NURSING FACILITIES

481—61.1(135C) Definitions. Definitions in rule 481—58.1(135C) are incorporated by reference as part of this chapter. In addition, the following definition shall apply:

“*Responsible design professional*” means a registered architect or licensed professional engineer who signs the documents submitted pursuant to rule 481—61.3(135C).

481—61.2(135C) General requirements. Nursing facilities licensed under this chapter shall be built in accordance with the following construction standards:

61.2(1) Construction shall be in conformance with 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities. Projects required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the project is in compliance with the provisions of 661—Chapter 205.

61.2(2) Construction shall be in conformance with 661—Chapter 301, State Building Code—General Provisions. Projects meeting the local building code shall be deemed to be in compliance with the state building code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and enforces the local code through a system which includes both plan review and inspection.

61.2(3) Construction shall be in accordance with the standards set forth in Part 4.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, published by the Facility Guidelines Institute.

61.2(4) Nothing in these rules shall relieve a nursing facility from compliance with fire and building codes, ordinances and regulations which are enforced by city, county, state or federal jurisdictions.

61.2(5) New equipment. Any alteration or installation of new equipment shall be accomplished as nearly as practical in conformance with all applicable codes, ordinances, regulations and standards required for new construction. Alteration or installation of new equipment shall not diminish the level of compliance with any codes, ordinances, regulations or standards below that which existed prior to the alteration. Any feature that does not meet the requirement for new buildings but exceeds the requirement for existing buildings shall not be further diminished. Features that exceed requirements for new construction need not be maintained. In no case shall any feature be less than that required for existing buildings. (III)

61.2(6) Existing nursing facilities built in compliance with prior versions of this chapter will be deemed in compliance, with the exception of any renovations, additions, functional alterations, changes of space utilization, or conversions to existing facilities for which construction documents are submitted pursuant to rule 481—61.3(135C) on or after July 1, 2013, which shall meet the standards specified in this chapter. Conversion of a building or any of the parts not currently licensed as a nursing facility must meet the rules governing construction of new facilities, except as provided in Life Safety Code, 2000 edition, sections 18.1.1.4.4 and 19.1.1.4.4.

61.2(7) Final plan approval and final occupancy shall be given by the state fire marshal's office.

481—61.3(135C) Submission of construction documents.

61.3(1) Submissions of architectural technical documents, engineering documents, and plans and specifications to the state fire marshal's office shall be as required by rule 661—300.4(103A) and are the responsibility of the owner of the building or facility, although the actual submission may be completed by an authorized agent of the owner or the responsible design professional.

61.3(2) Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the construction standards required by rule 481—61.2(135C).

61.3(3) Submittals to the state fire marshal's office shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of engineering as defined by Iowa Code section 542B.2.

61.3(4) The responsible design professional shall certify that the building plans meet the requirements specified in this chapter, unless a variance has been granted pursuant to rule 481—61.4(135C).

481—61.4(135C) Variances.

61.4(1) Procedures in rule 481—58.2(135C) for requesting a variance are incorporated by reference as part of this chapter.

61.4(2) Certain resident populations, conditions in the area, or the site may justify variances. In specific cases, variances to the rules may be granted by the director after the following conditions are met:

a. The design and planning for the specific property shall offer improved or compensating features which provide equivalent desirability and utility;

b. Alternate or special construction methods, techniques, and mechanical equipment shall offer equivalent durability, utility, safety, structural strength and rigidity, sanitation, odor control, protection from corrosion, decay and insect attack, and quality of workmanship;

c. The health, safety or welfare of any resident shall not be endangered;

d. Variations are limited to the specific project under consideration and shall not be construed as establishing a precedent for similar acceptance in other cases;

e. The occupancy and function of the building shall be considered; and

f. The type of licensure shall be considered.

481—61.5(135C) Additional notification requirements.

61.5(1) When new construction or renovation, addition, functional alteration, change of space utilization, or conversion of an existing building is contemplated, the licensee or applicant for a license shall:

a. File a detailed and comprehensive program of care, as set forth in rule 481—58.3(135C), which includes a description of the specific needs of the residents to be served, and any other information the department may require. (III)

b. Receive written approval from the state fire marshal's office before starting construction. The applicant is responsible for ensuring that construction proceeds according to approved plans and specifications. If construction is not started within 12 months of the date of final approval of the working drawings and specifications, the approval shall be void and the plans and specifications shall be resubmitted. Multiphase projects shall be completed within a time period approved by the state fire marshal's office.

c. Meet requirements for new construction if the project includes changes to structural and life safety components of the building or changes for accessibility of persons with disabilities. Only that portion of the building that is part of the project must meet requirements for new construction.

61.5(2) Inspections.

a. For new construction or renovations, additions, functional alterations, change of space utilization or conversion of an existing building, it is the responsibility of the owner or an agent to notify the state fire marshal's office at all of the following intervals and wait for inspection before proceeding. Inspections shall be conducted in accordance with the following schedule:

- (1) Two days prior to the beginning of any construction or demolition.
- (2) After installation of any under-slab plumbing and before covering is installed.
- (3) After installation of electrical, mechanical and plumbing and prior to covering.
- (4) Five days prior to a final occupancy inspection.

b. The following must approve the project before final occupancy: the state fire inspector, the state building inspector and, in jurisdictions without electrical code enforcement, the state electrical inspector. Approval of local or county jurisdictions is as required by those jurisdictions.

481—61.6(135C) Construction requirements. This rule contains construction requirements for all areas of the building.

61.6(1) General provisions.

a. Projects shall be constructed in compliance with 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities. Projects required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the nursing facility is in compliance with the provisions of 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities.

b. Projects shall be constructed in compliance with 661—Chapter 301, State Building Code—General Provisions. Projects meeting the local building code shall be deemed to be in compliance with the state building code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and enforces the local code through a system which includes both plan review and inspection.

c. Projects shall be constructed in compliance with the standards set forth in Part 4.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, published by the Facility Guidelines Institute.

d. Final plan approval and final occupancy shall be given by the state fire marshal's office.

61.6(2) Mechanical requirements.

a. Projects shall be constructed in compliance with 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities.

b. Projects shall be constructed in compliance with the state mechanical code as provided in rule 661—301.4(103A). Projects meeting the local mechanical code shall be deemed to be in compliance with the state mechanical code provided that the local jurisdiction has established a building department,

has adopted a building code by ordinance and enforces the local code through a system which includes both plan review and inspection.

c. Final plan approval and final occupancy shall be given by the state fire marshal's office.

61.6(3) Electrical requirements.

a. Projects shall be constructed in compliance with standards referenced in 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities.

b. Projects shall be constructed in compliance with the state electrical code as provided in rule 661—301.5(103A).

61.6(4) Plumbing requirements. Projects shall be constructed in compliance with 641—Chapter 25, State Plumbing Code.

61.6(5) Accessibility requirements. Projects shall be constructed in compliance with 661—Chapter 302, State Building Code—Accessibility of Buildings and Facilities Available to the Public.

61.6(6) Lighting requirements. Light shall be provided in the areas of the building as required in Table 4.1-3 of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, published by the Facilities Guidelines Institute.

61.6(7) Exit door alarm system. An exit door alarm system shall be installed on all exterior doors. (I, II, III)

481—61.7(135C) Nursing care unit.

61.7(1) A seclusion room may be used in an intermediate care facility for persons with mental illness.

61.7(2) When a seclusion room is used, it must meet the following standards. A seclusion room shall:

a. Be located where direct care staff can provide direct supervision; (I, II, III)

b. Have only one door which swings out but does not swing into a corridor; (II, III)

c. Have only locking devices that are approved by the state fire marshal; (I, II, III)

d. Have unbreakable, fire-safe vision panels arranged to permit observation of the resident. The arrangement shall ensure resident privacy and prevent casual observation by visitors or other residents; (I, II, III)

e. House only one resident at a time; (I, II, III)

f. Have an area of at least 60 square feet, but not more than 100 square feet; (II, III)

g. Be constructed to protect against the possibility of hiding, escape, injury and suicide; (I, II, III)

h. Have construction of the room area, including floor, walls, ceilings, and all openings, approved in writing by the state fire marshal prior to construction or alteration of a room. Padding materials, if used, shall be approved in writing by the state fire marshal; (I, II, III)

i. Contain only vandal- and tamper-resistant fixtures and hardware; (I, II, III)

j. Contain no electrical receptacles; (I, II, III)

k. Contain an exhaust ventilation system with a fan located at the discharge end of the system, with exhaust discharging to the outside; (II, III)

l. Have electrical switches for the light and exhaust ventilation systems installed outside the room; (I, II, III)

m. Have an emergency call system for staff located outside the room near the observation window; (II, III) and

n. Be built with materials that are easily maintained and sanitized. (III)

481—61.8(135C) Dietetic and other service areas.

61.8(1) Dietetic service area. The construction and installation of equipment of the dietetic service area shall comply with the requirements of the Food and Drug Administration Food Code adopted under provisions of Iowa Code section 137F.2. (III)

61.8(2) General storage areas. General storage areas totaling not less than 14 square feet per bed shall be provided. If each resident has a 4-foot wide closet in the bedroom, the general storage area per bed may be reduced from 14 square feet to 10 square feet per bed. Storage areas are not required to be located in only one room. (III)

a. Storage areas for linens, janitor's supplies, sterile nursing supplies, activities supplies, library books, office supplies, kitchen supplies and mechanical plant accessories shall not be included as part of the general storage area and are not required to be located in the same area. (III)

b. Thirty percent of the general storage area may be provided in a building outside the facility if the building is easily accessible to personnel. (III)

481—61.9(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (CCDI unit or facility). A CCDI unit or facility shall be designed in accordance with Section 4.2-2.2.3.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, produced by the Facility Guidelines Institute. The following provisions shall also apply:

61.9(1) A CCDI unit or facility shall be designed so that residents, staff and visitors will not pass through the unit in order to reach exits or other areas of the facility unless in an emergency. (III)

61.9(2) If the unit or facility is to be a locked unit or facility, all locking devices shall meet the requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required. (I, II, III)

61.9(3) The outdoor activity area for the unit or facility shall be secure. Nontoxic plants shall be used in the secured outdoor activity area. (I, II)

61.9(4) There shall be no steps inside the CCDI unit or freestanding CCDI facility. (III)

61.9(5) Dining and activity areas for the unit or facility shall be located within the unit or facility and shall not be used as the primary dining or activity area by other facility residents. (III)

61.9(6) An area shall be provided to allow nurses to prepare daily resident reports. (III)

61.9(7) If the lounge and activity areas are not adjacent to resident rooms, there shall be in clear view of the lounge and activity area one unisex resident toilet room for each ten residents. (III)

These rules are intended to implement Iowa Code section 135C.14.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/29/13.