

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 section 135G.10, the Department of Inspections and Appeals hereby gives Notice of Intended Action to adopt new Chapter 71, “Subacute Mental Health Care Facilities,” Iowa Administrative Code.

Iowa Code chapter 135G, “Subacute Mental Health Care Facilities,” provides for the establishment of basic standards for the operation of subacute care facilities to ensure the safe and adequate diagnosis, evaluation and treatment of persons with serious and persistent mental illness so that the persons are able to experience recovery and live successfully in the community. Pursuant to Iowa Code section 135G.10, the Department collaborated with the Department of Human Services to establish standards for licensing of subacute care facilities and consulted with affected professional groups about the rules prior to publication of this Notice.

The Department does not believe that the proposed rules pose a financial hardship on any regulated entity or individual.

Any interested person may make written suggestions or comments on the proposed rules on or before September 23, 2014. Such written materials 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.

Additionally, there will be a public hearing on September 24, 2014, at 10 a.m. in Room 320 of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person who intends to attend the public hearing and has special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Inspections and Appeals and advise of special needs.

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

These rules are intended to implement Iowa Code section 135G.10.

The following amendment is proposed.

Adopt the following **new** 481—Chapter 71:

**CHAPTER 71
SUBACUTE MENTAL HEALTH CARE FACILITIES**

481—71.1(135G) Purpose—subacute mental health services. Subacute mental health services are intended to be short-term, intensive, recovery-oriented services designed to stabilize an individual who is experiencing a decreased level of functioning due to a mental health condition.

481—71.2(135G) Definitions. For the purpose of these rules, the following terms shall have the meanings indicated in this chapter. The definitions set out in Iowa Code section 135G.1 are adopted by reference in the rules.

“*Administrator*” means an individual who administers, manages, supervises, and is in general administrative charge of a subacute care facility, whether or not such individual has an ownership interest in the facility and whether or not the functions and duties are shared with one or more individuals.

“*Assessment*” means the evaluation of a person in psychiatric crisis in order to ascertain the person’s current and previous level of functioning, psychiatric and medical history, potential for dangerousness, current psychiatric and medical condition factors contributing to the crisis and support systems that are available.

“*Could*” means a standard is recommended.

“*Distinct part*” means a clearly identifiable area or section within a health care facility, consisting of at least a residential unit, wing, floor, or building containing contiguous rooms.

“*Incident*” means an unusual occurrence within a facility or on its premises affecting residents, visitors, or employees whether or not there is apparent injury or where hidden injury may have occurred.

“*Medication*” means any drug including over-the-counter substances ordered and administered under the direction of a physician or physician extender.

“*Must*” means a standard is mandatory.

“*Peer support*” means services that are provided by individuals in recovery from serious mental illness and delivered to others who also have mental illness.

“*Physician extender*” means an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is working in collaboration with the resident’s physician.

“*Responsible party*” means the person who signs or cosigns the admission agreement required in rule 481—71.13(135G) or the resident’s guardian or conservator if one has been appointed. In the event that a resident does not have a guardian, conservator or other person signing the admission agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

“*Restraint*” means the application of physical force, use of a chemical agent, or a mechanical device for the purpose of restraining the free movement of an individual’s body to protect the individual or others from immediate harm. Restraint does not include briefly holding without undue force an individual to calm or comfort the individual or holding an individual’s hand to safely escort the individual from one area to another.

“*Restricted means of egress*” means an exit door alarm system for safety of the residents and the public.

“*Seclusion*” means the involuntary confinement of a resident alone in a room or an area, from which the resident is physically prevented from leaving.

“*Shall*” means a standard is mandatory.

“*Should*” means a standard is recommended.

481—71.3(135G) Application for licensure.

71.3(1) Initial application and licensing. In order to obtain an initial license for a subacute care facility, the applicant must meet all the requirements of the rules, regulations, and standards contained in Iowa Code chapter 135G and in this chapter and must make application at least 30 days prior to the proposed licensure date of the subacute care facility on forms provided by the department. The applicant must:

- a. Submit a résumé of care with a narrative which includes the following information:
 - (1) The purpose of the facility.
 - (2) A description of the target population and limitations on resident eligibility.
 - (3) Identification and description of the services the facility will provide, which shall minimally include specific and measurable goals and objectives for each of the services to be made available by the facility and a description of the resources needed to provide each of the services, including staff, physical facilities and funds.
 - (4) A description of the human services system available in the area including, but not limited to, social, public health, visiting nurse, vocational training, and employment services, residential living arrangements, and services of private agencies.
 - (5) A description of working relationships with human services agencies when applicable, which shall include at a minimum:

1. A description of how the facility will coordinate with human services agencies to facilitate continuity of care and coordination of services to residents; and

2. A description of how the facility will coordinate with human services agencies to identify unnecessary duplication of services and plan for development and coordination of needed services;

b. Submit a floor plan of each floor of the facility drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, the designation of the use to which each room will be put, and window and door location;

c. Submit a photograph of the front and side elevation of the facility;

d. Submit the statutory fee for a subacute care facility license;

e. Show evidence of a certificate signed by the state fire marshal or deputy state fire marshal certifying compliance with fire safety rules.

71.3(2) Conversion from an intermediate care facility for persons with mental illness. An intermediate care facility for persons with mental illness may be converted to a subacute care facility pursuant to Iowa Code section 135G.4(2) if the facility:

a. Provides written notice to the department that the facility has employed a full-time psychiatrist and desires to make the conversion; and

b. Submits an application to the department.

71.3(3) Renewal application or change of ownership. In order to obtain a renewal or change of the subacute care facility license, the applicant must:

a. Submit to the department the completed application form 30 days prior to the annual license renewal or change of ownership date;

b. Submit the statutory license fee for a subacute care facility with the application for renewal or change of ownership;

c. Have an approved, current certificate signed by the state fire marshal or deputy state fire marshal certifying compliance with fire safety rules and regulations; and

d. Submit appropriate changes in the résumé of care to reflect any changes in the resident care program or other services.

71.3(4) Issuance of license. Licenses are issued to the person or governmental unit with responsibility for the operation of the facility and authority to comply with all applicable statutes, rules or regulations. The person or governmental unit must be the owner of the facility or, if the facility is leased, the lessee.

71.3(5) Department of human services approval. Prior to issuance of the license, the department of human services must submit to the department written approval of the application based upon the process used by the department of human services to identify the best-qualified providers.

71.3(6) Licensed beds limit. The total number of publicly funded subacute care facility beds licensed under this chapter shall not exceed 50.

71.3(7) Beds per facility. A single facility shall not be licensed for more than 16 beds.

481—71.4(135G) Licenses for distinct parts.

71.4(1) Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, include specifically designated rooms within the facility, and provide separate categories of care and services.

71.4(2) The following requirements shall be met for a separate licensing of a distinct part:

a. The distinct part shall serve only residents who require the category of care and services immediately available to the residents within that part;

b. The distinct part shall meet all the standards, rules, and regulations pertaining to the category for which a license is being sought;

c. A distinct part must be operationally and financially feasible.

481—71.5(135G) Variances.

71.5(1) Variances from these rules may be granted by the director of the department if, in addition to the requirements of 481—Chapter 6:

a. The need for a variance has been established consistent with the résumé of care or the resident's individual program plan; and

b. There is no danger to the health, safety, welfare, or rights of any resident.

71.5(2) The variance will apply only to a subacute care facility.

71.5(3) Variances shall be reviewed by the department at the time of each licensure survey to verify whether the facility is still eligible for the variance.

481—71.6(135G) Provisional license.

71.6(1) *Provisional license procedure.* The department may issue a provisional license to a subacute care facility pursuant to Iowa Code section 135G.8. The procedure for issuance of a provisional license shall be as follows:

a. The department shall first issue to the facility a report which identifies the deficiency.

b. Within 10 working days after receipt of the report, the facility shall provide the department with a written plan of correction.

c. The department shall review the written plan of correction within 10 working days of receipt. The department may request additional information or revision to the plan, which shall be provided as requested.

d. After accepting the written plan of correction, the department shall then issue a provisional license to the facility, which shall not exceed one year in duration.

71.6(2) *Written plan of correction.* The written plan of correction shall contain:

a. How the facility will correct the deficient practice;

b. How the facility will act to protect residents;

c. The measures the facility will take or the systems it will alter to ensure that the deficient practice does not recur; and

d. The date when the plan of correction will be completed, not to exceed 30 days from the date of the department's report.

481—71.7(135G) General requirements.

71.7(1) The license shall be displayed in the facility in a conspicuous place which is viewed by the public.

71.7(2) The license shall be valid only for the premises and person named on the license and is not transferable.

71.7(3) The posted license shall accurately reflect the current status of the subacute care facility's license.

71.7(4) A license shall expire one year after the date of issuance or as indicated on the license.

71.7(5) There shall be no more beds added than are stipulated on the license.

481—71.8(135G) Required notifications to the department.

71.8(1) The department shall be notified:

a. Thirty days in advance of any proposed change in the subacute care facility's functional operation or the addition or deletion of required services;

b. Thirty days before any addition, alteration, or new construction is begun in the subacute care facility or on the premises;

c. Thirty days in advance of any closure of the subacute care facility;

d. Within two weeks of any change in administrator;

e. Within 30 days of the date on which any change in the category of license is sought;

f. Within 30 days of any proposed change in the résumé of care for the subacute care facility;

71.8(2) Prior to the purchase, transfer, assignment, or lease of a subacute care facility, the licensee shall:

a. Inform the department of the pending sale, transfer, assignment, or lease of the facility; and

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.

71.8(3) Within 24 hours, or the next business day, by the most expeditious means available, the department shall be notified:

- a.* Of any accident causing major injury. “Major injury” shall be defined as any injury which:
 - (1) Results in death; or
 - (2) Requires admission to a higher level of care for treatment, other than for observation; or
 - (3) Requires consultation with the attending physician, designee of the physician, or physician extender who determines, in writing, on a form designated by the department, that an injury is a “major injury” based upon the circumstances of the accident, the previous functional ability of the resident, and the resident’s prognosis;
- b.* When a resident attempts suicide, regardless of injury;
- c.* When damage to the facility is caused by a natural or other disaster;
- d.* When a fire occurs in a facility and the fire requires the notification of emergency services, requires full or partial evacuation of the facility, or causes physical injury to a resident;
- e.* When a defect or failure occurs in the fire sprinkler or fire alarm system for more than 4 hours in a 24-hour period. (This reporting requirement is in addition to the requirement to notify the state fire marshal.)

481—71.9(135G) Reports of dependent adult abuse. Reports of suspected dependent adult abuse shall be made to the department of human services.

481—71.10(135G) Administrator.

71.10(1) Administrator required. Each subacute care facility shall have one person in charge who is duly approved by the department or acting in a provisional capacity in accordance with these rules.

71.10(2) Qualifications of an administrator. The administrator shall be at least 21 years of age and shall have a high school diploma or equivalent. In addition, the person shall meet at least one of the following conditions:

- a.* Be a qualified mental health professional with at least one year of experience in an administrative capacity; or
- b.* Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or
- c.* Have a master’s degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field; or
- d.* Be a licensed nursing home administrator.

71.10(3) Administrator—distinct part. If a subacute care facility is a distinct part of a licensed health care facility, the administrator of the facility as a whole may serve as the administrator of the subacute care facility.

71.10(4) Provisional administrator. A provisional administrator may be appointed on a temporary basis by the subacute care facility licensee to assume the administrative responsibilities of the facility for a period not to exceed 12 months when the facility has, through no fault of its own, lost its administrator and has not been able to replace the administrator, provided the department has been notified and has approved the provisional administrator prior to the date of the administrator’s appointment. The provisional administrator must meet the requirements of subrule 71.10(2).

71.10(5) Administrator—initial licensing of facility. A facility applying for an initial license shall not have a provisional administrator.

71.10(6) Duties of administrator. An administrator shall:

- a.* Be responsible for the implementation of procedures to support the policies established by the licensee;
- b.* Select and direct competent personnel who provide services for the subacute care facility;
- c.* Make a policies and procedures manual available to all staff;
- d.* Be responsible for a monthly in-service educational program for all employees and maintain records of programs and participants;

- e.* Make staff payroll records available for departmental review as needed;
- f.* Furnish to the department within 30 days of the department's request statistical information concerning the operation of the facility.

481—71.11(135G) Administration.

71.11(1) The licensee shall:

- a.* Assume the responsibility for the overall operation of the subacute care facility;
- b.* Be responsible for compliance with all applicable laws and with the rules of the department;
- c.* Establish written policies, which shall be available for review, for the operation of the subacute care facility.

71.11(2) The policy and procedures shall include:

- a.* Personnel;
- b.* Admission;
- c.* Evaluation services;
- d.* Treatment and discharge plan;
- e.* Crisis intervention, including restraint and seclusion;
- f.* Involuntary discharge or transfer;
- g.* Medication management;
- h.* Records;
- i.* Resident rights.

481—71.12(135G) Personnel.

71.12(1) Staffing requirements. Availability of personnel must be sufficient to meet psychiatric and medical treatment needs of the residents served.

71.12(2) Staffing shall include at minimum:

- a.* Twenty-four hour, seven days per week availability of on-call psychiatrist or advanced registered nurse practitioner with at least one year of experience in psychiatric care;
- b.* Twenty-four hour, seven days per week availability of a registered nurse with at least two years of experience in psychiatric care, or a BSN registered nurse with at least one year of experience in psychiatric care;
- c.* A mental health professional as defined in Iowa Code section 228.1(6);
- d.* Direct care staff with at least three years of experience in a mental health care setting; and
- e.* Social service staff at the bachelor level with at least one year of experience in a mental health care setting.

71.12(3) Personnel policies and procedures shall include the following requirements:

- a.* Written job descriptions for all employees or agreements for all consultants, which include duties and responsibilities, education, experience, or other requirements, and supervisory relationships.
- b.* Annual performance evaluations of all employees and consultants which are dated and signed by the employee or consultant and the supervisor.
- c.* Personnel records which are current, accurate, complete, and confidential to the extent allowed by law. The record shall contain documentation of how the employee's or consultant's education and experience are relevant to the position for which the employee or consultant was hired.
- d.* Roles, responsibilities, and limitations of student interns and volunteers.
- e.* An orientation program for all newly hired employees and consultants that includes an introduction to the facility's personnel policies and procedures and a discussion of the facility's safety plan.
- f.* Equal opportunity and affirmative action employment practices.
- g.* Procedures to be used when disciplining an employee.
- h.* Appropriate dress and personal hygiene for staff.
- i.* An overview of recovery principles, person-centered planning and residents' rights.

71.12(4) The facility shall require regular health examinations for all personnel prior to employment and regular examinations thereafter at least every four years. The examination shall include, at a

minimum, the health status of the employee, including screening and testing for tuberculosis as described in 481—Chapter 59.

- a. No person shall be allowed to provide services in a facility if the person has a disease:
 - (1) Which is transmissible through required workplace contact;
 - (2) Which presents a significant risk of infecting others;
 - (3) Which presents a substantial possibility of harming others; and
 - (4) For which no reasonable accommodation can eliminate the risk.
- b. There shall be written policies for emergency medical care for employees in case of sudden illness or accident. These policies shall include the administrative individuals to be contacted.
- c. Health certificates for all employees shall be available for review by the department.

71.12(5) Personnel record.

- a. A personnel record shall be kept for each employee.
- b. The record shall include the employee's:
 - (1) Name and address,
 - (2) Social security number,
 - (3) Date of birth,
 - (4) Date of employment,
 - (5) References,
 - (6) Position in the facility,
 - (7) Job description,
 - (8) Documentation of experience and education,
 - (9) Staff development plan,
 - (10) Annual performance evaluation,
 - (11) Documentation of disciplinary action,
 - (12) Date and reason for discharge or resignation,
 - (13) Current physical examination.

481—71.13(135G) Admission, transfer, and discharge.

71.13(1) General admission policies.

- a. A subacute care facility shall not admit or retain a resident who is in need of greater services than the facility can provide.
- b. Prior to admission of an applicant, the facility shall obtain sufficient information to determine if its program is appropriate and adequate to meet the individual's needs.
- c. A subacute care facility shall admit only as many residents as indicated by the number of beds for which the facility is licensed.
- d. A subacute care facility shall adopt policies regarding the admission requirements outlined in subrule 71.13(2).

71.13(2) Admission requirements.

- a. Eligibility for individualized subacute mental health services will be determined by the standardized preadmission screening utilized by the facility, which shall be conducted by a qualified mental health professional.
- b. In order to be admitted, the individual must:
 - (1) Be 18 years or older;
 - (2) Be voluntarily admitted;
 - (3) During the past year, have had a diagnosable mental, behavioral or emotional disorder that meets the diagnostic criteria specified in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM);
 - (4) Demonstrate a high degree of impairment through significantly impaired mental, social, or educational functioning arising from the psychiatric condition or serious emotional disturbance;
 - (5) Demonstrate an impairment that severely limits the skills necessary to maintain an adequate level of functioning outside a treatment program and requires active treatment to obtain an adequate level of functioning;

- (6) Demonstrate a low level of stability through any two of the following conditions:
 1. The individual presents moderate to high risk of danger to self or others.
 2. The individual lacks adequate skills or social support to address mental health symptoms.
 3. The individual is medically stable but requires observation and care for stabilization of a mental health condition or impairment.

71.13(3) Admission agreement. A subacute care facility shall provide an admission agreement to each resident upon admission to the facility. Each admission agreement shall include:

- a. Method of payment;
- b. Schedule of services and any additional fees;
- c. The facility's policies regarding length of stay, discharge and transfer.

71.13(4) Exclusion criteria.

- a. A subacute care facility shall not admit an individual into the facility if:
 - (1) The individual manifests behavioral or psychiatric symptoms that require acute care;
 - (2) The individual can be safely maintained and effectively treated with less intensive services in a community setting;
 - (3) The symptoms of the individual do not meet admission criteria in subrule 71.13(2); or
 - (4) The individual does not voluntarily consent to treatment.
- b. An individual's lack of adequate place of residence, placement, or housing is not reason to receive subacute mental health services.

71.13(5) Continued stay criteria policies. By the tenth day following admission and every ten calendar days thereafter, the qualified mental health professional shall conduct and document an assessment of the resident and determine if:

- a. The severity of the behavioral and emotional symptoms continue to require the subacute level of intervention and the DSM diagnosis remains the principal diagnosis.
- b. The prescribed interventions remain consistent with the intended treatment plan outcomes.
- c. There is documented evidence of active, individualized discharge planning.
- d. There is a reasonable likelihood of substantial benefit in the resident's mental health condition as a result of active intervention of the 24-hour supervised program.
- e. Symptoms and behaviors that required admission are continuing.
- f. A less intensive level of care would be insufficient to stabilize the resident's condition.
- g. New issues that meet the admission guidelines in subrule 71.13(2) have appeared.
- h. The resident requires further stabilization subsequent to acute care to treat active mental health symptoms such as psychosis, depression or mood disorder.

71.13(6) Discharge criteria policies. A resident may be discharged from subacute level of care if:

- a. The resident's treatment plan goals and objectives for subacute services have been met and a discharge plan to outpatient or other community-based services is in place.
- b. The resident withdraws consent for treatment.
- c. The resident's physical condition necessitates transfer to a more intensive level of care.
- d. The resident is not making progress toward treatment goals and there is no reasonable expectation of progress at the subacute level of care.
- e. The resident becomes a danger to self, others, or facility structure and requires an emergency transfer to a higher level of care.
- f. The resident repeatedly refuses to participate in the resident's treatment plan.

71.13(7) Discharge or transfer.

- a. The facility shall give prior notification to the resident, as well as the resident's next of kin, legal representative, attending physician or physician extender, and sponsoring agency, if any, prior to transfer or discharge of any resident.
- b. The subacute care facility shall make proper arrangements for the welfare of the resident prior to transfer or discharge in the event of an emergency or inability to reach the next of kin or legal representative.
- c. The facility shall make advance notification to the receiving facility prior to the transfer of any resident, if the resident is to be transferred to another facility. Prior to the transfer or discharge of a

resident to another health care facility, arrangements to provide for continuity of care shall be made with the facility to which the resident is being transferred.

d. The appropriate record as set forth in subrule 71.18(1) shall accompany the resident when the resident is transferred or discharged.

481—71.14(135G) Treatment plan.

71.14(1) A treatment plan must be developed with each resident. The plan must be based on initial and ongoing assessment of need, be designed to resolve the acute or crisis mental health symptoms or the imminent risk of acute or crisis mental health symptoms, and be completed within six hours of admission.

71.14(2) The treatment plan must be documented in the resident's record and must include the following:

- a.* The resident's name.
- b.* The date the plan is developed.
- c.* Standardized diagnostic formulations, including but not limited to the current Diagnostic and Statistical Manual (DSM) or the current International Statistical Classification of Diseases and Related Health Problems (ICD).
- d.* Problems and strengths of the resident that are to be addressed.
- e.* Observable and measurable individual objectives that relate to the specific problems identified.
- f.* Interventions that address specific objectives, identification of staff responsible for interventions, and planned frequency of interventions.
- g.* Signatures of treatment staff responsible for developing the plan, including the qualified prescriber.
- h.* Signatures of the resident and any parent, guardian, conservator, or legal custodian. Reasons for refusal to sign or inability to participate in treatment plan development must be documented.
- i.* A projected discharge date and anticipated postdischarge needs, including documentation of resources needed in the community.
- j.* A review of the treatment plan must occur at least daily or upon completion of the stated goals or objectives and must include the following documentation:
 - (1) Dated signatures of appropriate treatment staff, including the qualified prescriber;
 - (2) Progress toward each treatment objective, with revisions as indicated;
 - (3) Status of discharge plans, including availability of resources needed by the resident in the community, with revisions as indicated;
 - (4) A statement by the staff psychiatrist, physician or physician extender of justification for the level of services needed, including an assessment of suitability for treatment in a less restrictive environment.

481—71.15(135G) Crisis intervention.

71.15(1) There shall be written policies and procedures concerning crisis intervention. These policies and procedures shall be:

- a.* Directed to maximizing the growth and development of the individual by incorporating a hierarchy of available alternative methods that emphasize positive approaches;
- b.* Available in each program area and living unit;
- c.* Available to individuals and their families; and
- d.* Developed with the participation, as appropriate, of individuals served.

71.15(2) An emergency safety intervention must be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior and to the individual's chronological and developmental age, size, gender, physical, medical, and psychiatric condition and personal history, including any history of physical or sexual abuse.

481—71.16(135G) Seclusion and restraint.

71.16(1) Pursuant to Iowa Code section 135G.3(2), a subacute care facility utilizing a seclusion room must meet the conditions of 42 CFR § 483.364(b). Use of the seclusion room shall be approved

by a licensed psychiatrist or by order of the resident's physician, a physician assistant, or an advanced registered nurse practitioner.

71.16(2) There shall be written policies that define the use of restraint, designate the staff member who may authorize its use, and establish a mechanism for monitoring and controlling its use.

71.16(3) Restraint shall not be used for punishment, for the convenience of staff, or as a substitution for supervision. Restraint shall only be used:

- a. In an emergency to prevent injury to the resident or to others; or
- b. For crisis intervention.

71.16(4) Restraint must not result in harm or injury to the resident and must be used only to ensure the safety of the resident or others during an emergency situation until the emergency situation has ceased, even if the restraint order has not expired.

71.16(5) The use of restraint should be selected only when other less restrictive measures have been found to be ineffective to protect the resident or others. The staff shall demonstrate effective treatment approaches and alternatives to the use of restraint.

71.16(6) Standing or as needed orders for restraint are prohibited.

71.16(7) Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident.

71.16(8) Staff trained in the use of emergency safety interventions must be physically present and continually assessing and monitoring the well-being of the resident and the safe use of restraint throughout the duration of the emergency situation.

71.16(9) After all less-restrictive measures have been attempted to end the emergency safety situation, the resident must be assessed by a physician, or other licensed practitioner permitted by law to order restraint, who will then give a one-time order for that specific resident in an emergency safety situation. Once that order has expired, it may not be renewed on a planned, anticipated, or as-needed basis.

71.16(10) Staff must document in the resident's record and in a centralized tracking system any use of restraint or seclusion.

71.16(11) As soon as reasonably possible after the restraint or seclusion of a resident has terminated, staff must meet to process the restraint or seclusion occurrence and document in writing the meeting.

71.16(12) A resident who requires restraint or seclusion on multiple occasions should be considered for a higher level of care.

71.16(13) The facility shall provide to the staff training by qualified professionals on physical restraint and seclusion theory and techniques.

a. The facility shall keep a record of the training, including attendance, for review by the department.

b. Only staff who have documented training in physical restraint and seclusion theory and techniques shall be authorized to assist with seclusion or physical restraint of a resident.

481—71.17(135G) Medication management.

71.17(1) Medications must be ordered by qualified prescribers and administered by qualified personnel.

71.17(2) Prescription medication must be legally dispensed and labeled according to state law.

71.17(3) All medication errors, drug reactions and suspected drug overmedication must be documented and reported to the practitioner who prescribed the medication.

71.17(4) All medications and other preparations intended for internal or external human use must be stored in medicine cabinets or drug rooms. When preservation of the medication or other preparation requires refrigeration, the facility must provide a means of securely refrigerating these items. Such cabinets or drug rooms must be kept securely locked when not in use, and the key must be in the possession of the supervising nurse or other authorized person.

71.17(5) Schedule II drugs must be stored within two separately locked compartments at all times and accessible only to qualified personnel in charge of administering medication.

71.17(6) Any unused portions of program-prescribed medication(s) must be either turned over to the resident with written authorization and directions by the qualified prescriber or returned to a pharmacy for proper disposition by the pharmacist.

71.17(7) Whenever a resident brings the resident's own prescribed medications into the facility, such medications must not be administered unless identified and ordered by a qualified prescriber. If such medications cannot be administered, they must be packaged, sealed, and returned to an adult member of the resident's immediate family or the legal guardian or securely stored and returned to the resident upon discharge. However, if previously prescribed medication would prove harmful to the resident, the medication may be withheld from the resident and disposed of in accordance with subrule 71.17(6). There must be documentation by the qualified prescriber in the resident's clinical record citing the dangers or contraindications of the medication being withheld.

71.17(8) All potent, poisonous, or caustic materials shall be stored separately from medications. All potent, poisonous, or caustic materials shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet or storeroom and made accessible only to authorized personnel.

481—71.18(135G) Records.

71.18(1) *Resident record.* The licensee shall keep a permanent record about each resident with all entries current, dated, and signed. The record shall include:

- a. Name and previous address of resident;
- b. Birth date, sex, and marital status of resident;
- c. Provisional or admitting diagnosis;
- d. A biopsychosocial history sufficient to provide data on the resident's relevant past history, present situation, social support system, community resource contacts, and other information relevant to appropriate treatment and discharge planning;
- e. Physician's or physician extender's name, telephone number, and address;
- f. Name, address and telephone number of next of kin or legal representative;
- g. Name, address and telephone number of the person to be notified in case of emergency;
- h. Pharmacy name, telephone number, and address;
- i. Physician's or physician extender's written and signed orders for medication and treatments;
- j. Any change in the resident's condition;
- k. Notations describing the resident's condition on admission, transfer, and discharge;
- l. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer;
- m. Individualized treatment and discharge or transfer plan pursuant to rule 481—71.14(135G);
- n. Progress notes, including any use of seclusion or restraint pursuant to rule 481—71.16(135G), recorded by the psychiatrist, physician or physician extender, nurse, social worker and, when appropriate, others significantly involved in active treatment modalities. Progress notes must contain a concise assessment of the resident's progress and recommendations for revising the treatment plan as indicated by the resident's condition;
- o. The discharge summary, including a recapitulation of the resident's hospitalization, recommendations for appropriate services concerning follow-up, and a brief summary of the resident's condition on discharge.

71.18(2) *Confidentiality of resident records.* The facility shall have policies and procedures providing that each resident shall be assured confidential treatment of all information, including information contained in electronic records.

a. The facility shall limit access to any resident records to staff and consultants providing professional services to the resident. Information shall be made available to staff only to the extent that the information is relevant to the staff person's responsibilities and duties. This restriction shall not preclude access by representatives of state or federal regulatory agencies.

b. The resident, or the resident's legal guardian, shall be entitled to examine all information and shall have the right to secure full copies of the record at reasonable cost upon request, unless the physician or physician extender or qualified mental health professional determines the disclosure of the record or

a section thereof is contraindicated, in which case the designated information will be redacted prior to making the record available to the resident. This determination and the reasons for it must be documented in the resident's record.

71.18(3) Incident records.

a. Each subacute care facility shall maintain an incident record report and shall have available incident report forms.

b. A report of every unusual occurrence shall be detailed on the printed incident report form.

c. The person in charge at the time of the unusual occurrence shall oversee the preparation of and sign the incident report.

d. A copy of the incident report shall be kept on file in the facility and shall be available for review and a part of administrative records.

71.18(4) Retention of records.

a. Records shall be retained in the facility for five years following termination of services to the resident, even when there is a change of ownership.

b. When the facility ceases to operate, the resident's record shall be released to the facility to which the resident is transferred. If no transfer occurs, the record shall be released to the individual's physician or physician extender.

481—71.19(135G) Residents' rights in general.

71.19(1) Policies and procedures. Each facility shall ensure that policies and procedures are written and implemented, include all of the following subrules, and govern all areas of service provided to staff and residents, their families or legal representatives. The policies and procedures shall be available to the public and shall be reviewed annually by the facility.

71.19(2) Grievances. Written policies and procedures shall include a method for submission of grievances and recommendations by residents or their responsible parties and a method to ensure a response and disposition by the facility. The written grievance procedure shall ensure protection of the resident from any form of reprisal or intimidation and shall include:

a. The name of an employee or an alternate staff person designated to be responsible for handling grievances and recommendations; and

b. Methods to investigate and assess the validity of a grievance or recommendation, resolve grievances, and take action.

71.19(3) Informed of rights. Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon admission.

a. The facility shall inform residents about what they may expect from the facility and its staff and what is expected from residents.

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are not English-speaking or are hearing impaired, steps shall be taken to translate the information into the person's native language or sign language. In the case of visually impaired residents, either Braille or a recording shall be provided.

c. A statement shall be signed by the resident and legal guardian, if applicable, indicating an understanding of these rights and responsibilities, and the statement shall be maintained in the record. A copy of the signed statement shall be given to the resident or legal guardian.

71.19(4) Informed of health condition. Each resident or legal guardian shall be fully informed by a physician or physician extender of the resident's health and medical condition unless medically contraindicated as documented by a physician or physician extender in the resident's record.

71.19(5) Posting of names. The facility shall post in a prominent area the name, telephone number, and address of the survey agency, the local law enforcement agency and the protection and advocacy agency designated to provide to residents another course of redress.

71.19(6) Dignity preserved. Each resident shall be treated with consideration, respect, and full recognition of the resident's dignity and individuality, including privacy in treatment and in care of personal needs.

a. Corporal punishment, verbal abuse, or any other activity that would be damaging to an individual's self-respect shall be prohibited by written policy.

b. Medication shall not be used as punishment, for the convenience of staff, or as a substitute for a program.

c. Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of the individuality and dignity of human beings.

d. Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated.

e. Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This does not apply under emergency conditions.

71.19(7) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents. Each resident may send and receive personal mail unopened unless prohibited in the treatment plan, which requires explicit approval of the resident or legal guardian.

71.19(8) Visiting hours. Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted.

a. Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

- (1) The resident refuses to see the visitor(s).
- (2) The visit would not be in accordance with the treatment plan.
- (3) The visitor's behavior is unreasonably disruptive to the functioning of the facility.

b. Reasons for denial of visitation shall be documented in the resident's records.

71.19(9) Privacy. Space shall be provided for residents to receive visitors in comfort and privacy.

71.19(10) Telephone calls. Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone.

71.19(11) Mail. Arrangements shall be made to provide assistance to residents who require help in reading or sending mail.

71.19(12) Permission to leave premises. Residents shall be permitted to leave the facility and environs at reasonable times if permitted in writing by the physician or physician extender, qualified mental health professional, or administrator.

71.19(13) Resident activities. Each resident may participate in recreational activities as desired unless contraindicated for reasons documented in the resident's record.

71.19(14) Resident property. Each resident may retain and use personal clothing and possessions, as space permits, and cash and other financial instruments, provided that the use of such items is not otherwise prohibited.

a. The personal property shall be kept in a secure location which is convenient to the resident.

b. Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry.

c. Any personal clothing or possessions retained by the facility for the resident shall be identified and recorded on admission and the record placed on the resident's chart. The facility shall be responsible for secure storage of items, and the items shall be returned to the resident promptly upon request or upon discharge from the facility.

481—71.20(135G) Health and safety.

71.20(1) Emergency care. Each facility shall have written policies and procedures for emergency medical and psychiatric care which shall include immediate notification by the person in charge to the physician or physician extender or qualified mental health professional of any accident, injury or adverse change in the resident's condition. "Immediate" for purposes of this subrule means within 24 hours.

71.20(2) First-aid kit. A first-aid emergency kit shall be available on each floor.

71.20(3) Infection control. Each facility shall have a written and implemented infection control program.

71.20(4) Safe environment. The licensee of a subacute care facility is responsible for the provision and maintenance of a safe environment for residents and personnel. The subacute care facility shall meet the fire and safety rules as promulgated by the state fire marshal.

71.20(5) Disaster. The licensee shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency.

a. The plan shall be posted.

b. Training shall be provided to ensure that all employees are knowledgeable of the emergency plan. The training shall be documented.

71.20(6) Smoking. A subacute care facility shall follow the smokefree air Act, Iowa Code chapter 142D.

These rules are intended to implement Iowa Code chapter 135G.