

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 amends Chapter 58, "Nursing Facilities," Iowa Administrative Code.

The amendment in Item 1 adds a new subparagraph 58.19(1)"n"(8), which relates to resident hydration. The amendment in Item 2 rescinds the current dietary rule 481—58.24(135C) and replaces it with a new dietary rule, which adopts by reference the Food and Drug Administration Food Code adopted under provisions of Iowa Code section 137F.2 and requires nursing facilities to handle, prepare and serve food in accordance with the most current Food Code. Provisions in the current rule that were duplicative of Food Code requirements are removed. Provisions related to nutritional status, hydration and therapeutic diets are added.

The Department does not believe that these amendments impose any financial hardship on any regulated entity, body, or individual.

The State Board of Health initially reviewed the proposed amendments at its November 12, 2015, meeting and approved them at its May 11, 2016, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 9, 2015, as **ARC 2303C**. Comments were received from the Iowa Academy of Nutrition and Dietetics and the Iowa chapter of the American Heart Association. One cross reference was corrected in 58.24(2)"a"(1). Changes were made to 58.24(2)"a"(5) and 58.24(3)"b," which permit the use of other suitable diet manuals when planning resident meals and increase the time from 12 to 24 months for the completion of an approved dietary manager training program.

Additionally, language in 58.24(4)"b" pertaining to who is authorized to prescribe therapeutic diets has been amended so that only the resident's physician may prescribe such diets. The federal Centers for Medicare and Medicaid Services (CMS) is currently rewriting the requirements for long-term care facilities, sections of which will address the prescribing of therapeutic diets by other than a resident's physician. The current federal regulations stipulate that only the resident's attending physician may prescribe therapeutic diets.

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

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

These amendments shall become effective July 13, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subparagraph **58.19(1)"n"(8)**:

(8) Sufficient fluid intake to maintain proper hydration and health; (I, II, III)

ITEM 2. Rescind rule 481—58.24(135C) and adopt the following **new** rule in lieu thereof:

481—58.24(135C) Dietary.

58.24(1) Organization of dietetic services. The facility shall meet the needs of the residents and provide the services listed in this standard. If a service is contracted out, the contractor shall meet the same standard. A written agreement shall be formulated between the facility and the contractor and shall convey to the department the right to inspect the food service facilities of the contractor. (III)

a. There shall be written policies and procedures for dietetic services that include staffing, nutrition, menu planning, therapeutic diets, preparation, food service, ordering, receiving, storage, sanitation, and staff hygiene. The policies and procedures shall be made available for use by dietetic services. (III)

b. There shall be written job descriptions for each position in dietetic services. The job descriptions shall be made available for use by dietetic services. (III)

58.24(2) Dietary staffing.

a. The facility shall employ a qualified dietary supervisor who:

- (1) Is a qualified dietitian as defined in 58.24(2)“f”; or
 - (2) Is a graduate of a dietetic technician training program approved by the Academy of Nutrition and Dietetics; or
 - (3) Is a certified dietary manager certified by the certifying board for dietary managers of the Association of Nutrition and Foodservice Professionals and maintains that credential through 45 hours of ANFP-approved continuing education; or
 - (4) Has completed an ANFP-approved course curriculum necessary to take the certification examination required to become a certified dietary manager; or
 - (5) Has documented evidence of at least two years’ satisfactory work experience in food service supervision and who is in an approved dietary manager association program and will successfully complete the program within 24 months of the date of enrollment; or
 - (6) Has completed the 90-hour training course approved by the department and is a certified food protection manager who has received training from and passed a test that is part of an American National Standards Institute (ANSI)-accredited Certified Food Protection Manager Program. (II, III)
- b.* The supervisor shall have overall supervisory responsibility for dietetic services and shall be employed for a sufficient number of hours to complete management responsibilities that include:
- (1) Participating in regular conferences with the consultant dietitian, the administrator and other department heads; (III)
 - (2) Writing menus with consultation from the dietitian and seeing that current menus are posted and followed and that menu changes are recorded; (III)
 - (3) Establishing and maintaining standards for food preparation and service; (II, III)
 - (4) Participating in selection, orientation, and in-service training of dietary personnel; (II, III)
 - (5) Supervising activities of dietary personnel; (II, III)
 - (6) Maintaining up-to-date records of residents identified by name, location and diet order; (III)
 - (7) Visiting residents to learn individual needs and communicating with other members of the health care team regarding nutritional needs of residents when necessary; (II, III)
 - (8) Keeping records of repairs of equipment in dietetic services. (III)
- c.* A minimum of one person with supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food protection manager who has received training from and passed a test that is part of an American National Standards Institute (ANSI)-accredited Certified Food Protection Manager Program.
- d.* The facility shall employ sufficient supportive personnel to carry out the following functions:
- (1) Preparing and serving adequate amounts of food that are handled in a manner to be bacteriologically safe; (II, III)
 - (2) Washing and sanitizing dishes, pots, pans and equipment at temperatures required by procedures described in the Food Code as defined in Iowa Code section 137F.2; (II, III)
 - (3) Serving therapeutic diets as prescribed by the physician and following the planned menu. (II, III)
- e.* The facility may assign simultaneous duties in the kitchen and laundry, housekeeping, or nursing service to appropriately trained personnel. Proper sanitary and personal hygiene procedures shall be followed as outlined under the rules pertaining to staff hygiene. (II, III)
- f.* If the dietetic service supervisor is not a licensed dietitian, a consultant dietitian is required. The consultant dietitian shall be licensed by the state of Iowa pursuant to Iowa Code chapter 152A.
- g.* Consultants’ visits shall be scheduled to be of sufficient duration and at a time convenient to:
- (1) Record, in the resident’s medical record, any observations, assessments and information pertinent to medical nutrition therapy; (I, II, III)
 - (2) Work with residents and staff on resident care plans; (III)
 - (3) Consult with the administrator and others on developing and implementing policies and procedures; (III)
 - (4) Write or approve general and therapeutic menus; (III)
 - (5) Work with the dietetic supervisor on developing procedures, recipes and other management tools; (III)

(6) Present planned in-service training and staff development for food service employees and others. Documentation of consultation shall be available for review in the facility by the department. (III)

h. In facilities licensed for more than 15 beds, dietetic services shall be available for a minimum of a 12-hour span extending from the time of preparation of breakfast through supper. (III)

58.24(3) Nutrition and menu planning.

a. Menus shall be planned and followed to meet the nutritional needs of each resident in accordance with the physician's orders and in consideration of the resident's choices and preferences. (II, III)

b. Menus shall be planned to provide 100 percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. A current copy of the Simplified Diet Manual or other suitable diet manual shall be available and used in the planning and serving of all meals. (II)

c. At least three meals or their equivalent shall be served daily at regular hours. (II)

(1) There shall be no more than a 14-hour span between a substantial evening meal and breakfast except as provided in subparagraph (3) below. (II, III)

(2) The facility shall offer snacks at bedtime daily. (II, III)

(3) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast of the following day. The current resident group must agree to this meal span and a nourishing snack must be served. (II)

d. Menus shall include a variety of foods prepared in various ways. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic services department for easy use by persons purchasing, preparing and serving food. (III)

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by department personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded. (III)

g. A file of tested recipes adjusted to the number of people to be served in the facility shall be maintained. (III)

h. Alternate foods shall be offered to residents who refuse the food served. (II, III)

58.24(4) Therapeutic diets and nutritional status.

a. The facility shall ensure that each resident has a nutritional assessment completed by the licensed dietitian within 14 days of admission that addresses the residents' medical condition and therapeutic dietary needs, desires and rights in regard to their nutritional plan. (I, II, III)

b. Therapeutic diets shall be prescribed by the resident's physician. A current edition of the Simplified Diet Manual or other suitable diet manual shall be readily available to physicians, nurses and dietetic services personnel. A current diet manual shall be used as a guide for writing menus for therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and reviewing procedures for preparation and service of food. (II, III)

c. Personnel responsible for planning, preparing and serving therapeutic diets shall receive instructions on those diets. (II, III)

d. The facility shall ensure that each resident maintains acceptable parameters of nutritional status, such as body weight, unless the resident's clinical condition demonstrates that this is not possible. (I, II, III)

58.24(5) Food handling, preparation and service. All food shall be handled, prepared and served in compliance with the requirements of the Food and Drug Administration Food Code adopted under provisions of Iowa Code section 137F.2. (I, II, III) In addition, the following shall apply.

a. Methods used to prepare foods shall be those which conserve nutritive value and flavor and meet the taste preferences of the residents. (III)

b. Foods shall be attractively served. (III)

c. Foods shall be cut up, chopped, ground or blended to meet individual needs. (I, II, III)

d. Self-help devices shall be provided as needed. (II, III)

- e. Disposables shall not be used routinely. Plasticware, china and glassware that are unsightly, unsanitary or hazardous because of chips, cracks or loss of glaze shall be discarded. (II, III)
- f. All food that is transported through public corridors shall be covered. (III)
- g. Residents may be allowed in the food preparation area. (III)
- h. The food preparation area may be used as a dining area for residents, staff or food service personnel if the facility engages in person-directed care. (III)
- i. There shall be effective written procedures established for cleaning all work and serving areas. (III)
- j. A schedule of cleaning duties to be performed daily shall be posted. (III)
- k. An exhaust system and hood shall be clean, operational and maintained in good repair. (III)
- l. The food service area shall be located so it will not be used as a passageway by residents, guests or non-food service staff. (III)

58.24(6) Paid nutritional assistants. A paid nutritional assistant means an individual who meets the requirements of this subrule and who is an employee of the facility or an employee of a temporary employment agency employed by the facility. A facility may use an individual working in the facility as a paid nutritional assistant only if that individual has successfully completed a state-approved training program for paid nutritional assistants. (I, II, III)

a. Training program requirements.

(1) A state-approved training program for paid nutritional assistants must include, at a minimum, eight hours of training in the following areas:

1. Feeding techniques.
2. Assistance with feeding and hydration.
3. Communication and interpersonal skills.
4. Appropriate responses to resident behavior.
5. Safety and emergency procedures, including the Heimlich maneuver.
6. Infection control.
7. Resident rights.
8. Recognizing changes in residents that are inconsistent with their normal behavior and reporting these changes to the supervisory nurse.

(2) In addition to the training program requirements specified in subparagraph (1), the training program must include at least four hours of classroom study, two hours of supervised laboratory work, and two hours of supervised clinical experience.

(3) A facility that offers a paid nutritional assistant training program must provide sufficient supplies in order to teach the objectives of the course.

(4) All paid nutritional assistant training program instructors shall be registered nurses. Other qualified health care professionals may assist the instructor in teaching the classroom portion and clinical or laboratory experience. The ratio of students to instructor shall not exceed ten students per instructor in the clinical setting.

(5) Each individual enrolled in a paid nutritional assistant training program shall complete a 50-question multiple choice written test and must obtain a score of 80 percent or higher. In addition, the individual must successfully perform the feeding of a resident in a clinical setting. A registered nurse shall conduct the final competency determination.

(6) If an individual does not pass either the written test or competency demonstration, the individual may retest the failed portion a second time. If the individual does not pass either the written test or competency demonstration portion the second time, the individual shall not be allowed to retest.

b. Program approval. A facility or other entity may not offer or teach a paid nutritional assistant training program until the department has approved the program. Individuals trained in a program not approved by the department will not be allowed to function as paid nutritional assistants.

(1) A facility or other institution offering a paid nutritional assistant training program must provide the following information about the training program to the department before offering the program or teaching paid nutritional assistants:

1. Policies and procedures for program administration.

2. Qualifications of the instructors.
3. Maintenance of program records, including attendance records.
4. Criteria for determining competency.
5. Program costs and refund policies.
6. Lesson plans, including the objectives to be taught, skills demonstrations, assignments, quizzes, and classroom, laboratory and clinical hours.

(2) The facility or other institution offering a paid nutritional assistant training program must submit the materials specified in subparagraph (1) for department review. The department shall, within ten days of receipt of the material, advise the facility or institution whether the program is approved, or request additional information to assist the department in determining whether the curriculum meets the requirements for a paid nutritional assistant training program. Before approving any paid nutritional assistant training program, the department shall determine whether the curriculum meets the requirements specified in this subrule. The department shall maintain a list of facilities and institutions eligible to provide paid nutritional assistant training. (I, II, III)

(3) A facility shall maintain a record of all individuals who have successfully completed the required training program and are used by the facility as paid nutritional assistants. The individual shall complete the training program with a demonstration of knowledge and competency skills necessary to serve as a paid nutritional assistant. (I, II, III)

(4) The facility or other institution providing the training shall, within ten calendar days of an individual's successful completion of the training program, provide the individual with a signed and dated certificate of completion. A facility that employs paid nutritional assistants shall maintain on file copies of the completed certificate and skills checklist for each individual who has successfully completed the training program. (I, II, III)

c. Working restrictions.

(1) A paid nutritional assistant must work under the supervision of a registered nurse or a licensed practical nurse. In an emergency, a paid nutritional assistant must call a supervisory nurse on the resident call system for help. (I, II, III)

(2) A facility must ensure that a paid nutritional assistant feeds only residents who have no complicated feeding problems. Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube, parenteral or intravenous feedings. The facility must base resident selection on the charge nurse's assessment and the resident's latest assessment and plan of care. (I, II, III)

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