

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to health care facilities administration and providing an opportunity for public comment

The Inspections and Appeals Department hereby proposes to amend Chapter 50, “Health Care Facilities Administration,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135C.2.

Purpose and Summary

The Department completed a comprehensive review of Chapter 50 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making updates citations and removes outdated, unnecessary, and redundant content. It also updates rules related to background checks in accordance with Iowa Code chapter 135Q.

The Department does not believe that the proposed amendments pose a financial hardship on any regulated entity or individual. Rather, the proposed amendments eliminate redundant language from the Iowa Administrative Code.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 14, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **50.3(3)“f”** as follows:

f. Residential care facilities ~~for the intellectually disabled, three- to five-bed license,~~
~~481—Chapters 60 and 63~~ 481—Chapter 63;

ITEM 2. Amend rule 481—50.6(10A) as follows:

481—50.6(10A) Formal hearing. All decisions of the division may be contested. Appeals and hearings are controlled by 481—Chapter 9, “Contested Cases,” and 481—Chapter 10, “Rules of Procedure and Practice Before the Administrative Hearings Division.”

50.6(1) The proposed decision of the hearing officer becomes final ~~ten~~ 15 days after it is mailed.

50.6(2) Any request for administrative review of a proposed decision must:

1. Be made in writing,
2. Be mailed by certified mail to the director, within ~~ten~~ 15 days after the proposed decision was mailed to the aggrieved party,
3. State the reason(s) for the request.

A copy shall also be sent to the hearing officer at the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

50.6(3) and **50.6(4)** No change.

ITEM 3. Amend rule 481—50.7(10A,135C) as follows:

481—50.7(10A,135C) Additional notification. ~~The director or the director’s designee~~ A health care facility shall be notified notify the department within 24 hours, or the next business day, by the most expeditious means available (I,II,III):

50.7(1) No change.

50.7(2) When damage to the facility is caused by a natural or other disaster, including physical impairments affecting operations (e.g., failure of a heating or cooling system, water heater failure).

50.7(3) to 50.7(7) No change.

NOTE: Additional reporting requirements are created by other rules and statutes, including but not limited to Iowa Code chapter ~~235B and 2008 Iowa Acts, House File 2591~~ 235E, which ~~require~~ requires reporting of dependent adult abuse.

ITEM 4. Rescind rule 481—50.8(22,135B,135C) and adopt the following **new** rule in lieu thereof:

481—50.8(22,135B,135C) Records. The division collects and stores a variety of records in the course of licensing and inspecting hospitals and health care facilities, as described in 481—Chapter 5. The records contain both public and confidential information.

50.8(1) Public information. The following are general categories of public information:

- a. The department's final findings or the final findings of an accreditation organization with respect to compliance by a hospital or health care facility with requirements for licensing or accreditation, including any plan of correction;
- b. Applications for licensing or certification, accompanying materials, and status of any application;
- c. Reports from the state fire marshal;
- d. Information regarding complaints, unless otherwise confidential pursuant to subrule 50.8(2) or Iowa Code section 22.7;
- e. Waiver requests and responses;
- f. Official notices of licensing or certification sanctions.

50.8(2) Confidential information. The following are general categories of confidential information:

- a. Information that does not comprise a final report resulting from a survey, investigation, or entity-reported incident investigation, except as set forth in Iowa Code section 135B.12 or 135C.19(1);
- b. Names of complainants;
- c. Names of patients or residents and any identifying medical information;
- d. The address of anyone other than an owner.

50.8(3) Redaction of confidential information. If a record normally open for inspection contains confidential information, the confidential information shall be redacted before the records are provided for inspection.

ITEM 5. Amend subrule **50.9(1)**, definitions of "Employed in a facility" and "Employee," as follows:

"Employed in a facility" or "employment within a facility" means all of the following if the provider is regulated by the state or receives any federal or state funding:

- 1. An employee of a health care facility licensed under Iowa Code chapter 135C if the employee provides direct or indirect services to residents;
- 2. An employee of a home health agency if the employee provides direct services to consumers;
- 3. An employee of a hospice if the employee provides direct services to consumers;
- 4. A health care employment agency worker as defined by Iowa Code section 135Q.1.

"Employee" means any individual who is paid either by the facility or any other entity (i.e., ~~temporary~~ health care employment agency, private duty, Medicare/Medicaid or independent contractors).

ITEM 6. Amend paragraph **50.9(3)"b"** as follows:

b. *Conducting a background check.* The facility shall either request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks of the person in this state, or access the single contact repository (SING) to perform the required background check. If the SING is used, the facility shall submit the person's ~~maiden name~~ prior name(s), if applicable, with the background check request. (I, II, III)

ITEM 7. Amend subrule 50.9(11) as follows:

50.9(11) Proof of background checks for ~~temporary~~ health care employment agencies and contractors. Proof of background checks may be kept in the files maintained by ~~temporary~~ health care employment agencies and contractors. ~~Facilities may require temporary~~ Health care employment agencies and contractors to shall provide a copy of the result of the background checks. Copies of such results shall be made available to the facility or department upon request. (I, II, III)

ITEM 8. Amend paragraph **50.11(1)"a"** as follows:

a. Any person with concerns regarding a facility may file a complaint with the Department of Inspections and Appeals, Complaint/Incident Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; by use of the complaint hotline, 1-877-686-0027; by facsimile sent to (515)281-7106; or through the website address ~~dia-hfd.iowa.gov/DIA_HFD/Home.do~~ dia-hfd.iowa.gov.

ITEM 9. Amend paragraph **50.11(2)“a”** as follows:

a. The web-based reporting tool accessible from the following Internet site, ~~dia-hfd.iowa.gov/DIA-HFD/Home.do~~ dia-hfd.iowa.gov, under the “Login” tab and then access “Add self report”;